

Tuesday - February 4, 1986 - 4:00 p.m.

Regular Meeting:

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

Absent: None

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF THE MINUTES - JANUARY 28, 1986 MEETING

1. Consideration was given to the approval of the minutes of the January 28, 1986, meeting.

Mayor Bisette announced the approval of the minutes as submitted.

PROCLAMATION - FEBRUARY 9 - 15, 1986 - "NATIONAL SALUTE TO HOSPITALIZED VETERANS WEEK"

2. Mayor Bisette read a proclamation proclaiming the week of February 9 - 15, 1986, as "National Salute to Hospitalized Veterans Week."

Mayor Bisette presented the proclamation to Mr. Robert Dawson, with the V.A. Hospital.

PROCLAMATION - MONTH OF FEBRUARY, 1986 AS "HUMAN RELATIONS MONTH"

3. Mayor Bisette read a proclamation proclaiming the month of February, 1986, as "Human Relations Month."

Mayor Bisette instructed that a copy of the proclamation be given to Mr. Bob Smith, with the Asheville-Buncombe Community Relations Council.

PROCLAMATION - "FOUNDERS DAY IN THE AFRICAN METHODIST EPISCOPAL CHURCH" - SUNDAY, FEBRUARY 9, 1986

Mayor Bisette read a proclamation proclaiming Sunday, February 9, 1986, as "Founders Day in the African Methodist Episcopal Church."

Mayor Bisette presented the proclamation to Rev. Wendall Christopher, Pastor of the St. James African Methodist Episcopal Church.

PUBLIC HEARING - AMENDING ZONING ORDINANCE TO PROVIDE FOR HANDICAPPED OFF-STREET PARKING REQUIREMENTS

ORDINANCE NO. 1570 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (HANDICAPPED OFF-STREET PARKING REQUIREMENTS)

4. A public hearing was held relative to amending the Zoning Ordinance to provide for handicapped off-street parking requirements.

Mayor Bisette said this wording amendment will provide a requirement for handicapped off-street parking.

Mayor Bissette opened the public hearing at 4:15 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.

Corporation Counsel Bill Slawter said the proposed ordinance had been discussed by members of Council on several occasions. He said the purpose of the ordinance was to institute handicapped parking requirements on parking lots that were in existence prior to the enforcement of the current State Building Code requirements. He said this ordinance would require all public parking lots to have at least one handicapped parking space for each additional 50 parking spaces. He said, however, that this ordinance, unlike the State Building Code, would exempt parking lots with 10 or fewer spaces which were in existence prior to September 1, 1973, and off-street parking spaces which are clearly designated as reserved for employee parking or long-term parking. He said this ordinance also has a provision that owners of parking lots have until July 1, 1986, to come into compliance and to correct the necessary signage as required by the State Building Code, requiring the signs to be replaced with a R7-8 or R7-8(a) sign.

Corporation Counsel Slawter said that he had a lot of contact with handicapped persons in the City of Asheville and Roger Foushee, with the Governor's Advocacy Council. He said the Governor's Advocacy Council supported the ordinance except they were concerned that the ordinance exempts parking areas with ten or fewer spaces and parking areas that are clearly designated for employee parking or long-term parking.

Upon inquiry of Councilman Price, the Corporation Counsel said he was not aware of any other City in the State of North Carolina that has a similar ordinance relative to handicapped off-street parking. He said the Zoning Enforcement Officer would be responsible for enforcement of the ordinance and would see that all businesses affected would be notified.

Councilman Bratton thanked members of the Mayor's Employment of the Handicapped Committee for bringing this matter to Council's attention and for working with the City staff in the drafting of the ordinance.

Paul Godfrey, a member of the Mayor's Employment of the Handicapped Committee, spoke in support of the ordinance. He said the problems that handicapped persons have in parking have been real.

Donald Lawrence, spoke in support of the ordinance stating that he had an interest and had worked for the proposed ordinance for the past four or five years. He said he had concerns with the state law adopted on July 1, 1979 in that curb signs for handicapped parking would be permitted until the signs served their useful life. He said he was concerned that the courts would not enforce the law. He said it was very important that the proposed ordinance be enforced.

Bernadette Thompson, member of the Mayor's Employment of the Handicapped Committee and of the Governor's Advocacy Council, spoke in support of the ordinance.

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

Councilman Bratton moved for the adoption of Ordinance No. 1570. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1570 passed on first reading.

PUBLIC HEARING - SITE PLAN OF PROPOSED EAGLE'S CREST RETIREMENT AND THE FORREST APARTMENTS - LOCATED ON THE CARMELITE MONASTERY SITE ON FAIRWAY DRIVE

5. A public hearing was held relative to the site plan of the proposed Eagle's Crest Retirement Center and the Forrest Apartments to be located on the Carmelite Monastery site on Fairway Drive.

Mayor Bissette said the Planning and Zoning Commission at a meeting held December 11, 1985, reviewed the site plan of the proposed Eagle's Crest Retirement Center and The Forrest Apartments to be located on the Carmelite Monastery

site on Fairway Drive. The site plan was prepared by Jan Wiegman, Architect, for the M. B. Corporation of Raleigh, N.C., Developer, and submitted in accordance with the Group Development Section of the Zoning Ordinance. After review and discussion, the Commission voted to accept the Staff Report and approve the project subject to the following conditions:

1. That parking for Eagle Crest be no less than one space per unit;
2. That the plans prior to going to City Council be submitted showing a relocation of the tennis courts.
3. That the Department of Public Works approve the specifications and design of street requested for dedication or that portion thereof; and
4. Compliance with Erosion Control Ordinance.

The Commission further recommended that City Council consider officially closing Carmelite Drive.

Mayor Bisette opened the public hearing at 4:31 p.m.

Mayor Bisette requested that Council excuse him from participation and vote on the issue relative to the Eagle's Crest Retirement Center and The

Forrest Apartments because his law firm represents the project's architect. He said he had discussed this with the Corporation Counsel and members of Council and they had agreed that this would be a conflict of interest.

Councilman Tisdale moved to excuse Mayor Bisette from participation and vote on the issue relative to the site plan of the Eagle's Crest Retirement Center and The Forrest Apartments. This motion was seconded by Councilman Boland and carried unanimously.

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 Bisette turned the meeting over to Vice-Mayor Frank.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission reviewed and approved the site plan of the proposed Eagle's Crest Retirement Center and The Forrest Apartments subject to several conditions as outlined by Mayor Bisette. He showed slides of the physical location of the property in question showing the roads and terrain of the property. He said several previous Councils have dealt with this property in the past, dating back to 1963, when the then Council rezoned a portion of the property to 01 Office Institutional to allow the Carmelites to use the property for a mortuary. He said when the property was rezoned in 1963 an agreement was signed by the Carmelites to provide that if the property was ever sold the zoning would revert either to RA-6 or to the highest adjoining residential use, which would be R-1. He said, however, a court ruling in 1979 designated the property as partly R-2 and mostly, Office Institutional and that the 1963 agreement constituted contract zoning and is illegal. He said the Carmelites no longer live on the property in question, and all the bodies buried on the property had been removed. He said it was also his opinion and the Corporation Counsel's opinion that the 1963 zoning and agreement was contract zoning and can not be legal. He said the Planning and Zoning Commission, during their hearing on the proposed site plans, ruled that the zoning issue was not in question and the only question for them to deal with was the approval or disapproval of the site plans.

Mr. Emrick then proceeded to explain the details of the projects. He said the total project would consist of 324 units,

Eagle's Nest Retirement Center with 164 units and The Forrest Apartments with 160 units. He said 90 of the units would be constructed on the R-2 Residential District zone and 234 units constructed on the Office Institutional District zone. He said the retirement center will be one five-story building with three wings extending from a community facility in the center. He said the apartment complex will contain 30 units with one bedroom, 94 with two bedrooms and 36 units with three bedrooms and will include tennis courts, a pool, and a community center.

Mr. Emrick said the site density is substantially lower than the density requirements in the Zoning Ordinance. He said water and sewer facilities are adequate for the project. He said the entrance streets, being off Swannanoa River Road, will be public to allow for public bus transportation. He said other streets in the project would be private.

Jan Wiegman, Architect for the Eagle's Crest Retirement Center, spoke in support of the project, and requested Council's approval of the projects.

He said the projects would be constructed in compliance with all City standards. He said time is of the essence in order for the developers to put their financial package in order. He said the proposed site plans were designed to comply with the present zoning of the property. He said the plans indicate that the projects exceed the requirements of the Zoning Ordinance. He said modifications were made in the plans to accommodate the neighborhood's requests. He said the projects would serve as a buffer between the Beverly Hills residential area and the businesses on Swannanoa River Road. He said the entrance to the project would be from Swannanoa River Road to encourage traffic to avoid streets in the Beverly Hills area. He said the developers plan to close Carmelite Drive. He said a portion of the property currently has deplorable water and sewer lines and the developers plan to correct that situation at no expense to the City. He said 7.2 percent of the site will be covered with buildings allowing for a wide buffer all around the project, and in his opinion, would be separate from Beverly Hills.

Mr. Wiegman said the project would not be subsidized housing and would not be a nursing facility. He said the rent on the apartments in the Retirement Center would be approximately \$900 per month. He said traffic would be minimized due to most of the residents not having an automobile. He said the knoll on the property would be shaved down to about 50' in order to accommodate the project. He said the buildings on the project would be no closer than 200' from a property line. He said the majority of the property would be left in its natural state. He said the project would provide housing for the area, and would bring increased revenue to the City.

Upon inquiry of Councilman Bratton, Mr. Wiegman said although grading would be done on the knoll, there would be no problems with Erosion Control. He said catch basins would be built during construction of the project.

In response to Councilman Price and Councilman Boland, Mr. Wiegman said trees would be left on the property and the developers intend to plant additional trees.

Mr. Wiegman also said the fence currently surrounding the property would be taken down and eventually would be replaced with a fence to compliment the project and the neighborhood.

Councilman Michalove said he had noted some sewerage problems in the bottom area, at the creek, when he recently walked the property in question.

Upon inquiry of Councilman Michalove, Mr. Emrick, Planning Director, said Council could approve the project subject to final approval by Council of the landscaping plan and the design of the replacement fence.

Cathy Duke, representing the M.B. Corporation, developer, requested Council's approval of the proposed projects. She said her firm has constructed a lot of rental properties including subsidized housing units. She said the management has not yet set final rent payments, but the Retirement Center rentals would be in the neighborhood of \$900 per month which would include meals, housekeeping services, transportation services, and maintenance. She said rental for The Forrest Apartments would begin at about \$350 per month. She said the new fence that would be erected would blend in with the environment.

Ken Boisseau, architect for The Forrest Apartments, said this property was chosen for the projects because of its uniqueness and its views. He said his firm would use a design to compliment the neighborhood. He said only

preliminary plans are presently available, but he would be happy to submit the final design later. He said they would be using some financing from the North Carolina Housing Finance Agency which would require that 20 percent of the units be made available to medium income individuals. He said financing is available now but if the project is delayed much longer, it may not be financially feasible to continue with the project. He said the plans would have to be approved by the North Carolina Housing Finance Agency and the Department of Housing and Urban Development.

Upon inquiry of Councilman Michalove, Mr. Boisseau said, if the project is approved, construction would begin this year with a 12-15 month construction time period.

Tom Bell, an attorney, said he represents the Beverly Hills Homeowners Association who are of the opinion that the property is not legally zoned for a project of this nature. He cited sections of Ordinance No. 480, adopted in 1963, the agreement provided for in Ordinance No. 480; General Statute 1-54.1 stating that a 9 month statute of limitation exist to contest an ordinance; and Section 30-12-2 relating to the adoption of a new zoning ordinance and stating, in his opinion, that the new 1975 zoning ordinance did not repeal Ordinance No. 480. He contended that the court ruling in 1979 was not legal and that Ordinance No. 480 is a valid zoning ordinance.

Mr. Bell said the proposed site plans violate the zoning ordinance, and further that a portion of the property on which the project is proposed to be constructed is subject to Beverly Hills Restrictive Covenants which require only single family residences. He said it is also unclear to him as to who the actual owners of the property are because the property has been transferred from one diocese to the other, without a deed being recorded.

Mike Moody of 32 Fairway Drive, speaking in opposition to the project, said Council should consider the 410 households in the Beverly Hills area. He said the 1963 agreement by the Carmelites actually promised that the property would not be used for developments such as is proposed for this property. He read a letter from the Carmelite Nuns dated November 15, 1985, stating that they felt they had an obligation to have the property zoned to a residential district zoning. He said he had a petition signed by property owners on Ambler Road protesting the projects.

Mr. Bill Barley of 68 Fairway Drive, reiterated comments made by Mr. Moody. He said the owners of the property and the proposed developers are evading and denying the promises made in 1963 when the property was rezoned. He said Council should live up to their promises. He said he opposed the project, and requested that Council act wisely and legally. He suggested that the matter be remanded to the Planning and Zoning Commission in order for the owners of the property to request or petition for rezoning of the property to a single-family residential district or to a R-1 classification.

Tyrus Maynard spoke in opposition to the project and questioned the process of rezoning the property.

Don Roberts, Beverly Hills resident, spoke in opposition to the project. He said he had been involved in the 1979 Court ruling.

Mrs. Bob Wisham, of 22 Pinehurst Road, spoke in opposition to the project stating that the area would be overpopulated, additional traffic, noise and pollution. She said she was also concerned about the type of fencing that would be erected on the property.

Attorney Bill Moore, appearing on behalf of Attorney Harold Bennett, representing the Carmelite Nuns said only the approval or disapproval of the site plans for the project were before Council today, and that the zoning of the property has nothing to do with the proposed project. He said his clients had expressed their intention to petition for rezoning of the property to a R-3 Residential District classification.

Mr. Ned Guttman of Beechwood Road, spoke in opposition of the projects stating Council should consider the harmony of the existing neighborhood as required by the review of group developments.

Vice-Mayor Frank closed the public hearing at 6:30 p.m.

Councilman Tisdale moved for the approval of the site plans as revised January 27, 1986, contingent upon the following conditions:

- 1) That portion of the project included within the areas zoned R-2 be amended so as to include no more than six units per acre.
- 2) That no less than one parking space per unit be provided in the project.
- 3) That the Department of Public Works approve the specifications and design of the street requested for dedication.
- 4) Compliance with the Erosion Control Ordinance.
- 5) The closing of Carmelite Drive except for emergency vehicle use.
- 6) Fencing
- 7) Buffering

This motion was seconded by Councilman Boland.

Councilman Bratton made a substitute motion to remand the issue to the Planning and Zoning Commission in order that the zoning issue and the site plan approval can be separated and the zoning issue be cleared up prior to Council's consideration. This motion was seconded by Councilman Price.

In response to Councilman Michalove, Mr. Wiegman said a delay of 45-60 days for the project to be remanded to the Planning and Zoning Commission and the zoning issue cleared would be detrimental to the project. He said he knew the process taken by Planning and Zoning and it would take longer than 60 days to resolve the zoning issue. He said the project has been before the Planning and Zoning Commission for six months.

At the request of Council, Vice-Mayor Frank called for a 15-minute recess to discuss parliamentary procedures, and to discuss new language for Councilman Tisdale's motion for approval of the project.

In response to Vice-Mayor Frank, Corporation Counsel Slawter said it would be in order for Council to proceed with voting on Councilman Bratton's substitute motion.

A discussion was held, instituted by the Beverly Hills residents, relative to reopening the public hearing to receive additional comments from the opponents since the developers had had additional time to speak.

Councilman Tisdale withdrew his motion for approval in order that the public hearing could be reopened for additional comments by the Beverly Hills residents. Councilman Boland accepted the withdrawal of the motion.

Councilman Bratton did not wish for her substitute motion to be withdrawn.

At this time, Vice-Mayor Frank reopened the public hearing for additional comments.

Don Roberts, Beverly Hills resident, said this matter is so important that Council should not consider the time elements of the developers.

Bill Barley of 68 Fairway Drive, questioned Council approving a \$10 million dollar project without first receiving explicit detailed plans for the project.

Bill Moore said the project could not be financed if the project was delayed for any length of time.

Ned Guttman voiced concern that if Council approved the project the developers could go ahead with the construction of the project prior to the zoning issue being resolved. He spoke in support of Councilman Bratton's substitute motion.

Jan Wiegman said they were informed from the very beginning that the property is zoned properly for this type of development. He said even if the Carmelites request rezoning of the property to the R-3 classification, the proposed

project would still be an allowable use.

Mike Moody said he felt Council had an obligation to consider the zoning issue.

Clyde Collier of Ambler Road, an adjoining property owner to the proposed projects, spoke in opposition to the projects.

Vice-Mayor Frank again closed the public hearing at 7:20 p.m.

In response to Councilman Michalove, Corporation Counsel Slawter said Council had the options of approving or disapproving the project, or remanding the project to the Planning and Zoning Commission. He said members of Council could institute rezoning of the property. He said he felt strongly in his opinion that the 1963 rezoning of the property with a provision for an agreement with the Carmelite Nuns was contract zoning and illegal. He said the Beverly Hills Homeowners restrictive covenants on a portion of the property in question was a private issue and would have to be resolved between the parties.

On a voice vote of 4-2, Councilman Bratton's substitute motion failed

with Vice-Mayor Frank, Councilmen Michalove, Tisdale and Boland voting "no".

Councilman Tisdale then moved to approve the site plans as revised January 27, 1986, contingent upon the following conditions:

1. That portion of the project included within the area zoned R-2 be amended so as to include no more than six units per acre.
2. That no less than one parking space per unit be provided in that portion of the project known as Eagle's Crest and all other portions of the project (The Forrest Apartments) provide two (2) spaces per unit.
3. That the Department of Public Works approve the specifications and design of the street requested for dedication.
4. Compliance with the Erosion Control Ordinance.
5. The closing of Carmelite Drive except for emergency vehicle use and erection of a gate by the developer.
6. Fencing and landscaping plans be subject to final approval by City Council.

This motion was seconded by Councilman Boland.

Councilman Price questioned how far the proposed swimming pool would be from any property line. Mr. Wiegman responded that it would be about 100 ft. from the property line.

Councilman Bratton said she would not be voting on the motion because the issue before the Council is not clear in light of the zoning dispute, and this matter should have been resolved prior to Council's consideration of the site plans.

On a voice vote of 6-0, Councilman Tisdale's motion was adopted.

A discussion was held relative to Councilman Bratton's decision not to vote and it was the Corporation Counsel's opinion that Councilman Bratton's abstention was an "aye" vote.

Councilman Bratton said she felt a precedent had previously been set, during the organizational meeting of the Council, relative to "abstaining votes".

Councilman Price moved that Council instruct the Corporation Counsel to consult with the Attorney for the owners of the Carmelite property to determine if the rezoning of the property will be requested, and for Council to initiate the rezoning if the diocese chooses not to; further that the requested rezoning include the property that faces Ambler Road

to R-1 if the diocese declines to request the change. This motion was seconded by Councilman Michalove and carried on voice vote of 5-1, with Councilman Bratton voting "no".

Councilman Price was excused from the meeting at 7:35 p.m.

Councilman Bratton left the Council meeting unexcused.

Mayor Bissette resumed the chair.

ORDINANCE NO. 1553 - AN ORDINANCE DESIGNATING A BUILDING AND PROPERTY KNOWN AS "THE MANOR" AT 265 CHARLOTTE STREET IN ASHEVILLE, NORTH CAROLINA, CURRENTLY OWNED BY TRANSCO FINANCIAL GROUP, LTD., AS HISTORIC PROPERTY

6. Consideration was given to the second reading of Ordinance No. 1553, an ordinance designating a building and property known as "The Manor" at 265 Charlotte Street in Asheville, North Carolina, currently owned by Transco Financial Group, Ltd., as historic property.

Mayor Bissette said "The Manor" was completed in 1899 as an "English Country Inn in America", and is a rare surviving example of the picturesque resort development so important to the history of the North Carolina mountains. The Historic Resources Commission of Asheville and Buncombe County has demonstrated the historic significance of the building, and the Division of Archives and History of North Carolina Department of Cultural Resources has endorsed the findings of the Commission. This ordinance passed on first reading on November 26, 1985. At the December 3, 1985, Council meeting, Council postponed the second reading of this ordinance until February 4, 1986, due to a pending process of completing foreclosure proceedings against the property.

Mayor Bissette 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.

Mayor Bissette said he had been informed by the Acting City Manager that Attorney Jerry Crowe, representing the owner of "The Manor Inn", had requested that the second reading of this ordinance be continued until next week, February 11, 1986.

Councilman Michalove moved to postpone the second reading of Ordinance No. 1553 until February 11, 1986. This motion was seconded by Councilman Frank and carried unanimously.

ORDINANCE NO. 1567 - AN ORDINANCE REPEALING ORDINANCE NO. 1287, KNOWN AS AN ORDINANCE ESTABLISHING THE ASHEVILLE DOWNTOWN COMMISSION AND IN LIEU THEREOF A NEW ORDINANCE BE ADOPTED

7. Consideration was given to the third reading of Ordinance No. 1567, an ordinance amending Ordinance No. 1287, an ordinance establishing the Asheville Downtown Commission including its composition, terms of office, and other general provisions.

Mayor Bissette said this amendment will change the composition, powers and purpose of the Asheville Downtown Commission. This ordinance passed on first reading at the January 21, 1986, meeting and on second reading at the January 28, 1986, meeting.

Mayor Bissette 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 6-0, Ordinance No. 1567 passed on third and final reading.

Complete text of Ordinance No. 1567 will be found in Ordinance Book No. 10 at page 358, 359, 360, and 361.

RESOLUTION NO. 86-... - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE FAIR

HOUSING COMMISSION

8. Consideration was given to a resolution appointing members to the Asheville Fair Housing Commission.

Mayor Bissette said members of Council had discussed this resolution during their Pre-Council work session, and it was the consensus to continue action on this resolution until February 11, 1986.

Councilman Tisdale moved to continue action on the resolution appointing members to the Asheville Fair Housing Commission until February 11, 1986. This motion was seconded by Councilman Michalove and carried unanimously.

RESOLUTION NO. 86-17 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF DIRECTORS OF THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

9. Consideration was given to a resolution appointing members to the Board of Directors of the Asheville-Buncombe Community Relations Council.

Mayor Bissette said Mr. Jesse Ray, Jr., has resigned as a member of the Asheville-Buncombe Community Relations Council. The terms of Betty Jo Sullivan and the Chief of Police expired on December 31, 1985. This resolution will appoint Betty Jo Sullivan to serve the unexpired term of Jesse Ray, Jr. The Police Chief will be reappointed for a three year term, and Dwight B. Mullen will be appointed for a three year term.

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

Upon motion of Councilman Boland, seconded by Vice Mayor Frank, Resolution No. 86-17 was unanimously adopted.

Complete text of Resolution No. 86-17 will be found in Resolution Book No. **15** at page **428**.

RESOLUTION NO. 86-18 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE DOWNTOWN COMMISSION

10. Consideration was given to a resolution appointing members to the Asheville Downtown Commission.

Mayor Bissette said pursuant to Ordinance No. 1567 this resolution will appoint seven (7) members to the Downtown Commission as follows:

- 1) Walter R. Boland, City Council appointee
- 2) Wilhelmina B. Bratton, City Council appointee
- 3) Jesse Ledbetter, County Commissioner appointee
- 4) Wayne Montgomery, County Commissioner appointee
- 5) Robert J. Carr, Chairman
- 6) John N. Daniel, Private sector appointee
- 7) David C. Swann, Private sector appointee

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

Upon motion of Councilman Tisdale, seconded by Councilman Michalove, Resolution No. 86-18 was unanimously adopted.

Complete text of Resolution No. 86-18 will be found in Resolution Book No. 15 at page 429.

REPORT FROM PURCHASING DIRECTOR RELATIVE TO DISPOSAL OF CITY OWNED PERSONAL PROPERTY

11. Mayor Bissette accepted the following report from the Purchasing Director relative to disposal of City owned personal property and said on June 25, 1985, Council adopted Resolution No. 85-99 describing procedures for disposing of personal property valued at less than five hundred dollars (\$500.00) for any one item or group of items. This resolution requires the Purchasing Director to report to Council any property disposed of. This report is for the period of July 1 through December 31, 1985.

"MEMORANDUM TO: William F. Wolcott, Jr.

Acting City Manager

FROM: Norwood R. Dunn

Purchasing Director

DATE: January 22, 1986

SUBJECT: Report on Disposal of City Owned Personal Property

Valued at Less Than \$500.00 For The Period July 1

Through December 31, 1985

Resolution No. 85-99 adopted by City Council on June 25, 1985, prescribed procedures for disposing of personal property valued at less than five hundred dollars (\$500.00) for any one item or group of

items. The regulations attached to and made part of Resolution No.

85-99 requires the Purchasing Director to make a written report to City Council as to any property disposed of as follows:

On the first day of February report any property disposed of pursuant to these procedures for the period from July 1 through December 31 of the previous year.

The report to include a description of property sold or exchanged; to whom it was sold, or with whom exchanged; and the amount of money or other considerations received for each sale.

I have attached the Personal Property Disposal Report For Period July 1 through December 31, 1985, for presentation to City Council.

NRD:jg

ATTACHMENT: Personal Property Disposal Report 7/1/85 - 12/31/85

PERSONAL PROPERTY DISPOSAL REPORT

FOR THE PERIOD OF JULY 1, 1985

THROUGH DECEMBER 31, 1985

PREPARED: JANUARY 22, 1986

REQUEST FOR QUOTATION FILE NO. 1653 July 1, 1985 - December 31, 1985

Item(s) Sold Date of Sale Amount Received Sold To

Approx. 300 used Fletcher Tire

tires 8-5-85 \$119.95 Service,

Arden, NC

(2) framed posters

(1) 35mm Nikon Logan Delany

Camera 8-9-85 \$465.00 Asheville, NC

Approx. 250 used Mack's Used tires 11-12-85 \$176.00 Auto Parts

Asheville, NC

TOTAL \$760.95

RESOLUTION NO. 86-19 - RESOLUTION AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE CERTAIN CONTRACTS FOR BELE CHERE 1986

12. Consideration was given to a resolution authorizing the City Manager or his designee to execute certain contracts for Bele Chere 1986.

Mayor Bissette said this resolution will authorize the City Manager or his designee to execute contracts for Bele Chere 1986. These contracts will be between the City and the various performers, vendors and a talent agency.

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

Upon motion of Councilman Boland, seconded by Vice Mayor Frank, Resolution No. 86-19 was unanimously adopted.

Complete text of Resolution No. 86-19 will be found in Resolution Book No. 15 at page 430.

RESOLUTION NO. 86-20 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A SUBORDINATION AGREEMENT IN CONNECTION WITH BURGERLAND ASSOCIATES UDAG LOAN

13. Consideration was given to a resolution authorizing the Mayor to sign a Subordination Agreement in connection with Burgerland Associates UDAG Loan.

Mayor Bissette said the City of Asheville is a holder of a note dated January 16, 1980, in the amount of \$35,000 secured by a deed of trust. Burgerland Associates, a North Carolina general partnership is the obligor under said note and deed of trust. This deed of trust is presently subordinate to a deed of trust in favor of the Northwestern Bank in the sum of \$184,000. Burgerland Associates has arranged new financing within NCNB in the amount of \$170,000 and has

requested the City to subordinate its lien rights to a new note in favor of NCNB. This subordination agreement will not adversely affect the City's security under said note and deed of trust.

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

Upon motion of Councilman Boland, seconded by Councilman Michalove, Resolution No. 86-20 was unanimously adopted.

Complete text of Resolution No. 86-20 will be found in Resolution Book No. **15** at page **431** and **432**.

CLAIMS - JOANNE MCKINNEY (WATER) - MAXINE TREADWAY (PARKS AND RECREATION) - JAMES GETER (SANITATION) - LANGDON AMMEN (FIRE) - MOSSWOOD MOBILE HOME PARK/ JIM MORGAN (POLICE)

14. The Acting City Manger presented claims received from Joanne McKinney, Maxine Treadway, James Geter, Langdon Ammen, and Jim Morgan.

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

LAWSUITS - MARSHA MORGAN MCFEE VS. CITY OF ASHEVILLE (WRONGFUL ACT - SANITATION)

15. The Acting City Manager said the City was served on January 29, 1986 with a lawsuit in which the City of Asheville is a defendant in the case involving Marsha Morgan McFee versus City of Asheville (wrongful act - Sanitation).

Mayor Bissette referred the lawsuit to the Corporation Counsel for investigation and recommendation.

ADJOURNMENT

Councilman Tisdale moved to adjourn the meeting at 7:50 p.m. This motion was seconded by Councilman Boland and carried unanimously.

MAYOR CITY CLERK
