

Tuesday - July 15, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton; Kenneth M. Michalove; and George M. Tisdale; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilmen Norma T. Price and Walter R. Boland

INVOCATION

The invocation was given by Vice-Mayor Mary Lloyd Frank.

APPROVAL OF THE MINUTES - JULY 8, 1986 MEETING

1. Consideration was given to the approval of the minutes of the July 8, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - JULY 20-27, 1986 AS "BELE CHERE DIRTY CAR WEEK"

2. Mayor Bissette read a proclamation proclaiming July 20-27, as "Bele Chere Dirty Car Week".

Mayor Bissette presented the proclamation to Ray Kisiah, Director of Parks, Recreation, and Public Facilities.

PUBLIC HEARING - DESIGNATION OF CHESTNUT-LIBERTY STREET AREA AS LOCAL HISTORIC DISTRICT

3. A public hearing to consider an ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville to create the Chestnut-Liberty Street area as local historic district was continued.

Mayor Bissette said this ordinance would designate the Chestnut-

Liberty Street neighborhood as a local historic district. Certificates of Appropriateness would be required by a property owner before any exterior rehabilitation or new construction can take place. At the June 24, 1986 meeting of the City Council, this public hearing was continued until July 15, 1986.

Mayor Bissette noted that the Planning and Zoning Commission is scheduled to consider the Chestnut-Liberty Street area as a local historic district on August 6, 1986. He recommended that Council continue the public hearing until August 12, 1986.

Councilman Tisdale moved to continue the public hearing relative to the creation of the Chestnut-Liberty Street area as a local historic district until August 12, 1986 without further advertisement. This motion was seconded by Vice-Mayor Frank and carried unanimously.

REVIEW OF WOODBERRY APARTMENT COMPLEX LANDSCAPING PLAN

4. Consideration was given to a revised site plan of the Woodberry Apartment Complex landscaping plan.

Mayor Bissette said on May 25, 1986, City Council approved the site plan for Woodberry. Changes in the approved grading plan occurred which will require a new landscaping plan. In addition, the developer is also requesting approval for four (4) additional units in the complex.

Verl Emrick, Director of Planning, said the developers were notified on May 12 that they were in violation of the

approved site plan for the Woodberry Apartment Complex. By the use of a map, Mr. Emrick outlined the changes that have occurred to the project since the site plan was originally presented to Council for approval.

Jeff Ratliff, Architect for the project, spoke in support of the project. He said, in his opinion, an error was made by clearcutting too many trees in the project but also pointed out that when Council approved the site plan it also approved the grading plan which called for the removal of trees. He said the original landscaping plan presented to members of Council was a rough schematic plan rather than a technical grading plan.

Mr. Ratliff answered questions from members of Council relative to the landscaping plan and the project.

Several members of Council indicated that they were disappointed in the project since, at the present time, the project consists of buildings, dirt and a barren slope, which should be covered with trees according to the approved landscaping plan.

By the use of a map, Mr. Ratliff showed changes to be made in the original landscaping plan.

A discussion was held, instituted by Councilman Tisdale, relative to complaints received from residents in the area relative to roads being blocked by construction without flagmen, and dust, and parking on the road during construction.

Paul Goodman, 484 Windswept Drive, spoke to members of Council relative to the parking and dust on the road during construction.

Marla Tugwell, Windswept Drive, also spoke relative to the condition of the road and the parking situation during construction.

Sue Peterson, Windswept Drive, spoke to members of Council relative to the erosion control problems created by the project.

Neal Stewart, Windswept Drive, speaking on behalf of homeowners on Windswept Drive, said the residents are concerned about the internal development of the property and was opposed to the project as it is being developed. He said the residents are concerned about dust, parking, speeding, littering, and the blocking of the road by the construction crew.

Jeff Phillips, of Branch Associates, contractor for the project, spoke in support of the project stating that he was aware that landscaping for the project is a problem but requested that Council cooperate with the developer.

George Jensen, of 12 Broad Street, engineer of the proposed project said the slopes for the project are stable and the buildings are in the approximate approved locations. He said very little grading had been done that was not approved by Council on May 25, 1985.

After a lengthy discussion, Councilman Michalove moved that the Asheville City Council stop construction on the project; invoke whatever appropriate fines there are regarding erosion control and zoning violations; require the developer to submit a new landscaping plan that will be coterminous with the grading that was done and submit that plan by July 22, 1986; that the developer increase the amount of planting to be done in conformance with the new buffering ordinance that Council is now considering; that the developer control the dust on the project area by leasing, renting, or purchasing whatever equipment they need to water the area down on a regular basis; that the developer create off-street parking areas if there are not sufficient parking spaces off the street; that the developer hydroseed as soon as possible or take whatever other appropriate measures there are to control any wash that might occur during a heavy rain; that the City of Asheville notify the developer's lender of current problems and violations; that the City charge the contractor for any cleaning of the street done by the City if any has been done; that the City properly invoke the City regulations regarding the control of dust and street washing when there is contract work being done; that the developer have a flagman on duty when there is equipment crossing the street; and that the developer post a performance bond for assuring the City that the landscaping plan that they come up with will be carried out. This motion was seconded by Councilman Bratton.

Upon inquiry of Councilman Tisdale, the Corporation Counsel suggested that Council go into Executive Session to discuss Councilman Michalove's motion.

Councilman Michalove withdrew his motion, at the request of the Corporation Counsel, to discuss the motion during an Executive Session. Councilman Bratton withdrew the second to the motion.

Councilman Bratton moved that Council adjourn to Executive Session to discuss a motion relative to the Woodberry Apartment Complex, being a legal matter. This motion was seconded by Councilman Tisdale and carried unanimously.

After the Executive Session, Councilman Michalove moved that the City Manager be directed to take such actions as deemed necessary to compel compliance by the developer with all applicable provisions, including, but not limited to, the Building Code, the Zoning Ordinance, dust control, parking, and traffic control of the Code of Ordinances of the City of Asheville and to pursue such fines and other legal remedies that may be available under the Code of Ordinances for failure to comply. Further, that the developer submit a new landscaping plan, other than the one dated 7/1/86, which will compensate for the destruction of trees that were stated to be left in the landscaping plan approved by the Asheville City Council July 16, 1985. Further, that the developer consider the quantity, size, types, and spacing of trees, shrubs, and groundcover in accordance with the Director of Planning. This motion was seconded by Councilman Bratton.

Upon inquiry of Councilman Tisdale, the Corporation Counsel noted that this motion was in order.

On a voice vote, Councilman Michalove's motion carried unanimously.

ORDINANCE NO. 1592 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED (PROVIDING BUFFERING REQUIREMENTS)

5. Consideration was given to the second reading of Ordinance No. 1592, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville" as amended to provide buffering requirements.

Mayor Bissette said the Asheville Planning and Zoning Commission on March 19, 1986, reviewed a buffering amendment to the zoning ordinance proposed by the Asheville Tree Commission. After some modifications, the Commission voted to recommend approval of the amendment to City Council. This ordinance passed first reading at the July 8, 1986 meeting.

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 several proposed amendments to the ordinance have been presented and the amendments would be made prior to the third reading of the ordinance.

On a roll call vote of 5-0, Ordinance No. 1592 passed on second reading.

RESOLUTION NO. 86-128 - RESOLUTION ADOPTING AN INVESTMENT POLICY FOR THE CITY OF ASHEVILLE

6. Consideration was given to a resolution adopting an investment policy for the City of Asheville.

Mayor Bissette said Statement No. 3 of the Governmental Accounting Standards Board has been interpreted by the North Carolina Institute of Government staff and the North Carolina Local Government Commission staff to imply that investment policies be approved by governing boards. This resolution will place, in writing, the City's long-standing investment policy.

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 Vice-Mayor Frank, Resolution No. 86-128 was unanimously adopted.

Complete text of Resolution No. 86-128 will be found in Resolution Book No. **16** at page **87**.

RESOLUTION NO. 86-129 - RESOLUTION APPROVING THE REVISION OF RULE 17(e) OF THE CIVIL SERVICE RULES AND REGULATIONS

7. Consideration was given to a resolution approving the revision of Rule 17(e) of the Civil Service Rules and Regulations.

Mayor Bisette said the revision of Rule 17(e), Bereavement Leave, will provide that leave shall be granted to any member of the Classified Service who is scheduled to work but who has a death in the immediate family. Such leave shall (1) be approved by the employee's department/division head and not exceed three (3) working days; (2) be with pay; and (3) not be charged against the employee's accrued compensatory time or annual/sick leave. Under all circumstances, the leave must be taken at the time of the emergency. For the purposes of this rule, the term "immediate family" shall mean father and mother, brother and sister, spouse, children, grandchildren, grandparents, and subject to the discretion of the employee's department/division head, anyone acting in such a capacity. The revision further provides that time off from a regularly scheduled work day of no more than one (1) work day may be granted to allow a member of the Classified Service to attend the funeral of a co-worker, close personal friend, or relative not in the immediate family.

Mayor Bisette noted that this matter was previously addressed by members of Council during a public hearing several weeks ago and the matter was referred to the Council Personnel Committee. He said, since that time, the revision to Rule 17(e) has been approved by the Council Personnel Committee.

Mayor Bisette 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 Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 86-129 was unanimously adopted.

Complete text of Resolution No. 86-129 will be found in Resolution Book No. **16** at page **88** and **89**.

RESOLUTION NO. 86-130 - RESOLUTION AUTHORIZING SUBMISSION OF AN APPLICATION TO HUD FOR RENTAL REHABILITATION PROGRAM FUNDS

8. Consideration was given to a resolution authorizing submission of an application to HUD for rental rehabilitation program funds.

Mayor Bisette said this resolution will authorize the submission of an application to HUD for funds in the amount of \$28,000 for Rental Rehabilitation Program assistance designed to encourage rehabilitation of rental residential property. Increase in revenue by \$28,000. Public funds will be matched by private investment. A budget amendment will be submitted for this funding upon approval by HUD.

Mayor Bisette said this resolution was previously presented to members of Council and would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Tisdale, seconded by Vice-Mayor Frank, Resolution No. 86-130 was unanimously adopted.

Complete text of Resolution No. 86-130 will be found in Resolution Book No. **16** at page **90**.

APPROVAL OF THE CONSENT AGENDA

9. Consideration was given to a motion approving the consent agenda.

Mayor Bissette 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. 86-132

A. Consideration of a resolution to elect a tax shelter of employees

contributions payable as members of the Law Enforcement Officers

Retirement System of the State of North Carolina.

HIGHLIGHTS: Pursuant to a bill ratified by the N. C. General Assembly in

1984, the City was authorized to tax shelter contributions payable to the Law Enforcement Officers' Retirement System by its employees. The City has been tax sheltering the contributions payable to its employees to this system since January 1, 1984. The State of North Carolina requires adoption of a resolution authorizing the tax sheltering of the employees' contributions, and this action would bring

the City into compliance with this requirement.

FISCAL IMPACT: None, however this action would save employees who are

members of LEO Retirement System money as deductions are made prior to taxes thus ensuring greater "take-home" pay.

Resolution Book No. 16, page 91.

Resolution No. 86-132

B. Consideration of a resolution authorizing the closing of certain streets

in Downtown Asheville relative to the Bele Chere Festival.

HIGHLIGHTS: The annual Bele Chere Festival for the City of Asheville

will be held July 25, 26, and 27, 1986. The City Council and the Buncombe County Board of Commissioners have indicated their full support of this event. This resolution will authorize the City Manager to cause the closing of certain streets in downtown Asheville during the dates and

times of the festival.

FISCAL IMPACT: None

Resolution Book No. 16, page 92-93.

Resolution No. 86-133

C. Consideration of a resolution authorizing the Mayor of the City of

Asheville to execute easement in favor of the Carolina Power and Light

Company.

HIGHLIGHTS: Carolina Power and Light Company has requested that the City

of Asheville execute a right-of-way easement on property belonging to the City of Asheville located at the intersection of Hiwassee Street and Rankin Avenue for the purpose of updating existing power lines as shown on Carolina Power and Light Company Drawing No. RWA-7692. This resolution will authorize the Mayor to execute the easement

in favor of Carolina Power and Light Company.

FISCAL IMPACT: None

Resolution Book No. 16, page 94.

Resolution No. 86-134

D. Consideration of a resolution appointing member to the Policemen's Pension

& Disability Task Force.

HIGHLIGHTS: On October 29, 1985, by Resolution No. 85-197, the Asheville

City Council established the Policemen's Pension & Disability Fund Task Force. In this resolution, the City Council determined that an active member of the Plan should be appointed to the Task Force. Lt. Porter V. Fowler, as Active Member, has retired from the Asheville Police Department. This resolution will appoint Lt. Owen Bodenhamer, as Active Member to the Policemen's Pension &

Disability Fund Task Force.

FISCAL IMPACT: None

Resolution No. 16, page 95.

E. Consideration of a motion to schedule a public hearing to rezone property

located at 1616 Patton Avenue from R-2 Residential District to CH

Commercial Highway District for August 5, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting

held June 11, 1986, considered the petition of Mr. Bobby Barbour that a portion of Lot 1, Sheet 24, Ward 5, be rezoned from R-2 Residential District to CH Commercial Highway District. The property is located at 1616 Patton Avenue. After review and discussion, the Commission voted to recommend that the petition be denied and that a portion of Lot 1, Sheet 24, Ward 5, be rezoned from CH to R-2 Residential District to provide a buffer on the eastern property line of Lot 1. However, the petitioner has appealed Planning & Zoning Commission's decision and has asked that a public hearing be scheduled so the rezoning

matter can be heard before Council.

FISCAL IMPACT: None

Upon motion of Councilman Michalove, seconded by Councilman Bratton, the consent agenda was unanimously adopted.

AUTHORIZATION TO EXECUTE LETTER OF INDEMNIFICATION - PACK PLAZA ASSOCIATES LIMITED PARTNERSHIP - LEGAL BUILDING - BELE CHERE

Councilman Bratton moved that the City Manager be authorized to execute a letter of indemnification to be given to Pack Plaza Associates, Limited Partnership in order that the City may be able to use the Legal Building as headquarters, the Plaza Theater for Pack Plaza Promotions, and the parking lot between the theater and the old Dunn Antiques Building on Biltmore Avenue for the start of the bicycle races for the Bele Chere Festival for July 25, 26, and 27, 1986. This motion was seconded by Vice-Mayor Frank and carried unanimously.

AUTHORIZATION TO EXTEND OPTION TO PURCHASE - RONAL WHEELS - PROPERTY LOCATED NEAR THE ASHEVILLE AIRPORT

Councilman Michalove moved to authorize the Mayor to execute an extension of the option to purchase a 16.4 acre tract located near the Asheville Airport by Ronal Wheels until August 30, 1986. Further, that Ronal Wheels submit a proposal for any additional extensions by August 10, 1986. This motion was seconded by Councilman Tisdale and carried unanimously.

AUTHORIZATION FOR CORPORATION COUNSEL TO INSTITUTE LEGAL PROCEEDINGS - DENNIS A. CHADWICK - 80 DEAVERPARK CIRCLE

Vice-Mayor Frank moved that the City Attorney be authorized to institute appropriate legal proceedings against Dennis A. Chadwick and other appropriate parties for violation of the Zoning Ordinance of the City of Asheville at 80 Deaverpark Circle. This motion was seconded by Councilman Tisdale and carried unanimously.

REPORT BY COUNCILMAN TISDALE - ASHEVILLE CABLEVISION COMMISSION

Councilman Tisdale noted that the Asheville Cablevision Commission met on July 14, 1986. He said the City of Asheville did not receive any complaints relative to Asheville Cablevision during the month of June 1986. He said the Commission would not be meeting in August and their next meeting would be on September 8, 1986. He said Joe Haight, General Manager of Asheville Cablevision had advised the Commission members that Asheville Cablevision would be considering a possible 5% increase in the basic service rate in September 1986. He said proper notification of the increase would be given in subscriber's bills and through the news media. He said that Asheville Cablevision would advise Asheville City Council of their decision relative to the increase prior to notification to subscribers. He noted that Asheville Cablevision, under the Cable TV Act has the option to impose such a rate increase.

REPORT BY COUNCILMAN TISDALE - MEETING OF ASHEVILLE TRANSIT AUTHORITY

Councilman Tisdale noted that he had attended the board meeting of the Asheville Transit Authority. He said Don Patton, the new member of the Board was introduced and in his opinion, Mr. Patton would be an asset to the Authority. He noted that the Asheville Transit Authority would be requesting to be heard by the Asheville City Council on July 22, 1986.

CLAIMS - LAWRENCE TATE (WATER) - EDDIE NICHOLS (SEWER) - WAYNE CALDWELL (WATER) - N. H. HENSON (WATER) - HENRIETTA GRIFFIN (STREETS) - ZEB PETERSON (MOTOR TRANSPORT) - MARY LOU KING (SANITATION) - IRENE SCARBOROUGH (STREETS) - JEFFREY SANBORN (SEWER) - J. N. FEATHERSTONE (SANITATION)

The City Manager presented claims received from Lawrence Tate, Eddie Nichols, Wayne Caldwell, N.H. Henson, Henrietta Griffin, Zeb Peterson, Mary Lou King, Irene Scarborough, Jeffrey Sanborn, and J.N. Featherstone.

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

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Councilman Michalove, the meeting adjourned at 6:45 p.m.

MAYOR CITY CLERK
