

Tuesday - August 5, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Walter R. Boland; Kenneth M. Michalove, Norma T. Price, 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: Councilman Wilhelmina Bratton

INVOCATION

1. The invocation was given by Mayor Bissette.

APPROVAL OF THE MINUTES - JULY 29, 1986 MEETING

2. Consideration was given to the approval of the minutes of the July 29, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - AUGUST 30 - "GOOMBAY DAY"

3. Mayor Bissette read a proclamation proclaiming Saturday, August 30, 1986, as "Goombay Festival Day."

Mayor Bissette presented the proclamation to David Jones and Wanda Henry-Coleman with the YMI Cultural Center.

PROCLAMATION - SATURDAY, SEPTEMBER 6 - "FIRST ANNUAL BILTMORE VILLAGE FESTIVAL DAY"

4. Mayor Bissette read a proclamation proclaiming September 6, 1986, as the "First Annual Biltmore Village Festival Day."

Mayor Bissette presented the proclamation to Mary Hyde, Festival Coordinator, and Patricia Williams, President of the American Association of University Women.

PUBLIC HEARING - REZONING PROPERTY - 1616 PATTON AVENUE

5. A public hearing was held relative to rezoning property located at 1616 Patton Avenue from R-2 Residential District to CH Commercial Highway District.

Mayor Bissette said 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 and Zoning

Commission's decision and has asked that a public hearing be scheduled so the rezoning matter can be heard before Council. This public hearing was scheduled at the July 15, 1986, Council Meeting.

Mayor Bissette opened the public hearing at 4:16 p.m.

The 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 had recommended denial of the petition for rezoning as presented. He said the Planning and Zoning Commission did, however, recommend that Council rezone a 50' strip, to be a buffer, on the eastern margin of the property, to R-2 Residential District. By the use of a map, Mr. Emrick showed the location of the property in question.

He said the Planning Department received from the Malvern Hills Association a protest petition; however, he was not prepared to say whether or not the protest petition is still valid or in effect, or whether or not it has been withdrawn due to an agreement which has been reached between the petitioner and the adjoining property owners. He said if, indeed, the petition is in effect, it will be determined whether or not the 20% rule applies and, if so, this would require a 3/4 vote or 6 affirmative votes of members of Council to rezone the property.

Larry Kimel, Attorney for the Petitioner, Mr. Bobby Barbour, said a meeting with the Malvern Hills Homeowners Association was held, and a committee was formed and subsequently a memorandum of agreement was entered into which provides that the petitioner would agree to a 35' buffer to remain in its natural setting along a residential area; a 25' buffer strip along a portion of another residential area; slopes not steeper than 2-1 and planted; that an additional area be rezoned from Commercial Highway to R-2 Residential; that the creek be moved to along the residential lots; that the property east of the creek be zoned Commercial Highway; that the property west of the creek remain zoned R-2 Residential District and that there be no commercial access road leading into School Road from the property. By the use of a map, Mr. Kimel explained the different areas in question.

Walter Byerly, on behalf of the Malvern Hills Association, questioned whether or not the lot numbers specified in the ordinance were correct. He requested that Council look into the correct lot numbers. He said the residents' main concern was that there not be a commercial access into School Road. He said the Malvern Hills Homeowners Association would have no objections to the rezoning if all provisions of the agreement are as stated by Attorney Kimel.

Councilman Price noted that, although the members of Council were happy that the petitioner and the homeowners in the area could reach an agreement, the City Council could not legally be a part of that agreement.

Walter Byerly requested that in the future when notices to public are made relative to rezoning of property that a street address be put into the notice rather than describing the property by ward, sheet, and tax lot number designations.

Mayor Bissette again noted that City Council members could not legally consider the agreement between the petitioner and the property owners in the rezoning matter.

Mary Harkins, of 225 School Road, requested that a buffer strip that had been cut down be replanted.

Attorney Kimel informed Mrs. Harkins that the area would be replanted with white pines as specified in the Memorandum of Agreement.

Mayor Bissette closed the public hearing at 4:36 p.m.

Councilman Tisdale moved to postpone consideration of the first reading of the ordinance until the exact boundaries to be rezoned could be specified and further that the protest petition be addressed. This motion was seconded by Councilman Boland and carried unanimously.

Mayor Bissette requested that the City staff prepare an ordinance for consideration at next week's meeting.

ORDINANCE NO. 1596 - AN ORDINANCE AMENDING ORDINANCE NO. 322 KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED, AND REPEAL SECTIONS OF ORDINANCE NO. 1046 (PROPERTY LOCATED ON U.S. 70-E ADJACENT TO

BELL SCHOOL)

6. Consideration was given to the second reading of Ordinance No. 1596, an ordinance amending Ordinance No. 322 known as "an ordinance providing for the zoning of the City of Asheville" as amended, and repeal sections of Ordinance No. 1046, property located on U.S. 70-E adjacent to Bell School.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held June 11, 1986, considered the petition of Attorney Jack Westall for Mr. Frank Kasey that Ward 8, Sheet 31, portion of Lot 201, be rezoned from R-2 Residential District to CH Commercial Highway District. The petition also requested the repeal of Ordinance #1046 requiring a 50' green belt and that the 50' green belt be zoned "R-2". The property is located on U.S. 70-E adjacent to Bell School. After review and discussion, the Commission voted to recommend that the petition be denied. 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. This ordinance passed first reading at the July 29, 1986 meeting with an amendment to provide a 15' green belt and that the 15' green belt area remain zoned R-2 Residential District.

Mayor Bissette said that it was his understanding that an agreement relative to the rezoning had been reached between the Buncombe County Board of Education and the property owner, Mr. Frank Kasey. He said it was also his understanding that a deed to a portion of the property had been tendered to the Attorney for the Buncombe County Board of Education.

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.

On a roll call vote of 6-0, Ordinance No. 1596 passed on second reading.

RESOLUTION NO. 86-145 - RESOLUTION ESTABLISHING AN EQUAL EMPLOYMENT OPPORTUNITY TASK FORCE

7. Consideration was given to a resolution establishing an Equal Employment Opportunity Task Force.

Mayor Bissette read the resolution stating that the City Council desires to establish a Task Force with the following duties: A) to study and evaluate the existing policies, practices and procedures of the City regarding equal employment opportunities; B) to make recommendations to the Council based upon its findings, with its initial report to be within sixty (60) days.

Mayor Bissette said the initial members of the task force would be Councilman Wilhelmina Bratton as Chairman, Councilman Walter R. Boland, Robert Smith, Thomas Posey, Sheila Fellerath, Reverend O. T. Tomes, and John R. Hayes.

Councilman Boland moved for the adoption of Resolution 86-145. This motion was seconded by Vice-Mayor Frank.

Councilman Michalove, commenting on the resolution, said a few weeks ago Council was presented with concerns by representatives of the N.A.A.C.P., in particularly with reference to black male employment and promotions in the Police Department and the N.A.A.C.P. representative, Johnny Hayes, requested that Council appoint a committee to look into these and other matters. He said he felt the N.A.A.C.P. is an appropriate body to make such a request but he felt what Council has done, at this point, is to broaden that concern to study and evaluate the existing policies, practices, and procedures of the City regarding equal employment opportunities. He said the City of Asheville has an organization in the community that is substantially funded by the City of Asheville, the Asheville-Buncombe Community Relations Council, and having worked in a government capacity for about 18 years, he knew what this organization means to the community. He said after researching what Council had chartered the Asheville-Buncombe Community Relations Council to do, back in the 1970's, being that the objectives of the Community Relations Council are to centralize the individual and community resources by combining the private, governmental, and voluntary efforts in a community attack to solve human problems as they relate to racial, ethnic origin, religion and class relationships; to provide information and opportunities for open discussions and actions in solving the sensitive problems involved in

intergroup relations; to secure steady progress in Asheville and Buncombe County toward employment on merit without regard to race, ethnic origin, religious belief, or class; to create a community in which the dignity and work of each individual is respected on its own merits and to bring coordinating leadership of all organizations that are working to solve human relations and to make sure they are working in the same direction and to make sure they are doing what is relevant to the situation. He said he felt the point that the N.A.A.C.P. has brought out is not an uncommon concern in the black community and has been one for several years, being the promotions as they relate to the Asheville Police Department. He said in considering appointments to this broadbased committee, Council appointed two Council Members which were recommended by the N.A.A.C.P. and two representatives from the Asheville Civil Service Board, since that Board plays a very vital role in the hiring of employees. He said he is concerned that the City of Asheville has other groups in the community that are concerned about equal employment opportunities and Council did not give them an opportunity to have a voice or input into the committee appointments. He said such organizations are the Commission on the Status of Women, the Mayor's

Committee on Employment of the Handicapped, and the American Association of Retired People. He said he felt these organizations are really target groups that Council should be conscious of in dealing with promotions, hiring, etc. He said it would have been his preference to have Council appoint two Council members, two representatives from the Civil Service Board, and the City Manager; and to request that the Asheville-Buncombe Community Relations Council add to that appointment list representatives from the various organizations as they saw fit as it relates to equal employment opportunities. He said he would hope that if the request arises from these organizations that the Council either appoint a representative to this task force from the organizations or at least give them an opportunity to participate.

Mayor Bissette indicated that members of Council felt it would be more effective to have a small task force.

John Hayes, with the N.A.A.C.P., said he felt the N.A.A.C.P. is a broad-based organization and would be concerned with everyone.

Upon inquiry of Mr. Hayes, Mayor Bissette said even though the resolution requested that the initial report from the task force be within sixty (60) days that if a report is ready before then Council would be willing to accept the report at any time.

Upon inquiry of Ralph Bishop, Mayor Bissette said this task force would not take away the right of the City Manager to hire employees for the City of Asheville.

On a voice vote, Resolution No. 86-145 was unanimously adopted.

Complete text of Resolution No. 86-145 will be found in Resolution Book No. **16** at page **116**.

APPROVAL OF THE CONSENT AGENDA

8. 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. 86-146

A. Consideration of a resolution authorizing the closing of a portion of

Market Street and Eagle Street on Saturday, August 30, 1986 from 12:00 Noon until 12:00 Midnight for a "Goombay Festival".

HIGHLIGHTS: This resolution will authorize the City Manager to cause the closing of Market Street from the ABC Store to the YMI Cultural Center and Eagle Street from the YMI Cultural Center to Mt. Zion Church o Saturday, August 30, 1986 from 12:00 Noon until 12:00 Midnight for "Goombay Festival". The closing of these streets would not create an undue hardship or inconvenience.

FISCAL IMPACT: None

Resolution Book 16, page 117.

Resolution No. 86-147

B. Consideration of a resolution authorizing the City Manager to enter into a

Lease Agreement with Robert L. Brummond d/b/a Handi-Com for space at the City's Patton Mountain site for the purpose of operating an FM Radio Transmitter.

HIGHLIGHTS: The City of Asheville owns, operates, and maintains a radio tower located at Patton Mountain for the purpose of transmitting and receiving FM and TV signals. Robert L. Brummond d/b/a Handi-Com would like to lease space from the City at its Patton Mountain site for transmitting two-way FM radio signals in and around the Asheville/Buncombe County area. This will be for coordinating handicapped transportation services in the Asheville/Buncombe County area.

FISCAL IMPACT: This contract will not generate any revenue. The City will provide electrical services at a cost of approximately \$12.00 to \$15.00 per month.

Resolution Book 16, page 118.

Resolution No. 86-148

C. Consideration of a resolution authorizing the City Manager to sign a service maintenance agreement with Continental Telephone Company of North Carolina.

HIGHLIGHTS: This resolution will authorize the City Manager to enter into a contract with Continental Telephone Company of North Carolina (Contel) for one year to maintain the City's telephone system.

FISCAL IMPACT: The maintenance agreement is \$9,900.00 per year.

Resolution Book No. 16, page 119.

D. Consideration of a motion to schedule a public hearing for the final plat

of the Schwab Construction Company Subdivision to be located off Lakeshore Drive for August 26, 1986.

HIGHLIGHTS: The Asheville Planning and Zoning Commission at a meeting held

June 11, 1986, approved the preliminary plat subject to the developer providing a 16' wide paved drive to all four parcels and recommending that City Council consider placing a caution signal light and signage on each side of the entrance road. The final plat of the Schwab Construction Company Subdivision is to be located off Lakeshore Drive. This plat was prepared

by Webb Morgan, R.L.S., for Schwab Construction Company,

Developer, and submitted in accordance with Ordinance #424, as amended.

FISCAL IMPACT: None

E. Consideration of a motion to schedule a public hearing for an ordinance amending Ordinance No. 1487, an ordinance to provide for the control of soil erosion and sedimentation for August 19, 1986.

HIGHLIGHTS: Cities and Counties having Soil Erosion and Sedimentation

Ordinances are required to have ordinances that comply with the "State Model Ordinance". Last year the State adopted a new model ordinance that requires all cities and counties

amend their current ordinances.

FISCAL IMPACT: None

Upon motion of Vice-Mayor Frank, seconded by Councilman Tisdale, the Consent Agenda was unanimously approved.

RESOLUTION NO. 86-149 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH WASV-TV, INC. FOR SPACE FROM THE CITY OF ASHEVILLE AT THE CITY'S WHITE FAWN RESERVOIR SITE FOR THE PURPOSE OF OPERATING A TV TRANSMITTER

9. Consideration was given to a resolution authorizing the City Manager to enter into a lease agreement with WASV-TV, Inc. for space from the City of Asheville at the City's White Fawn Reservoir Site for the purpose of operating a TV transmitter.

Mayor Bisette requested that he be excused from vote and participation on this resolution since his law firm represents WASV-TV, Inc.

Councilman Price moved to excuse Mayor Bisette from vote and participation in the resolution regarding the lease agreement with WASV-TV, Inc. This motion was seconded by Councilman Boland and carried unanimously.

Vice-Mayor Frank said the City owns, operates, and maintains a radio tower located at White Fawn Reservoir, on Windswept Drive in Asheville for transmitting and receiving FM and TV signals. WASV-TV, Inc. would like to lease space from the City of Asheville at White Fawn for the purpose of transmitting UHF-TV signals. WASV-TV is a new commercial UHF station in the Asheville area. Under the terms of the agreement, WASV-TV will ultimately build a new tower at White Fawn and convey ownership of the new tower to the City, for future rent free operation. The first year will generate \$3,600.00 in revenues. Future revenues from a new tower could reach \$30,000.00 annually.

Upon motion of Councilman Michalove, seconded by Councilman Tisdale, Resolution No. 86-149 was unanimously adopted.

Complete text of Resolution No. 86-149 will be found in Resolution Book No. **16** at page **120**.

REPORT ON INTERGOVERNMENTAL SERVICES COMMITTEE MEETING

Vice-Mayor Frank said the Intergovernmental Services Committee, consisting of Councilman Boland, Councilman Tisdale, Vice-Mayor Frank, and Buncombe County Commissioners Tom Sobol and Wayne Montgomery was held today at 12:30 p.m. She said the members discussed the plan for the County-wide MSD sewer system and a proposal for implementing the 911 Emergency Telephone System throughout the County. She said after discussion the members of the Intergovernmental Services Committee indicated that they would take the matters back to their respective bodies and try to reach an agreement by the middle of September. She said the committee also discussed central purchasing and warehousing and the Buncombe County Commissioners would be sent a copy of the City's plan for central purchasing and warehousing. She said the next meeting of the Intergovernmental Services Committee would be on September 2, 1986.

MAYOR BISSETTE - STATUS OF ACTUARIAL REPORT

Mayor Bissette said a memorandum has been sent to all members, retirees, and survivors covered under the Asheville Policemen's Pension and Disability Trust Fund. He said the memorandum would advise these members that the plan actuary is proceeding with an actuarial review of the questions submitted by the Police Pension Task Force. He said a list of eight specific questions to the plan actuary was reviewed to determine what financial impact various proposed changes to the pension fund would have on plan members and the City of Asheville. He said to date, the plan actuary has completed a review of the first six questions but is still working on the final two. He said these two questions involve the issues of Social Security's coverage for members of the plan and additional actuarial data required from the Local Government Employee's Retirement System. He said the plan actuary has informed City staff that a complete report should be ready sometime around the first part of September. He said as soon as the report is available the task force will review it in its entirety and report to all concerned parties.

CLAIMS - WILLIAM HALFEX (WATER) - WILLIAM G. CROMER (WATER) - CITY ASSETS CORPORATION (WATER)

The City Manager presented claims received from William Halfex, William G. Cromer, and City Assets Corporation.

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

RALPH BISHOP - RIGHT TO SEEK REDRESS - LOTTERY PEDDLERS

Ralph Bishop again spoke to members of Council relative to his right to seek redress from the Asheville City Council and expressed distress that the Mayor stopped him from stating his facts. He also spoke relative to the lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Vice-Mayor Frank, the meeting adjourned at 5:00 p.m.

MAYOR CITY CLERK
