

Tuesday - June 9, 1987 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bisette, Presiding; Councilmen Wilhelmina Bratton, 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: Vice-Mayor Mary Lloyd Frank

INVOCATION

The invocation was given by Councilman Wilhelmina Bratton.

APPROVAL OF THE MINUTES - JUNE 2, 1987 MEETING

Mayor Bisette announced the approval of the minutes of the June 2, 1987 meeting with several noted corrections.

INTRODUCTION OF ANNA WARREN, MISS ASHEVILLE

Barbara Pate introduced Anna Warren, Miss Asheville.

Mayor Bisette and members of Council wished Miss Warren the best in the upcoming Miss North Carolina pageant.

II. PUBLIC HEARINGS

A. PUBLIC HEARING - CITY OF ASHEVILLE BUDGET FOR FISCAL YEAR 1987-88

Mayor Bisette opened the public hearing at 4:15 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.

The City Manager noted that the budget was presented on May 26, 1987, along with the budget message.

David Anders, President of the Firefighters Association, speaking on behalf of all fire department personnel and retirees, spoke to members of Council relative to the pension and disability fund and pay inequities. Mr. Anders read the following statement:

Mayor Bisette said the City Manager is presently looking into these concerns and would have a report to members of Council very soon. He said it is the Council's desire to treat all employees fairly.

Upon inquiry of Councilman Boland, Mr. Anders said fire department personnel are requesting an 18% increase in salary which would be comparable to other cities in North Carolina.

Council instructed the City Manager to work up a position paper on the concerns expressed by Mr. Anders.

Councilman Michalove moved to budget the contribution to the Chamber of Commerce in the amount of \$80,447 (\$37,542 for tourist and promotion and \$42,905 for economic development) and \$100,000 to be budgeted for a special Economic Development Program contingent upon the funds not being expended until detail plans, budgets, and contracts are approved by Council. Further, that \$26,834 be budgeted for minority business development contingent upon the funds not being expended until agencies working in this field come up with detailed plans, budgets, and contracts which is to be approved by Council. This motion was seconded by Councilman Boland and carried unanimously.

Councilman Tisdale requested a report from the City Manager on all funds being spent on economic development in the City of Asheville.

Councilman Boland said he felt the \$100,000 investment to economic development through the Economic Development Summit would return many dollars to the City of Asheville. He also noted that the City has representatives on the Economic Development Summit to carry forth specific plans.

Councilman Michalove's motion carried unanimously.

Ralph Bishop spoke in opposition to the City of Asheville budget for 1987-88 and the appropriation for economic development as indicated by Councilman Michalove.

Mayor Bissette closed the public hearing at 5:08 p.m.

III. OLD BUSINESS

A. SECOND READING OF ORDINANCE NO. 1629 REZONING PROPERTY ON VANDERBILT ROAD FROM R-3 RESIDENTIAL DISTRICT TO R-1 RESIDENTIAL DISTRICT)

Mayor Bissette said the Asheville Planning & Zoning Commission at a meeting held March 25, 1987, discussed the request of Asheville City Council that consideration be given to rezoning certain lots on Vanderbilt Road from R-3 Residential District to R-1 Residential District. After review and discussion, the Commission voted to recommend to the City Council that Lots 58½, 56½, 56¼, and a portion of lots 54 and 53½, Sheet 4, Ward 7, be rezoned from R-3 Residential District to R-1 Residential District.

Councilman Tisdale requested that the following letter be made a part of the Council minutes:

May 26, 1987

The Honorable George Tisdale

Councilmember, City of Asheville

City Hall

Asheville, NC 28807

Dear Mr. Tisdale:

On behalf of the Biltmore Forest Town Board and the people of Biltmore Forest, I would like to thank you again for your vote to rezone the area in question on North Vanderbilt from R3 to R1. This will allow a much less dense development and more compatible use for this area that is so important to our Town.

At a City Council meeting in the not too distant future, representatives of the Town would like to formally request that the area in question be made a part of Biltmore Forest's jurisdiction. This request is based on a part history of cooperation on such matters between the municipalities in which on two occasions the City has received either land area or legal jurisdiction from the Town, in order to facilitate Asheville's purposes in planning and tax base development. In that spirit we hope that you will favorably receive our request in order to help us further our purposes of neighborhood protection.

Again, it was my pleasure to appear before the Council at your request.

Sincerely,

Robert R. Musselwhite

Town Administrator/Manager

cc: The Asheville City Council

Mayor Canie B. Smith

Commissioner Robbie W. Hambright

Commissioner E. Glenn Kelly

Commissioner Robert B. Armstrong

O. E. Starnes, Jr., Town Counsel

Douglas O. Bean, City Manager

William F. Wolcott, Jr., Associate City Manager

Verl R. Emrick, Jr., Director of Planning

Claude Smith, resident of 296 Vanderbilt Road and owner of Lot 56½, again spoke in opposition to the rezoning.

J. D. Anderson, Jr., acting on behalf of his mother, Maude Anderson, owner of property in question, said he felt there was a lot of controversy over the services received from Biltmore Forest and the City of Asheville.

Mayor Bissette said a study was conducted relative to the services provided to the residents on Vanderbilt Road under consideration. He said the study revealed the following; the City of Asheville provides garbage collection and fire and police protection to the property owners on Vanderbilt Road; fire protection is provided to the property owners; however, since January 1984 to

the present, no fire calls have been received from the three property owners. Police protection is provided by the City of Asheville; however, Chief Fred Hensley stated that there is a mutual aid agreement between the Asheville and Biltmore Forest police. If a call comes in from one of the property owners, an Asheville patrol car will be dispatched; however, if a Biltmore Forest patrol car is in the area and hears the call, the officer will proceed to the resident and remain there until the Asheville police officer arrives. The cooperative arrangement also applies to calls on Hendersonville Road. He said due to the way the boundary lines are drawn, the property owners pay property taxes to Biltmore Forest and Asheville. A small strip of land in front of 294, 296, and 300 Vanderbilt Road is located in Biltmore Forest.

He said an inspection of the property at 479 Hendersonville Road, known as the Cooper House Builder of Custom Cabinets, was made to determine if the use of the property was in compliance with the zoning. This property does abut the property of Claude Smith on Vanderbilt Road; however, the Cooper Custom Cabinet business is located in a Commercial Highway zoned district, which does permit a retail and cabinetmaking business. The Cooper property has natural green buffer, and the property owner agreed to install in the rear of his cabinet shop an 8 foot high section wooden fence along the length of his building before receiving his certificate of compliance.

He said it is the opinion of Bill Slawter, City Attorney, that the rezoning of the property on Vanderbilt Road would not be considered as spot zoning. He said the property owners on Vanderbilt Road were contacted by the Planning Department in reference to the rezoning. Bob Musselwhite, Town Manager of Biltmore Forest, was also contacted and informed that the rezoning issue would be on the June 9, City Council agenda.

Mayor Bissette noted that the rezoning would not adversely affect the property owners in question and that services would be provided to these residents from the City of Asheville.

Bob Musselwhite, Town Manager of Biltmore Forest, said they are attempting to abate the problem as to the

jurisdiction of the Town of Biltmore Forest and the City of Asheville in this particular area. He said he felt the rezoning would be beneficial to both sides in order to protect the property; however, Biltmore Forest is still interested in having the boundary lines change to include this property in the Town of Biltmore Forest.

Charles Grimes, of 303 Vanderbilt Road, spoke in support of the rezoning of the properties in question.

Councilman Michalove left the meeting, unexcused, in order for all to carry an "aye" vote for him.

On a roll call vote of 6-0, Ordinance No. 1629 passed on second reading.

B. RESOLUTION NO. 87-101 - CONTINUATION OF PUBLIC HEARING RELATIVE TO CLOSING

CERTAIN ALLEYS AND PORTIONS OF AN ALLEY IN THE BLOCK BOUNDED ON THE NORTH BY WALNUT STREET, ON THE EAST BY RANKIN AVENUE, ON THE SOUTH BY COLLEGE

STREET, AND ON THE WEST BY HAYWOOD STREET

Mayor Bisette said the City Council deems that it is in the best interest of the City, to permanently close the above-named alleys. Said alleys are under the sole and exclusive authority of the City of Asheville and are not

under the authority and control of the North Carolina Department of Transportation. The closing will not be either detrimental to or contrary to the public interest or the property rights of any individual in the vicinity of the alleys, and the closing will not deprive any individual reasonable means of ingress and egress to his property. He said action on this matter was postponed from the June 2, 1987, meeting.

Mayor Bisette said the City staff and engineers had worked with Mr. Jim Daniels, with Daniels Business Services, to work out a solution to allow trucks to back up to his loading docks and they appear to have reached a satisfactory arrangement. He said Mr. Daniels has agreed to construct a new loading dock to allow trucks to angle into his property rather than backing straight back from the alley they now use to make contact with the existing loading dock which is parallel to Rankin Avenue. He said engineers have also worked out an agreement whereby the alley behind the Bon Marche building and Revco Drugstore can be redesigned and the entrances widened to solve the problems of tractor trailers serving the rear of their businesses.

John Powell, Attorney representing Bon Marche, asked if tractor trailer trucks could make a turn off Haywood from Walnut Street.

It was noted that Walnut Street may have to be made a one-way street.

Councilman Tisdale expressed a concern relative to closing the alley and tractor trailers not being able to use the alley behind these businesses and the City being sued for the loss of their businesses.

Mr. Powell indicated that the Laughlin heirs do not oppose the construction of the parking garage but would object if it was impossible to get a large tractor trailer into the loading dock in the rear of their businesses.

David Swann, with Wachovia Bank, spoke in favor of the parking garage. He said parking is very much needed in the downtown area.

Roy Birchfield, with Penney's Department Store, spoke in favor of the parking garage. He encouraged members of Council to work with the property owners around the proposed parking garage to accommodate their needs.

W. C. Johnson spoke in support of the parking garage.

Chuck Tessier also spoke in support of the parking deck.

Ralph Bishop spoke in opposition to the parking garage in the downtown area.

Councilman Bratton spoke in support of the parking garage and also left the meeting at 5:55 p.m., unexcused, and ordered that her vote be carried as an "aye" vote on all following issues.

Debbie Cash spoke in favor of the parking garage but expressed concern about the large tractor trailers not being able to service the downtown businesses.

Lou Millan, of T. S. Morrison Company, spoke in support of the parking garage.

Sam Davis, with Southeastern Historic Developers, developers for the Wall Street project, said the need for parking in the downtown area is essential if retail businesses are to thrive. He commended the City staff on solving engineering problems with adjoining property owners.

Don Martell, owner of the Penney's building, spoke in favor of the parking deck.

Ben Canner, owner of the Flat Iron Building, said he felt the proposed parking deck is very much needed in the downtown area.

Councilman Price moved for the adoption of Resolution No. 87-101 closing the alleys in question. This motion was seconded by Councilman Boland.

Upon inquiry of Councilman Tisdale, Corporation Counsel Slawter said he did not feel the City would be subject to a lawsuit, under the current arrangements relative to the closing of the alleys.

Mr. Powell said if his client could use the alley off Walnut to get to their loading dock in the rear of their building, they would be satisfied.

Councilman Price's motion carried unanimously on a 6-0 vote.

IV. NEW BUSINESS

A. RESOLUTION 87-102 - RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE

TO CONSIDER THE ANNEXATION OF AN AREA TO THE SOUTH OF THE EXISTING CORPORATE LIMITS, AND FIXING THE DATE OF A PUBLIC HEARING ON THE QUESTION

OF ANNEXATION FOR JULY 28, 1987

Mayor Bissette said members of Council were previously furnished copies of the Resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

Verl Emrick, Planning Director, outlined the area proposed for annexation.

Mr. Emrick said the next step in annexation would be the adoption of the plan for services for the area, hearings held within the communities and a public hearing before the Asheville City Council. He said the ordinance if adopted on August 1, 1987 would be effective one year after adoption, or August 1, 1988.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 87-102 was unanimously adopted.

Councilman Boland moved to amend Resolution 87-102 to state that the public hearing would be held at the Asheville Civic Center or another appropriately advertised location. This motion was seconded by Councilman Price and carried unanimously.

Complete text of Resolution No. 87-102 will be found in Resolution Book No. **16** at page **361**.

B. RESOLUTION 87-103 - RESOLUTION STATING THAT THE INTENT OF THE CITY OF

ASHEVILLE TO CONSIDER THE ANNEXATION OF AN AREA LYING TO THE WEST OF HENDERSONVILLE ROAD, AND FIXING THE DATE OF A PUBLIC HEARING ON THE QUESTION OF ANNEXATION FOR JULY 28, 1987

Mayor Bissette said members of Council were previously furnished copies of the Resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

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Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 87-103 was unanimously adopted.

Councilman Boland moved to amend Resolution 87-103 to state that the public hearing would be held at the Asheville Civic Center or another appropriately advertised location. This motion was seconded by Councilman Price and carried unanimously.

Complete text of Resolution No. 87-103 will be found in Resolution Book No. **16** at page **362**.

C. RESOLUTION NO. 87-104 - RESOLUTION STATING THE INTENT OF THE CITY OF

ASHEVILLE TO CONSIDER THE ANNEXATION OF AN AREA TO THE WEST OF THE EXISTING CORPORATE LIMITS, AND FIXING THE DATE OF A PUBLIC HEARING ON THE QUESTION OF ANNEXATION FOR JULY 28, 1987

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

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Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 87-104 was unanimously adopted.

Councilman Boland moved to amend Resolution 87-104 to state that the public hearing would be held at the Asheville Civic Center or another appropriately advertised location. This motion was seconded by Councilman Price and carried unanimously.

Complete text of Resolution No. 87-104 will be found in Resolution Book No. **16** at page **363**.

D. RESOLUTION 87-105 - RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE

TO CONSIDER THE ANNEXATION OF A PORTION OF THE AREA GENERALLY KNOWN AS THE OTEEN AREA, AND FIXING THE DATE OF A PUBLIC HEARING ON THE QUESTION OF ANNEXATION FOR JULY 28, 1987

Mayor Bissette said members of Council were previously furnished copies of the Resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

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Mr. Emrick said the next step in annexation would be the adoption of the plan for services for the area, hearings held within the communities and a public hearing before the Asheville City Council. He said the ordinance if adopted on August 1, 1987 would be effective one year after adoption, or August 1, 1988.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 87-105 was unanimously adopted.

Councilman Boland moved to amend Resolution 87-105 to state that the public hearing would be held at the Asheville Civic Center or another appropriately advertised location. This motion was seconded by Councilman Price and carried unanimously.

Complete text of Resolution No. 87-105 will be found in Resolution Book No. **16** at page **364**.

E. RESOLUTION 87-106 - RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE

TO CONSIDER THE ANNEXATION OF A PORTION OF THE AREA GENERALLY KNOWN AS THE HAW CREEK AREA, AND FIXING THE DATE OF A PUBLIC HEARING ON THE QUESTION OF

ANNEXATION FOR JULY 28, 1987

Mayor Bissette said members of Council were previously furnished copies of the Resolution and it would not be read in its entirety. He said any individual requesting a copy of the resolution would be furnished one at no cost.

Verl Emrick, Planning Director, outlined the area proposed for annexation.

Mr. Emrick said the next step in annexation would be the adoption of the plan for services for the area, hearings held within the communities and a public hearing before the Asheville City Council. He said the ordinance if adopted on effective August 1, 1987 would be effective one year after adoption, or August 1, 1988.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 87-106 was unanimously adopted.

Councilman Boland moved to amend Resolution 87-106 to state that the public hearing would be held at the Asheville Civic Center or another appropriately advertised location. This motion was seconded by Councilman Price and carried unanimously.

Complete text of Resolution No. 87-106 will be found in Resolution Book No. **16** at page **365**.

Harry Burnette, at 776 Haw Creek Road, spoke in opposition to the annexation in the Haw Creek area stating that this annexation would be detrimental to the Haw Creek Fire Department.

Mayor Bissette said all concerns of residents would be considered during the public hearing process.

V. CONSENT AGENDA

A. SCHEDULING OF PUBLIC HEARING RELATIVE TO REZONING PROPERTY LOCATED ON

FAIRWAY DRIVE, KNOWN AS THE CARMELITE PROPERTY FOR JUNE 23, 1987

B. SCHEDULING OF PUBLIC HEARING RELATIVE TO AMENDING ORDINANCE NO. 322

**(ASHEVILLE ZONING ORDINANCE) TO INCLUDE PROVISION FOR AMORTIZATION OF
NONCONFORMING SIGNS FOR JUNE 30, 1987**

**C. SCHEDULING PUBLIC HEARING RELATIVE TO THE SITE PLAN OF THE PROPOSED LEISURE
RIDGE CONDOMINIUMS TO BE LOCATED ON FAIRVIEW ROAD AT VISTA FOR JUNE 30,
1987**

**D. SCHEDULING OF PUBLIC HEARING RELATIVE TO REZONING PROPERTY LOCATED ON
HAYWOOD ROAD AND NEVADA AVENUE, MR. NICK APOSTOLOPOULOS, PETITIONER FOR
JUNE 30, 1987**

**E. ANNOUNCEMENT OF REAPPOINTMENT OF MRS. ANNETTE COLEMAN AS A COMMISSIONER
FOR**

THE ASHEVILLE HOUSING AUTHORITY

Mike Summey requested that members of Council delay scheduling the public hearing relative to nonconforming signs at this time. He said he felt the present sign ordinance provides a grandfather clause for nonconforming signs and any additional amendments are not needed. He also indicated that the Supreme Court, this afternoon, made a decision that municipalities cannot take private property for public use and felt that decision would have an impact on the amortization of nonconforming signs.

Upon motion of Councilman Price, seconded by Councilman Boland, the consent agenda was unanimously approved.

COUNCILMAN PRICE REQUESTS RELATIVE TO TOWING VEHICLES FOR IMPROPERLY PARKED

Councilman Price requested that the City Manager look into the towing of vehicles where they are improperly parked.

RALPH BISHOP - LOTTERY SALES

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

ADJOURNMENT

Mayor Bissette adjourned the meeting at 6:50 p.m.

Mayor City Clerk
