

Tuesday - June 30, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding Councilmen Kenneth M. Michalove, Norma T. Price, and George 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, Councilman Wilhelmina Bratton, and Councilman Walter Boland.

### **INVOCATION**

The invocation was given by Councilman Norma Price.

### **APPROVAL OF MINUTES OF JUNE 23, 1987 MEETING**

Mayor Bissette announced the approval of the minutes of the June 23, 1987 meeting as submitted.

### **I. PROCLAMATIONS**

#### **A. National Therapeutic Recreation Week - July 5 - 11, 1987**

Mayor Bissette proclaimed the week of July 5 - 11, 1987 as National Therapeutic Recreation Week at the request of Terry Lynn Imershein, Regional State Representative for the Therapeutic Recreation Division of the N. C. Parks and Recreation Society.

### **II. PUBLIC HEARINGS**

#### **A. Public hearing relative to rezoning property located at**

**Haywood Road and Nevada Avenue from R-3 Residential District to CS Commercial Service District.**

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held May 13, 1987, reviewed and recommended that a portion of Lot 2-1/4, Sheet 11, Ward 5, be rezoned from R-3 Residential District to CS Commercial Service District.

Mayor Bissette opened the public hearing at 4:30 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.

Due to the absence of three Council members, Councilman Price moved to continue the public hearing relative to rezoning property located on Haywood Road and Nevada Avenue until July 14, 1987, without further advertisement. This motion was seconded by

Councilman Tisdale and carried unanimously.

## **B. Public hearing relative to proposed Leisure Ridge**

### **Condominiums to be located on Fairview Road at Vista.**

Mayor Bisette said the Asheville Planning and Zoning Commission on May 13, 1987 reviewed and recommended approval of the site plan subject to: 1. Lowering the fence, removing plastic strips and that the fence be green and the plantings be on the exterior; 2. Compliance with Erosion Control Ordinance; 3. Placement of fire hydrant; and 4. That street be constructed

to city standards.

Mayor Bisette opened the public hearing at 4:21 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 developer is proposing a thirty-three (33) unit condominium project on a five (5) acre tract. He said the facility is proposed for elderly citizens. He said a community building is planned which will have a nurse available. He reviewed the conditions specified by

the Planning and Zoning Commission.

A discussion was held relative to the developer, Mr. Burl Lance, participating in the cost of sidewalk installations in front of the proposed development from property line to property

line.

Mr. Lance indicated that he would be willing to

participate in the cost of the sidewalk installations.

Janet McCraw, of 30 Vista Street, spoke in opposition to the project citing the lack of sidewalks on Fairview Road, high traffic volume on Fairview Road, and the overcrowding of the schools in the area. She cited high traffic counts taken by the City of Asheville and the North Carolina Department of Transportation. She commented on the poor site visibility at the

intersection of Vista Street coming into Fairview Road.

Wendall Bailey, property owner in the area, requested that if Council approves the project that the developer be required to provide a fence around the project at least 6' high, to be green in color; that a row of trees be planted between the fence to be installed and the adjoining property owner's fence; that the developer dedicate a 10' right of way to the city for sidewalk installations; that the existing large trees in front of the property be retained; that the fencing and plantings be in place prior to construction; and that occupancy be restricted to individuals above 18 years of age. He cited traffic conditions

and overcrowded schools as reasons for his opposition.

Corporation Counsel Slawter said Council does not have the authority to impose restrictions on condominium declarations. Therefore, in his opinion Council could not restrict the individuals purchasing the units with regard to age limits. He said Council has authority to regulate the construction of the

project.

Mayor Bisette closed the public hearing at 5:03 p. m.

Councilman Price moved to approve the site plan of the proposed Leisure Ridge Condominiums to be located on Fairview Road at Vista subject to the conditions outlined by the Planning and Zoning Commission; that the developer dedicate a 10' right-of-way for sidewalk installation; that the developer provide the materials for the construction of the sidewalks from property line to property line; that the fencing and plantings be in place prior to construction and following proper grading of the project; and that as many large trees as possible be retained. This motion was seconded by Councilman Tisdale and carried

unanimously.

Mayor Bissette noted that Fairview Road is a state system street and the concerns of the residents should be brought to the attention of the North Carolina Department of Transportation for possible improvements and inclusion in the

Transportation Improvement Projects.

### **C. Public hearing relative to amending Ordinance No. 322,**

#### **Asheville Zoning Ordinance, to include provision for**

#### **amortization of nonconforming signs.**

Mayor Bissette said the Asheville Planning and Zoning Commission on June 3, 1987, considered City Council's request to investigate the feasibility of amending Ordinance No. 322, to

include provision for amortization of nonconforming signs.

Mayor Bissette opened the public hearing at 5:08 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.

Mayor Bissette announced that due the number of Council members absent the public hearing relative to amortization of

nonconforming signs will be continued until July 14, 1987.

Leah Karpen of Weaverville said the N. C. General Assembly is presently considering legislation relative to the amortization of nonconforming signs and their action may make Council's proposed ordinance invalid. She said Council should

consider this action by the General Assembly.

Lynn Brown of 62 Macon Avenue said she would be making formal comments at the public hearing on July 14, 1987; but she did want Council to note the number of individuals at the meeting today in support of the proposed ordinance that may not be at the

July 14th public hearing.

Councilman Tisdale moved to continue the public hearing relative to amending the Zoning Ordinance for the amortization of nonconforming signs until July 14, 1987 without further advertisement. This motion was seconded by Councilman Michalove

and carried unanimously.

### **III. OLD BUSINESS:**

**A. Second reading of Ordinance No. 1636, an ordinance amending**

**Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, rezoning property on Fairway Drive (Carmelite Property).**

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held May 13, 1987, reviewed the request of City Council that the Commission consider rezoning a portion of Lot 61, Sheet 15, Ward 8, from O-I Office Institutional District to R-2 Residential District. The property is located on Fairway Drive and is known as the Carmelite Property. After review and discussion, the Commission voted to recommend to City Council that a portion of Lot 61, Sheet 15, Ward 8, be rezoned from O-I Office Institutional District to R-2 Residential District. This ordinance was read on first reading on June 23,

1987.

Mayor Bissette said this ordinance was previously read on first reading and will not be read in its entirety.

On a roll call vote of 4-0, Ordinance No. 1636 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1636. This motion was seconded by Councilman Price and carried

unanimously.

On a roll call vote of 4-0, Ordinance No. 1636 passed on third and final reading.

Complete text of Ordinance No. 1636 will be found in Ordinance Book No. 11 at page 140.

**B. Third reading of Ordinance No. 1638, an ordinance amending**

**Section 28-52 (b) of Chapter 28 of the Code of Ordinances of the City of Asheville to include a portion of Murdock Avenue, Martin Luther King Drive, and Wilburn Road as streets where truck traffic is prohibited.**

Mayor Bissette said the ordinance will prohibit truck traffic on Murdock Avenue, from Hillside to Evelyn Place, requested by the Claxton Community Group, and Martin Luther King Drive, requested by Mr. Larry Holt, on behalf of the residents of this area, and Wilburn Drive off Patton Avenue. The Traffic Engineer has recommended that these streets be added to the

ordinance prohibiting truck traffic.

Mayor Bissette said this ordinance was previously read on first reading and will not be read in its entirety.

Councilman Price moved to amend Ordinance No. 1638 to include the entirety of Murdock Avenue, and a portion of

Wilshire Drive from Wilbur Road to Johnson Blvd. This motion was seconded by Councilman Michalove and carried unanimously.

On a roll call vote of 4-0, Ordinance No. 1638 passed on third and final reading.

Complete text of Ordinance No. 1638 will be found in Ordinance Book No. **11** at page **142**.

**C. Report from Corporation Counsel relative to amending the Animal Control Ordinance to include keeping of gelding goat in the City of Asheville.**

Mayor Bissette said a request was received at the June 23, 1987 from Bill Southwicke at 30 Greely Street to amend the Animal Control Ordinance to permit the keeping of a gelding goat in the City of Asheville.

Corporation Counsel Slawter said the existing Animal Control Ordinance provides for the keeping of milking goats in the City of Asheville provided a permit is issued by the Animal Control Officer. He said, as instructed by Council, he had prepared an amendment to the Animal Control Ordinance to allow for the keeping of a gelding goat in the City of Asheville provided a permit is issued by the Animal Control Officer if Council so desires to amend the ordinance. He said he would assume that milking goats were permitted under the ordinance due to the

perceived need for goat milk.

Herman Rector of 59 Greely Street spoke in opposition to the proposed amendment to allow for the keeping of goats in the City of Asheville. He said he had complained about the goat being kept at 30 Greely Street for the past year. He said a goat can be a nuisance and has an odor. He said the goat at 30 Greely Street has been kept illegally. He said property values in the

area have decreased since the goat has been in the area. He said the goat has been loose on three (3) different occasions. He presented a map showing the property in the area as well as comments relative to the goat at 30 Greely Street from surrounding property owners. He said there is no possible way the goat can be kept 150' from a residence as required by the Animal Control Ordinance. He reminded Council that if the ordinance is amended goats would be allowed all over the City of Asheville.

Charles Penny, Assistant City Manager, said Mr. Southwicke was under the impression Council was not going to discuss this matter until July 7, 1987. He said since Mr. Southwicke is not present for the discussion he would report Council's action to

Mr. Southwicke.

After discussion by members of Council, the public, and the Animal Control Officers, it was Council's decision not to amend the ordinance to allow for the keeping of gelding goats and that Mr. Southwicke be given two (2) weeks to have the goat

removed from 30 Greely Street.

Councilman Price requested that the Corporation Counsel review the current Animal Control Ordinance and ordinances from other cities dealing with potentially dangerous dogs. She said she had received a number of complaints from residents on Winfred Street, off Carrier Place, about the keeping of potentially

dangerous pit bull dogs.

#### **IV. NEW BUSINESS:**

None Scheduled

#### **V. CONSENT AGENDA:**

##### **A. Approval of bids received for Street Sweeper for the Public**

**Works Department, Street Division.**

**SUMMARY:** Recommendation for award to Bruder/Sharper, Inc.,

Madison, North Carolina, in the amount of \$80,671.40 for one (1) self-contained street sweeper for Public Works Department, Street

Division.

##### **B. Resolution No. 87-118 - Resolution authorizing the Mayor of**

**the City of Asheville to execute easement in favor of the Carolina Power and Light Company, property located at the**

**Asheville Airport.**

**SUMMARY:** Carolina Power and Light Company has requested that

the City

execute a right-of-way easement on property

belonging to the City of Asheville located at the Asheville Regional Airport, bounded by lands of Henderson County on the North and U. S. Highway I-26 on the East, Fanning Bridge Road on the South and Airport Road on the West, for the purposed of

updating an existing electric power line.

**Resolution Book 16 - Page 378**

##### **D. Resolution No. 87-119 - Resolution appointing member to the**

**Asheville-Buncombe Crime Stoppers Committee.**

**SUMMARY:** This resolution will appoint Elliott Eki as a

member of the Asheville-Buncombe Crime Stoppers Committee for a term of three years, term

expiring June 10, 1990.

**Resolution Book 16 - Page 379**

##### **E. Resolution No. 87-120 - Resolution appointing member to the**

**Tourism Development Authority.**

**SUMMARY:** This resolution will appoint Steve Miller as a

member of the Tourism Development Authority for a term of three (3) years, term expiring August 30, 1990.

**Resolution Book 16 - Page 380**

**F. Resolution No. 87-121 - Resolution authorizing the City**

**Manager to execute contract with McGladrey, Henderickson, and Pullen for a computer study and development of a long range Data Processing Plan.**

**SUMMARY:** Proposals were received to develop a long range

plan for Data Processing for the City of Asheville. Data Processing Director and Data Processing Executive Steering Committee recommends the acceptance of the proposal from McGladrey, Hendrickson, and Pullen in an amount not to exceed

\$32,500.

**Resolution Book 16 - Page 381**

**G. Resolution No. 87-122 - Resolution authorizing the City**

**Manager to execute an agreement between the City of Asheville and Hewitt-Coleman and Company for the purpose of providing administrative services to the City's program of self-insured workers' compensation.**

**SUMMARY:** This will place administrative services of

workers' compensation with Hewitt-Coleman and Company, effective June 27, 1987. This proposal was selected and endorsed as the superior proposal by the Asheville-Buncombe Insurance Advisory Committee.

**Resolution Book 16 - Page 382**

**H. Scheduling public hearing relative to the site plan of the**

**proposed Federal Express Facility to be located on Patterson Mill Road for July 14, 1987.**

**SUMMARY:** The Asheville Planning and Zoning Commission at a meeting held June 10, 1987 reviewed and approved the site plan subject to:

1. That the final landscape plan be approved by the Planning and Zoning Commission.
2. That in conjunction with final landscape plan, developer consider holding pavement parallel to I-240 twenty feet off property line except as needed for ingress and egress, and that ingress and egress off Patterson Mill Road be other than commercial use.

Upon motion of Councilman Price, seconded by Councilman

Tisdale, the consent agenda was unanimously approved.

### **OTHER BUSINESS**

#### **OTIS STREET PARKING LOT - RATES INCREASED**

Councilman Tisdale moved to increase the monthly rate for parking at the Otis Street Parking Lot from \$15.00 to \$20.00 per month, effective July 1, 1987. This motion was seconded by

Councilman Price and carried unanimously.

#### **PARKING GARAGE BIDS - RANKIN AVENUE - WALL STREET - RESCINDED**

The City Manager said due to threatened litigation by Dixie Construction Company relative to the bids awarded for the Rankin Avenue and Wall Street Parking Garage he would recommend that Council rescind their action of June 23, 1987 awarding the General Contract to Freeman and Wood and to re-bid the General

Contract.

Councilman Michalove moved to rescind the action taken by Council on June 23, 1987 awarding the General Contract for the Rankin Avenue and Wall Street Parking Garages to Freeman and Wood Construction Company. This motion was seconded by Councilman

Tisdale and carried unanimously.

Councilman Price moved to reject all bids received for the General Contract for the Rankin Avenue and Wall Street Parking Garages. This motion was seconded by Councilman Tisdale and

carried unanimously.

The City Manager said the General Contract would be re-bid and bids would be received on July 14, 1987. He said the same

bond schedule would apply with these dates.

#### **COUNCIL MEETING OF JULY 7, 1987 - CANCELLED**

Mayor Bissette announced that the Council meeting scheduled for July 7, 1987 would not be held due to the July 4, 1987

holiday.

#### **REPORT FROM HAROLD HUFF, DIRECTOR OF WATER AND SEWER SERVICES RELATIVE TO WATER AUTHORITY BUDGET**

Mr. Huff reported that he had attended the Buncombe County Commissioner's meeting today and the Board of Commissioners voted unanimously not to adopt the Water Authority Budget as submitted. He said the Commissioners desire to have the budget amended to include two and one-half (2-1/2) percent of gross revenues for the County to reflect the significant prior contribution of the County to the water system. He said upon advice from the Legal Counsel, the Commissioners said they would be willing to approve a budget containing the 2 1/2 percent of gross revenues earmarked

for the County or an interim (31-day) budget.

Mayor Bissette said as instructed by Council he had written to the Commissioners informing them that Council stood behind their first communication, dated April 7, 1987 in which Council would be willing to discuss the Water



Agreement with the County Commissioners; however, Council would not be willing to discuss autonomy, or a reduction in payments. He said he had also informed them that Council would discuss a return on the County's investment, and wanted to discuss the excessive increase, by the County, of landfill tipping fees and charges for tax collection services. He said in his opinion the City Council has been ready and willing to discuss the Water Agreement with the County. He said he had hand delivered the letter to Chairman Ratcliff on Friday, June 26, 1987 and has received no response from that

letter.

Councilman Price moved that Council go into Executive Session to discuss a legal matter. This motion was seconded by

Councilman Tisdale and carried unanimously.

### **RALPH BISHOP - COMMENTS RELATIVE TO 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 6:15 p. m.

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