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Tuesday - October 6, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bisette, Presiding; Vice-Mayor Mary

Lloyd Frank; Councilmen Kenneth M. Michalove, Norma T. Price, Wilhelmina Bratton, George Tisdale, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City

Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Michalove.

APPROVAL OF THE MINUTES - SEPTEMBER 29, 1987

Mayor Bisette announced the approval of the minutes of the September 29, 1987 meeting. He said the minutes of the special meeting of September 23, 1987 are being withheld from approval until a complete transcript of the meeting can be

obtained from the court reporter.

I. PROCLAMATIONS:

A. Proclamation - "Mental Illness Awareness Week" -

October 4 - 11, 1987

Mayor Bisette read the proclamation and presented the

proclamation to Doris Jackson Brewer, Public Relations Coordinator, for the Western Carolina Alliance for the Mentally Ill.

B. Proclamation - "Greek Week" - Week of October 4, 1987

Mayor Bisette read the proclamation and presented the

proclamation to Father Ted from the Greek Orthodox Church.

Father Ted introduced members of his church who were in attendance at the meeting. They presented members of Council with Greek pastries made by the women of the church.

B.1 - Proclamation - "Meals on Wheels Volunteer Day" -

October 8, 1987

Mayor Bisette read the proclamation and presented the

proclamation to Ann Flynn, Executive Director of Meals on

Wheels , Fran Sayre and Emily Zimmerman.

C. Proclamation - "German-American Day" -

October 6, 1987

Mayor Bisette read the proclamation proclaiming October 6,

1987 as "German-American Day". He said a copy of the proclamation would be mailed to the individual requesting the proclamation.

II. PUBLIC HEARINGS:

A. Public hearing relative to adoption of 2010 Asheville

City Plan.

Resolution No. 87-170 - Resolution of consideration for

the adoption of a Comprehensive Plan for the City of Asheville entitled the 2010 Asheville City Plan.

Mayor Bisette said on September 3, 1987, the Asheville

Planning and Zoning Commission voted to recommend the final Draft of the 2010 Asheville City Plan to the Asheville City Council for approval with several amendments. After the public hearing relative to the plan, a resolution will be considered to adopt the 2010 Asheville City Comprehensive Plan.

Mayor Bisette opened the public hearing at 4:32 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.

Mike Moser, Chairman of the Planning and Zoning

Commission, said the Planning and Zoning Commission unanimously recommended Council's adoption of the plan. He said the process for the 2010 plan began in April, 1985 and since that time many public hearings were held and many suggested comments and amendments have been included in the final draft. He commended the Planning Staff, the citizens, the Planning and Zoning Commission, and the Alternatives for Asheville Committee for their efforts in coordinating the plan.

Verl Emrick, Director of Planning, said the 2010 plan is

designed as a comprehensive plan to serve as a policy guide for the City of Asheville's future. He said the plan is not engraved in stone and implementation of the plan would be through regulatory actions. He said the Planning Staff has been assigned as liaisons to work with implementation of specific portions of the plan. He said Mike Moser has agreed to serve as Chairman of an Advisory Committee to recommend specific actions to implement the plan.

Carol Albrice, with the Planning Department, said the

plan is structured for implementation by target dates. She said revision of the zoning ordinance and map, revision of the sign ordinance, and implementation of the master plan for the downtown area is targeted for implementation within two (2) years. She said the plan would be reviewed and amended as necessary every two (2) years. She said the plan would be continuously monitored with continued community participation. She said the Advisory Committee would be established within the next ninety (90) days.

Mike Moser, Chairman of the Planning and Zoning

Commission, reviewed the changes to the plan as recommended by the Planning and Zoning Commission. (A copy of the specific changes are on file in the City Clerk's office.)

Danie Johnson, 181 Lakeshore Drive, Architect and member

of the Planning and Zoning Commission, said the 2010 plan addresses the ideas and suggestions of all interested citizens in the City of Asheville. He said the plan is only the beginning and the success of the plan will be in the degree as it is looked upon on as a guide. He said the plan should be continually reviewed, amended and implemented. He said the plan is worthy of Council's consideration.

Karen Fields, of North Asheville, said the plan includes

many hours of hard work and reflects ideas for all interested citizens. She urged Council's adoption of the plan.

Upon inquiry of Ralph Bishop, Mayor Bissette said future

Council's could implement changes to the plan.

Mayor Bissette said John Stevens, Attorney for the

Beverly Development, Inc., requested that the following letter be included in the minutes:

October 2, 1987

Hand Deliver

Honorable W. Louis Bissette, Mayor

Members of City Council

City of Asheville

P. O. Box 7148

Asheville, North Carolina 28807

Re: Group Development Review - Shoppes of Beaver Lake

Dear Mayor Bissette and Members of Asheville City

Council:

I am writing on behalf of Beverly Development, Inc. in

connection with the public hearing and proposed adoption of the 2010 Plan scheduled for Tuesday, October 6, 1987. I request that this letter be made part of the record of Council's proceedings.

The colored map which accompanies the 2010 Plan booklet

and the text on Page 62 seem to suggest that the property on Merrimon Avenue adjoining Beaver Lake and the Beverly Development is or should be devoted to recreational use.

As Council is aware, this property has been since the

adoption of the zoning ordinance in 1958, and is now, zoned Commercial Highway. It was recently approved by the Planning and Zoning Commission and by Council for a Group Development known as the Shoppes of Beaver Lake.

Accordingly, it would be inappropriate for this property

to be included in a recreational area in the 2010 Plan. Beverly Development requests that, before adoption, the 2010 Plan be amended to reflect the current and planned use of this property.

Sincerely yours,

John S. Stevens

JSS/csh

cc: Doug Bean

William F. Wolcott, City Clerk

Verl Emrick

George Beverly

Councilman Michalove asked Mr. Emrick if his impression

was correct that in reference to the colored map on page 100 that it was his impression that all coloring was "conceptual" and it was explained that way throughout the public meetings to avoid individuals getting "hung up" on specific properties. Mr. Emrick said that is correct.

After some lengthy questioning by Councilman Michalove,

Mr. Emrick said that the Beverly Property was not included in the reference to the change in language recommended by the Planning and Zoning Board.

Mayor Bissette closed the public hearing at 5:02 P.M.

Mayor Bissette said members of Council were previously

furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Vice-Mayor Frank, seconded by Councilman

Boland, Resolution No. 87-170 was unanimously adopted including the recommended changes by the Planning and Zoning Commission.

Resolution Book No. 16 Page No. 431

B. Public hearing relative to issuing Beaver Lake Cab

Company three (3) additional taxicab Certificates of Public Convenience and Necessity.

Resolution No. 87-171 - Resolution authorizing the

issuance of a Certificate of Public Convenience and Necessity to Beaver Lake Cab Company

Mayor Bissette said Beaver Lake Cab Company has requested

that it be allowed to operate three (3) additional taxicabs. Pursuant to Section 27-33 of the Code, a public hearing is required with respect to the issuance of a Certificate of Public Convenience and Necessity for the requested additional taxicabs. This resolution will authorize the requested three (3) additional taxicabs.

Mayor Bisette 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.

The City Manager said the current Taxicab Ordinance is

being revised, however, Beaver Lake Cab Company has requested three (3) additional taxicabs under the existing ordinance. He said in his opinion there is no reason the request should be denied under the existing taxicab ordinance.

Eugene Ellison, Attorney representing Beaver Lake Cab

Company, said his client meets all the considerations outlined in Chapter 27-33 of the Code of Ordinances. He said his client needs approval for six (6) additional taxicabs but is only asking for three (3).

Upon inquiry of Council, Mr. Ellison said his client has

been approved for six (6) taxicabs.

Joe Penland, owner of Blue Bird Transportation Company,

said he presently has forty (40) Certificates for the operation of taxicabs. He opposed Council authorizing additional certificates when, in his opinion, the demand for additional taxicabs in the City of Asheville is not needed. He said if the demand existed he would have all forty of his taxicabs in operation. He said he favored a free enterprise in the taxicab business. He said if Council continually authorizes additional certificates

for one taxicab company they are not taking into consideration the other companies in the City. He suggested that Council consider the adoption of a new taxicab ordinance and formulate a Taxicab Task Force to find out what is needed before issuing additional certificates. He presented photographs he had taken on October 5, 1987 showing that Beaver Lake Cab Company is not currently using all the taxicabs he has certificates for.

Bob Jones, Manager of Blue Bird Transportation Company,

spoke in opposition to Council authorizing additional certificates.

Mayor Bisette said the new taxicab ordinance would be

considered by Council on October 20, 1987.

Upon inquiry of Councilman Price, the Corporation Counsel

said Section 27-33 of the Code sets forth seven items which the City Council is to consider prior to issuing a Certificate of Necessity, and that he did not see any problem in the City Council making a determination that Beaver Lake Cab Company was entitled to a Certificate of Necessity in light of those factors.

Upon inquiry of Councilman Bratton, Mr. Ellison said his

client would be financially penalized if he waits until the new ordinance is adopted.

After discussion, Mayor Bisette closed the public

hearing at 5:36 P.M.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Tisdale, seconded by Councilman

Bratton, Resolution No. 87-171 was unanimously adopted authorizing Beaver Lake Cab Company three (3) additional certificates for the operation of taxicabs.

Resolution Book No. 16 Page No. 432

C. Public hearing relative to site plan of Greentree Ridge

Nursing Home to be located on Sweeten Creek Road.

Mayor Bissette said the Asheville Planning and Zoning

Commission at a meeting held September 23, 1987, reviewed the site plan of Greentree Ridge Nursing Home to be located on Sweeten Creek Road. The plan was prepared by Padgett-Freeman, Architects, for Mission-Thoms Health Services, Inc., Developer, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to: 1) Board of Adjustment approving project as a Conditional Use in the R-3 Residential District; 2) Board of Adjustment granting a variance of 12' on the buffer on the northern property line; 3) Compliance with the Erosion Control Ordinance; and 4) Plantings on south side of fence with adjacent property owners permission.

Mayor Bissette opened the public hearing at 5:40 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, Planning Director, said the Planning and

Zoning Commission recommended approval subject to several conditions. He said the Zoning Board of Adjustments approved the Conditional Use in the R-3 Residential District as well as granted a variance of 12' on the buffer on the northern property line. He said the site is adjacent to the existing Thoms Rehabilitation Facility. He said the project would consist of approximately 36,000 square feet, with 100 beds in the first phase and 40 additional beds in the second phase. He said all the provisions of the ordinance in terms of access and parking are in compliance. He said the developer is currently attempting to obtain an easement from the adjacent property owner, Mr. Waters, for the new access road because of an overlapping property line. He suggested that approval be contingent upon that easement being secured.

Mayor Bissette closed the public hearing at 5:43 P.M.

Councilman Price moved for the approval of the site plan

of Greentree Ridge Nursing Home to be located on Sweeten Creek Road subject to the recommendations of the Planning and Zoning Commission and that the developer obtain an easement from the adjacent property owner, Mr. Waters, for the new access road, said easement to be reviewed and approved by the Corporation Counsel. This motion was

seconded by Councilman Michalove and carried unanimously.

III. OLD BUSINESS:

A. Third reading of Ordinance No. 1651 - Ordinance rezoning

property located on Hildebrand Street.

Mayor Bissette said the Asheville Planning and Zoning

Commission at a meeting held August 12, 1987, considered the petition of Mr. Sidney Shorter et al that Lots 89, 90, 2-1/4, 100, 4, and 6, Sheet 2, Ward 1, be rezoned from CS Commercial Service District to R-3 Residential District. The property is located on Hildebrand Street in the East End/Valley Street Redevelopment Area. After review and discussion, the Commission voted to recommend to City Council that Lots 89, 90, 2-1/4, 100, 4, and 6 and 2-1/2, Sheet 2, Ward 1, be rezoned from CS Commercial Service District to R-3 Residential District. (Staff recommended including Lots 6 and 2-1/2 for contiguity although owners had not signed petition). This ordinance was read on first reading on September 15, 1987 and on second reading September 29, 1987.

Mayor Bissette said a request was received from Mrs.

Evans, owner of Lot 6, to postpone the third reading for two weeks since she would be out of town.

Upon inquiry of Council, Verl Emrick, Director of

Planning, said he had not received a report from the North Carolina Department of Transportation relative to previous curb cut applications being denied.

Councilman Tisdale requested that Mr. Emrick obtain

something in writing from the North Carolina Department of Transportation relative to curb cut applications for Lot 6 prior to the third reading of the ordinance.

Councilman Price moved to postpone the third reading of

Ordinance No. 1651 until October 20, 1987. This motion was seconded by Councilman Tisdale and carried unanimously.

B. Ordinance No. 1653 - Third reading of Ordinance No. 1653

- Ordinance amending Section 28-81.2 (b) of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville.

Mayor Bissette said this action will establish a

municipal ordinance declaring

20 mph speed limit on Dunwell Avenue and Fenner Avenue. Following a review of this matter, both the Traffic Engineering Division and the Asheville Police Department recommend that this ordinance be approved. This ordinance was read on first and second readings on

September 29, 1987.

Mayor Bissette said this ordinance was previously read on first and second readings and would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1653 passed on third and final reading.

Ordinance Book No. 11 Page No. 177

C. Ordinance No. 1654 - Third reading of Ordinance No. 1654

- Ordinance amending Section 18-7 of the Code of Ordinances of the City of Asheville regarding the shooting or discharging of firearms, air rifles, spring guns, bows, etc.

Mayor Bissette said the only change is to provide for

the inspection and approval to be by the "Asheville Police Department" rather than by "the Department of Public Safety." This ordinance was read on first and second reading on September 29, 1987.

Mayor Bissette said this ordinance was previously read

on first and second reading and will not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1654 passed on third

and final reading.

Ordinance Book No. 11 Page No. 178

IV. NEW BUSINESS:

A. Ordinance No. 1657 - Ordinance amending Chapter 28 of

the Code of Ordinances of the City of Asheville to provide for civil parking penalties.

Mayor Bissette this amendment will provide for civil

rather than criminal penalties for parking violations and will increase parking penalties to \$3.00 for the first offense and \$5.00 for the second offense within a 24 hour period. He said the effective date of the ordinance will be January 1, 1988. He said the ordinance is designed to accommodate shoppers in the downtown area and to deter individuals who work downtown from parking in the metered spaces.

Councilman Michalove moved for the adoption of Ordinance

No. 1657. This motion was seconded by Councilman Tisdale.

On a roll call vote of 7-0, Ordinance No. 1657 passed on

first reading.

Councilman Michalove moved to suspend the rules and

proceed to the second reading of Ordinance No. 1657. This motion was seconded by Councilman Tisdale and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1657 passed on

second reading.

B. Ordinance No. 1658 - Budget Ordinance amendment to appropriate funds for the South Grove Street Drainage Project.

Mayor Bissette said this ordinance will appropriate

funds from CDBG Contingency to cover cost overruns in the South Grove Street Drainage project. Additional work items include additional junction boxes, extension of 30 inch drainage pipe and safety measures resulting from additional depth of original drain pipe.

Vice-Mayor Frank moved for the adoption of Ordinance No.

1658. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1658 passed on first and final reading.

Ordinance Book No. 11 Page No. 183

C. Request of the North Carolina Department of

Transportation to delete widening of Merrimon Avenue north of Beaver Creek from 1975 Thoroughfare Plan.

Mayor Bissette said at a public hearing on September 2,

1987 on the "Shoppes of Beaver Lake," the Asheville Planning and Zoning Commission learned that the citizens of the Beaver Lake area were concerned about the proposed widening of Merrimon Avenue north of Beaver Creek and the removal of the trees along the lake.

After discussion, the Commission voted to recommend

that City Council send a resolution or a letter to the North Carolina Department of Transportation requesting that this section of the Merrimon Avenue widening be deleted from the amended 1975

Thoroughfare Plan.

Councilman Price moved that the Mayor be

authorized to write a letter to the Transportation Advisory Committee and to the North Carolina Department of Transportation requesting that the proposed widening of Merrimon Avenue north of Beaver Creek be deleted from the amended 1975 Thoroughfare Plan. This motion was seconded by Councilman Michalove and carried unanimously.

V. CONSENT:

A. Resolution No. 87-172 - Resolution of intent to close an unnamed alley on West Avon Parkway and calling for a public hearing on November 10, 1987.

SUMMARY: A petition was received from property owners

along a portion of West Avon Parkway requesting that the unnamed alley be closed as a public alley. A public hearing is required prior to the closing of the unnamed alley.

Resolution Book No. 16 Page No. 433-434

B. Resolution No. 87-173 - Resolution of intent to close a portion of Fairview Avenue between Stevens Street and

Fairview Road and calling for a public hearing on

November 10, 1987.

SUMMARY: A petition was received from property owners along a portion of Fairview Avenue requesting that the portion between Stevens Street and Fairview Road be closed as a public street right of way. A public hearing is required prior to the closing of the unnamed alley.

Resolution Book No. 16 Page No. 435-436

C. Resolution No. 87-174 - Resolution authorizing the Mayor

to enter into a Municipal Agreement with the North Carolina Department of Transportation for reinspection and analysis of all public bridges on the Municipal

Street System in the City of Asheville, North Carolina.

SUMMARY: The City of Asheville has requested the North

Carolina Department of Transportation to perform certain work under the Federal-Aid Highway Bridge Replacement and Rehabilitation Program, said work to consist of the reinspection and analysis of all public bridges on the Municipal Street System in the City of Asheville.

Resolution Book No. 16 Page No. 437

D. Resolution No. 87-175 - Resolution authorizing the City

Manager to sign an agreement extending the existing fire protection services to the Veteran's Administration

Medical Center at Oteen through November 1, 1987.

SUMMARY: In the course of changing contracting officers,

the VA has fallen slightly behind schedule in the renegotiation of its contract with the City for fire protection and related services for Oteen VA Hospital. This resolution authorizes the extension of the present contract to November 1, 1987, by which time it is anticipated that the Council can be presented with a completed agreement for review and authorization.

Resolution Book No. 16 Page No. 438

Upon motion of Councilman Price, seconded by Vice-Mayor

Frank the consent agenda was unanimously approved.

OTHER BUSINESS

PLANNING AND ZONING COMMISSION TO CONSIDER LIGHTING PLANS IN GROUP DEVELOPMENT REVIEWS

Councilman Michalove moved that the Planning and Zoning Commission consider lighting plans when considering group developments. This motion was seconded by Councilman Price and carried unanimously.

STATEMENT BY COUNCIL FOR WOMEN'S INVOLVEMENT COUNCIL

Councilman Price noted that during the Pre-Council Work Session it was agreed by all members of Council that a statement be authorized supporting the Women's Involvement Council to contact Buncombe County employers and

employees concerning the needs of women in the work force.

APPOINTMENT OF ELLEN CARR TO SIGN COMMISSION

Vice-Mayor Frank moved to appoint Ellen Carr to the Sign Commission. This motion was seconded by Councilman Price and carried unanimously.

EQUAL EMPLOYMENT OPPORTUNITY TASK FORCE - REPORT

Councilman Boland reported that the EEO Task Force will be meeting in the next few weeks to finish the Affirmative Action Plan for the City of Asheville. He said he would be making a report to Council in the near future.

RALPH BISHOP - LOTTERY SALES

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

ADJOURNMENT

Upon motion of Councilman Price, seconded by Vice-Mayor Frank, the meeting adjourned at 6:15 P.M.

MAYOR CITY CLERK
