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Tuesday, October 13, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bisette, Presiding; Vice Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter Boland, 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: None

INVOCATION

Councilman Tisdale asked those in attendance to stand and join him in the Pledge of Allegiance.

MINUTES - September 23, 1987 and October 6, 1987

Mayor Bisette announced that approval of the minutes of the September 23, 1987, and October 6, 1987 meetings would be

postponed until October 20, 1987.

I. PROCLAMATIONS

A. Proclamation - Financial Independence Week - October 18-24,

1987

Mayor Bisette read the proclamation and presented it to Mike Lewis, Financial Planner.

B. Proclamation - School Psychology Week - October 11-17, 1987

Mayor Bisette said this proclamation was requested by the North Carolina School Psychology Association and that the

proclamation would be mailed to the Association.

II. PUBLIC HEARINGS

A. Public hearing relative to site plan of the proposed

expansion of Ingle's #3 located at 915 Merrimon Avenue.

Mayor Bisette said the Asheville Planning and Zoning Commission at a meeting held September 9, 1987, reviewed a site plan of the proposed expansion of Ingle's #3 located at 915 Merrimon Avenue. The plan was prepared by Mr. Carroll Hughes, Spaceplan, for Mr. Robert Ingle, 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 the following conditions: 1) Compliance with Erosion Control Ordinance; 2) Signage in accordance with Section 30-9-3 of the Zoning Ordinance; and 3) City Council granting a variance of 14-1/2 feet from the required setback of 17-1/2 feet on the

southeast corner.

Mayor Bisette opened the public hearing at 4:29 P.M.

The City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, presented the site plan for the expansion of the present Ingle's Store on Merrimon Avenue. He said this expansion will bring the total structure to approximately 60,000 square feet or almost double of its present size. He said the developer has agreed to provide sidewalks as shown in yellow on the maps distributed. He said a new bus stop has also been approved by the Asheville Transit Authority and its location is also shown on the map.

Mr. Emrick said there was an error included the Planning and Zoning Commission recommendations. He said the variance should be 3 feet and not 14-1/2 feet as shown in the Planning and Zoning Commission's report.

Mr. Emrick said any motion from Council to approve the site plan should include the conditions imposed by the Planning and Zoning Commission.

Carroll Hughes, Architect for the development, said the present store is one of the oldest Ingle's stores, but it ranks number 5 in sales. He said the new facility will contain speciality shops such as First Commercial Bank and a pharmacy. He said the store will also feature neon signage on the inside, carpet in special areas, and murals on the walls. He said he thought the development met or exceeded the requirements of the City of Asheville except for the variance needed for the loading dock.

There was a discussion relative to the type and height of trees that would be used for buffering and the disposition of cardboard and trash. Mr. Hughes said no specific type of tree has been decided on at this time, but that it would be some type that would blend well with the existing pines and hardwoods now in place. He said a dumpster would be located at the store to handle trash and the cardboard boxes would be trucked out and sold after they are baled outside the store. He said the baler

would be located to the right hand side of the store.

Councilman Tisdale expressed his personal appreciation to Mr. Bob Ingle for the agreeing to provide the sidewalk on Beaverdam Road in the St. Eugene School area. He said this would be an asset to the City of Asheville and would also provide a safe walk area for the children attending St. Eugene's School.

He also complimented Mr. Hughes on the job he had done on the plans to expand the store.

Mayor Bissette closed the public hearing at 4:51 P.M.

Councilman Tisdale moved to approve the site plan of the proposed expansion of Ingle's Store #3 located at 915 Merrimon Avenue subject to the following conditions: (1) Compliance with the Erosion Control Ordinance; (2) Signage in accordance with Section 30-9-3 of the Zoning Ordinance; (3) 3-foot variance on the southeast corner being granted by the Board of Adjustment; and (4) trees required for buffering to be 7-8 feet high when planted. This motion was seconded by Councilman Price and

carried unanimously.

B. Public hearing relative to rezoning property located on

Ardmore Street for Mr. George Morosani, Petitioner.

ORDINANCE NO. 1659 - An Ordinance amending Ordinance No. 322,

known as "an ordinance providing for the zoning of the City

of Asheville, as amended".

Mayor Bisette said the Asheville Planning and Zoning Commission at a meeting held September 9, 1987, reviewed the petition of Mr. George Morosani to rezone Ward 7, Sheet 52, Lot 140 from R-2 Residential District to CH Commercial Highway District. The Commission voted to recommend that Ward 7, Sheet 52, Lots 140, 128, 130, 134, and 138, be rezoned from R-2 Residential District to CH Commercial Highway District.

Mayor Bisette opened the public hearing at 4:54 P.M.

The City Clerk presented the notice to the public setting the time and date of the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said Mr. Morosani's original petition only requested that Lot 140 be rezoned; however, the Planning and Zoning Commission had included the other lots in their recommendation. He said no opposition had been voiced at the Planning and Zoning Commission Meeting from any of the owners of the other lots.

Mayor Bisette closed the public hearing at 4:59 P.M.

Councilman Michalove moved for the adoption of Ordinance No. 1659. This motion was seconded by Vice Mayor Frank.

Mayor Bisette said copies of the ordinance had previously been distributed to members of City Council, and that the ordinance would not be read unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1659 passed on first reading.

III. OLD BUSINESS

A. Third reading of Ordinance No. 1657 - An Ordinance amending

Chapter 28 of the Code of Ordinances of the City of Asheville

regarding parking penalties.

Mayor Bisette said this amendment will provide for civil rather than criminal penalties for parking violations and will provide for an increase in penalties. This ordinance was read on

first and second readings on October 6, 1987.

Mayor Bisette said this ordinance was previously read and will not be reread in its entirety unless there is a specific request to do so.

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

third and final reading.

Complete text of Ordinance No. 1657 will be found in

Ordinance Book 11 at page 181-182.

IV. NEW BUSINESS

A. Ordinance No. 1660 - Ordinance amending Section 19A-11 of the

Code of Ordinances of the City of Asheville.

Mayor Bisette said this amendment will clarify that permanent members of the Classified and Administrative Service are entitled to a pre-disciplinary conference prior to dismissal, involuntary demotion or suspension without pay in excess of five (5) working days. Temporary, seasonal, and part-time employees will only be entitled to the normal grievance process which includes a post-disciplinary conference.

Mayor Bisette said copies of this ordinance were previously distributed to members of council and would not be read in its entirety unless there was a specific request to do so.

Councilman Michalove moved for the adoption of Ordinance No. 1660. This motion was seconded by Vice Mayor Frank.

On a roll call vote of 7-0, Ordinance No. 1660 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1660. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1660 passed on second reading.

Councilman Michalove again moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1660. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1660 passed on third and final reading.

Complete text of Ordinance No. 1660 will be found in

Ordinance Book 11 at Page 185-188.

V. CONSENT

A. Resolution No. 87-176 - Resolution appointing members to the

Planning and Zoning Commission.

Summary: This resolution will reappoint Wanda Henry Coleman, Michael D. Moser, and Danie Johnson as members of the Planning and Zoning Commission to serve two (2) year terms, terms expiring August 14, 1989, or until their successors are duly appointed and qualified.

Resolution Book 16, Page 439.

B. Resolution No. 87-177 - Resolution appointing members to the Recreation Board.

Summary: This resolution will reappoint Charles Bullman, Larry Kimel, and Sherman Williams as members of the Recreation Board to serve three (3) year terms, terms expiring June 30,

1990, or until their successors are duly appointed and qualified.

Resolution Book 16, Page 440.

C. Resolution No. 87-178 - Resolution appointing members to the

Board of Electrical Examiners.

Summary: This resolution will reappoint E. Frank Davis, Walter J. Harlow, Jonathan D. Smith, and Malachie Cromartie, as members of the Board of Electrical Examiners to serve two (2) year terms, terms expiring July 1, 1989,

or until their

successors are duly appointed and qualified.

Resolution Book 16, Page 441.

D. Resolution No. 87-179 - Resolution appointing members to the

Board of Examiners for Motion Picture Operators.

Summary: This resolution will reappoint Roy B. Gibbs, as a member of the Motion Picture Operators Board of Examiners to serve a two (2) year term, term expiring July 1, 1989, or until

his successor is duly appointed and qualified.

Resolution Book 16, Page 442.

E. Resolution No. 87-180 - Resolution appointing members to the

Asheville-Buncombe Crime Stoppers Committee.

Summary: This resolution will reappoint Virginia Washington and Elliott Eki as members of the Asheville-Buncombe Crime Stoppers Committee to serve three (3) year terms, terms expiring June 30, 1990, or until their successors are duly appointed and

qualified.

Resolution Book 16, Page 443.

F. Scheduling public hearing relative to Highland Gate

Subdivision for October 27, 1987.

Summary: The Asheville Planning and Zoning Commission approved the preliminary plat of Highland Gate Subdivision (then called Vance Gap Road Subdivision) on March 25, 1987, subject to City Council granting a variance on the road and cul-de-sac width from 50' to 40'. Said variance was granted on August 25, 1987.

The final plat is submitted for Council's approval.

G. Resolution No. 87-181 - Resolution of intent to close Syrlin

Street and calling a public hearing for November 10, 1987.

Summary: A petition was received on July 17, 1987 from the

property owner along a portion of Syrlin Street. The petition requested that a portion of Syrlin Street, be closed as a public street right of way.

Councilman Price moved for the adoption of the consent agenda. This motion was seconded by Vice Mayor Frank and carried unanimously.

Complete text of Resolution No. 87-181 will be found in

Resolution Book No. 16 at page 444.

VI. OTHER BUSINESS

A. CLAIMS - ACE APPLIANCE (FIRE), ORANGEBURG INDUSTRIES (WATER),

RICK WORLEY (STREETS), SANDRA BROWN (POLICE), STEVE SUMMEY (WATER), MRS. CHARLES H. MCGOWAN (WATER), ABBY A. BATTONI (WATER), JOHN D. McCLAIN, JACK H. SPIVEY

The City Manager presented claims received from Ace Appliance (Fire), Orangeburg Industries (Water), Rick Worley (Streets), Sandra Brown (Police), Steve Summey (Water), Mrs. Charles H. McGowan (Water), Abby A. Battoni (Water), John D. McClain, II (Fire), and Jack H. Spivey (Streets).

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

B. LAWSUITS - BASF CORPORATION VS. CITY OF ASHEVILLE - GEORGE

HOWARD, ET AL., VS. BOARD OF ADJUSTMENT, ET AL. - DARYL E. UNRUH AND WIFE, GRACE E. UNRUH VS. CITY OF ASHEVILLE

The City Manager said the City of Asheville was named a party in lawsuits involving BASF Corporation (Petition challenging annexation of west area), George Howard, et al., (Appeal from Board of Adjustment Decision), and Daryl E. Unruh and wife, Grace E. Unruh (Appeal from Board of Adjustment Decision).

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

C. MAYOR BISSETTE - RESOLUTION ADOPTED BY COALITION OF ASHEVILLE

NEIGHBORHOODS RELATIVE TO REGULAR MEETING TIMES OF ASHEVILLE CITY COUNCIL AND BOARD AND COMMISSIONS APPOINTED BY THE ASHEVILLE CITY COUNCIL

Mayor Bissette said he had received a copy of a resolution adopted by the Coalition of Asheville Neighborhoods at their meeting on October 1st. Mayor Bissette read the resolution and said the Coalition of Asheville Neighborhoods is requesting that the Asheville City Council and the Boards and Commissions appointed by City Council hold their regular meetings no later or no earlier than 5:00 P.M. in order to give all citizens the opportunity to attend.

Mayor Bissette said Council Members need to think about this and let him know their feelings so he can respond to the resolution.

D. MAYOR BISSETTE - MIKE SUMMEY LETTER - REQUEST TO SERVE ON

SIGN COMMISSION

Mayor Bissette said he had received another letter from Mike Summey requesting that Council appoint him and another sign industry representative to the Sign Commission. Mayor Bissette said that his concern from the beginning has been that the perception by the public will be that the Commission is somehow unfair or unbalanced in its makeup. He said he believes the Commission is fair and balanced, but that he still felt Mr. Summey should be appointed to the Commission.

Councilwoman Bratton said she felt whether the Commission is impartial or not, the perception out there is that it is. She said she didn't see any problem in appointing Mr. Summey to the Commission.

Councilman Boland said since Mr. Summey has made it clear that he doesn't want a change in the sign ordinance and since the Commission is supposed to recommend change, he said he felt there was no reason to appoint Mr. Summey to the Commission.

For lack of a motion, the request of Mr. Summey to be appointed to the Sign Commission was not acted upon.

E. RESOLUTION NO. 87-182 - RESOLUTION AUTHORIZING THE CITY**MANAGER TO DIRECT THE CITY ATTORNEY TO INSTITUTE APPROPRIATE ACTION FOR ENFORCEMENT OF THE CODE OF ORDINANCES**

Mayor Bissette read the resolution.

The City Manager said this resolution will authorize him to direct the Corporation Counsel to institute all appropriate legal proceedings in the Courts of Buncombe County for the civil enforcement of the Code of Ordinances of the City of Asheville. He said this would expedite the process in that violations would no longer have to approved by City Council on a case by case basis.

Vice Mayor Frank moved for the adoption of Resolution No. 87-182. This motion was seconded by Councilman Tisdale and carried unanimously.

Complete text of Resolution No. 87-182 will be found in Resolution Book 16, Page 445.

F. RESOLUTION NO. 87-183 - RESOLUTION AUTHORIZING THE MAYOR TO**EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A MUNICIPAL AGREEMENT WITH THE N. C. DEPARTMENT OF TRANSPORTATION FOR PROJECT NO. 8.1900801 (U-90) - IMPROVEMENT OF US 25 SOUTH FROM I-40 TO THE BLUE RIDGE PARKWAY**

Mayor Bissette said this resolution will authorize him to execute a Municipal Agreement with the N. C. Department of Transportation for Project No. 8.1900801 (U-90) - Improvement of US 25 south from I-40 to the Blue Ridge Parkway.

Mayor Bissette said it was the consensus of City Council for him to execute a revised agreement with the N. C. Department of Transportation. He said the revised agreement provides for no participation by the City of Asheville for the acquisition of right-of-way costs. He said the City is willing to pay its fair share on future projects of importance and interest to the City of Asheville, but that this would be at the City's discretion.

Councilman Michalove moved for the adoption of Resolution No. 87-183. This motion was seconded by Councilman Boland and carried unanimously.

Complete text of Resolution No. 87-183 will be found in

Resolution Book 16 at Page 446.

G. RESOLUTION NO. 87-184 - RESOLUTION AUTHORIZING THE MAYOR TO**EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A MUNICIPAL AGREEMENT WITH THE N. C. DEPARTMENT OF TRANSPORTATION FOR A PROJECT NO. 8.1841101 (U-592) - IMPROVEMENT OF NC 63 (LEICESTER HIGHWAY) FROM US 19-23 (PATTON AVENUE) NORTHWEST TO THE ASHEVILLE CITY LIMITS**

Mayor Bissette said this resolution will authorize him to execute a Municipal Agreement with the N. C. Department of Transportation for Project No. 8.1841101 (U-592) - Improvement of NC 63 (Leicester Highway) from US 19-23 (Patton Avenue) Northwest to the Asheville City Limits.

Mayor Bissette said it was the consensus of City Council for him to execute a revised agreement with the N. C. Department of Transportation. He said the revised agreement provides for no participation by the City of Asheville for the acquisition of right-of-way costs. He said the City is willing to pay its fair share on future projects of importance and interest to the City of Asheville, but that this would be at the City's discretion.

Councilman Michalove moved for the adoption of Resolution No. 87-184. This motion was seconded by Councilman

Boland and carried unanimously.

Complete text of Resolution No. 87-184 will be found in

Resolution Book 16, Page 447.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Michalove, the meeting adjourned at 5:30 P.M.

MAYOR CITY CLERK
