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Tuesday - October 20, 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 Price.

APPROVAL OF MINUTES

Mayor Bisette announced the approval of the minutes of the October 13, 1987 meeting.

RESOLUTION NO. 87-185 - RESOLUTION IN MEMORY OF J. WELDON WEIR

Mayor Bisette read the resolution in memory of J. Weldon Weir.

Upon motion of Councilman Tisdale, seconded by Councilman Bratton, Resolution No. 87-185 was unanimously adopted.

Complete text of Resolution No. 87-185 will be found in Resolution Book No. 16 at Page 448.

I. PROCLAMATIONS:

A. Proclamation proclaiming October 18 - 24 as "National Business Week".

Mayor Bisette read the proclamation and presented a copy to Sherry Jones, President of Business Professional Women's Organization.

B. Proclamation proclaiming October 24 as "MADD/Volkswagen Drive for Life Day".

Mayor Bisette proclaimed October 24 as "MADD/Volkswagen Drive for Life Day". He said he presented a copy at a Mothers Against Drunk Driving function on October 20, 1987

II. PUBLIC HEARINGS:

A. Public hearing relative to rezoning property located on Hazel Mill Road and Rose Street for Mrs. Martha Calloway et al.

Mayor Bisette said the Asheville Planning and Zoning

Commission on September 9, 1987, considered the petition that Ward 6, Sheet 16, Lots 356, 318, 313, 232, and 316, be rezoned from R-3 Residential District to CH Commercial Highway District. The Commission voted to recommend to City Council that Ward 6, Sheet 16, Lots 316, 320-1/2, 318 and a portion of Lot 356, be rezoned from R-3 Residential District to CH Commercial Highway

District.

Mayor Bissette opened the public hearing at 4:39 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 Planning

and Zoning Commission, after considering the rezoning request, recommended that the request be modified to alleviate too large of an area intruding on residential property. He said a protest petition opposing the rezoning was received and contained sufficient number of signatures to require an affirmative vote of 2/3 of members of Council to pass the rezoning request.

Upon inquiry of Councilman Price, Mr. Emrick said the

last rezoning request for this area had been denied by Council due to encroachment into a residential area and due to potential traffic hazards.

Conrad Youngberg, a resident of the area, strongly

opposed the commercial rezoning. He presented maps showing the current layout of the area showing potential problems if the area is rezoned to commercial. He said he was also concerned about increase in traffic in the area since the roads are narrow. He said to rezone the area commercial would be a punishment to the neighborhood.

Betty McFeature, owner of property requested to be

rezoned, spoke in support of the rezoning. She said the area is already commercially zoned. She said she had been approached by many developers for the purchase of her property and the property is considered to be prime property for commercial since it is near David Hall's Car Lot and many other commercial establishments.

Hubert Smith, 18 Hansel Avenue, spoke in opposition to

the rezoning stating that the petitioners had not lived in the neighborhood in the last thirty years and the residents of the area would like to keep the area as a residential neighborhood.

Martha Calloway, sister of Betty McFeature, also spoke

in support of the rezoning.

Mrs. Kanose spoke in opposition to the rezoning.

Mayor Bissette closed the public hearing at 5:07 P.M.

After discussion, Councilman Price moved that the

recommendation of the Planning and Zoning Commission to approve the rezoning request be denied. She further

requested that city staff check to determine if David Hall's Car Lot in this particular area complies with all city ordinances and that the Traffic Engineer review Hansel Avenue for truck traffic restrictions. This motion was seconded by Councilman Boland and carried

unanimously.

B. Public hearing relative to a site plan of the proposed conversion of the second floor of 20 Broadway into four apartment units.

Mayor Bissette said the Asheville Planning and Zoning

Commission at a meeting held September 9, 1987, reviewed a site plan of the proposed conversion of the second floor of 20 Broadway into four apartment units. The plan was prepared by Mr. Ray Quate, 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 compliance with all building codes.

Mayor Bissette opened the public hearing at 5:15 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.

Verl Emrick, Director of Planning, said the developer

proposes to convert the second floor of 20 Broadway into four apartments and use the first floor for retail space. He said the total area would consist of approximately 4,000 square feet.

Mayor Bissette closed the public hearing at 5:16 P.M.

Vice-Mayor Frank moved to approve the site plan of the

proposed conversion of the second floor of 20 Broadway into four apartment units subject to the recommendations of the Planning and Zoning Commission. This motion was seconded by Councilman Price and carried unanimously.

C. Public hearing relative to the site plan of proposed additional buildings at the Black Forest Restaurant on Hendersonville Road.

Mayor Bissette said the Asheville Planning and Zoning

Commission at a meeting held September 9, 1987, reviewed a site plan of proposed additional buildings at the Black Forest Restaurant on Hendersonville Road. The plan was prepared by Mr. Kenneth Pankow, Engineer, for Mr. M. B. Elliston, 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; and 2) A variance on the buffer on the southern property line by

the Board of Adjustment.

Mayor Bissette opened the public hearing at 5:17 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

proposes to construct eight (8) residential units for executives visiting the area and professional office space for a dentist and a doctor.

Mayor Bissette closed the public hearing at 5:20 P.M.

Councilman Tisdale moved to approve the site plan of the

proposed additional buildings at the Black Forest Restaurant on Hendersonville Road subject to the recommendations of the Planning and Zoning Commission. This motion was seconded by Vice-Mayor Frank and carried

unanimously.

III. OLD BUSINESS:

A. Ordinance No. 1651 - Third reading - 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. The third reading of the ordinance was postponed until

October 20, 1987.

Mayor Bissette said this ordinance was previously

read on first and second readings and would not be

reread in its entirety.

Sue Evans, 12 BellAir Road, owner of Lot 6, again

strongly opposed the rezoning or the placing of any restrictions placed on her property. She said if her property is rezoned the high value of the land would be taken away and she would have no other recourse than to seek satisfaction in a court of law.

Mr. Ballantyne, representing Sidney Shorter, petitioner

for the rezoning, said Lot 6 should be included in the rezoning to R-3 Residential District. He said the City's redevelopment plan also shows Hildebrand Street as residential property. He said deleting Lot 6 from the rezoning would not be compatible with the community since the lot is surrounded by St. James AME Church and private residences. He said commercial development of Lot 6 would destroy the area. He said Lot 6 can not be developed as residential or commercial due to the size of the lot and the required setbacks. He requested that Council accept the recommendation of the Planning and Zoning Commission that all the north side of Hildebrand Street be residential in order not to break up continuity.

Mike Robinson, Real Estate Broker representing Ms.

Evans, spoke in opposition to rezoning Lot 6. He said the present zoning of Lot 6 allows for commercial building on the lot. He said a single story, 1,200 square foot, building could be placed on the lot. He said the lot, with its present zoning, is a very marketable lot.

A discussion was held, instituted by Councilman Tisdale,

relative to the tax value of Lot 6. It was determined that the tax value of Lot 6 is \$1,600. Mr. Robinson said in his opinion Lot 6 would have a fair market value of about \$25,000 to \$35,000.

A discussion was held relative to the requirements of

building on Lot 6. Mr. Emrick said in his opinion construction on Lot 6 could not take place without a variance from the Zoning Board of Adjustment as a Conditional Use, under the current or proposed zoning.

Mrs. Burton, member of the St. James AME church,

requested that Council have Lot 6 remain zoned residential. She said the East End Community Organization has also recommended that Lot 6 be residential.

Mayor Bissette said the ordinance as presently written

and being voted on for the third reading includes Lot 6 as a R-3 Residential designation.

On a roll call vote of 7-0, Ordinance No. 1651 passed on

third and final reading.

Complete text of Ordinance No. 1651 will be found in

Ordinance Book No. 11 at page 173-174.

B. Ordinance No. 1659 - an ordinance amending Ordinance

No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, rezoning property located on Ardmore Street (George

E. Morosani, et al., property).

Mayor Bissette 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 Bissette said this ordinance was previously

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

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

on second reading.

Councilman Michalove moved to suspend the rules and

proceed to the third and final reading of Ordinance No. 1659. This motion was seconded by Councilman Tisdale. On a voice vote of 4-3, Councilman Michalove's motion failed with Mayor Bissette, Vice-Mayor Frank and Councilman Price voting "no." The Corporation Counsel advised that a vote to suspend the rules and proceed on ordinance readings requires a 2/3 vote of Council.

Mayor Bissette, Vice-Mayor Frank, and Councilman

Price said the reason they voted "no" on the motion was it has been a Council policy not to have more than one reading on a rezoning ordinance at one meeting except under unusual circumstances.

COUNCILMAN TISDALE REQUEST TO BE EXCUSED

At Councilman Tisdale's request, Vice-Mayor Frank

moved to excuse Councilman Tisdale from the meeting. This motion was seconded by Councilman Boland and carried unanimously.

IV. NEW BUSINESS:

A. Ordinance amending Chapter 27 (Taxicabs) of the Code of Ordinances of the City of Asheville.

Mayor Bissette announced that this ordinance would be

considered on October 27, 1987 at the request of the taxicab operator's attorney and at Councilman Tisdale's request.

V. CONSENT:

A. Resolution No. 87-186 - Resolution of support for major regional transportation projects.

SUMMARY: The Land-of-Sky Regional Council has requested

that the Asheville City Council endorse a resolution urging support for the earliest possible completion of the Brevard Connector project and the placement of U. S. 19 from Mars Hill to the Tennessee line in the North Carolina Transportation Improvement Plan and expedition of its planning, right-of-way acquisition and construction.

Councilman Price requested that a copy of the resolution be forwarded to Sara Morris at A-B Technical Institute.

Councilman Boland also requested that all governmental agencies continue supporting these projects.

Resolution Book No. 16 -Page 449

B. Resolution No. 87-187 - Resolution authorizing an

amendment to the supplemental water agreement.

SUMMARY: The City and County entered into an agreement

dated October 29, 1981, known as the Water Agreement. Said agreement was superceded by a Supplemental Water Agreement dated August 18, 1987. A further amendment of said agreement is now deemed appropriate in order to authorize employees of the City or County who are also elected officials to be appointed to the Water Authority. This resolution will authorize the Mayor to execute such an amendment to the

Supplemental Water Agreement.

Resolution Book No. 16 - Page 450

Upon motion of Councilman Michalove, seconded by

Councilman Boland, the consent agenda was unanimously approved.

COUNCILMAN MICHALOVE - REQUEST FOR CITY ATTORNEY TO AMEND COUNCIL

RULES AND PROCEDURES

Councilman Michalove requested that the City Attorney

draft an amendment to the City Council rules and procedures to establish a policy on voting on matters of rezonings.

RESOLUTION NO. 87-188 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LETTER OF INDEMNITY FOR THE STORAGE OF STORM DRAINAGE PIPE FOR THE CHEROKEE ROAD STORM DRAINAGE PROJECT

The City Manager said the City of Asheville is using its own forces to renovate the storm drainage system on or near Cherokee Road and it would provide greater efficiency for the project if the storm drainage pipe could be stored close to the project. The property owner of vacant property near the project will consent to the City's storage of the storm drainage pipe on his property provided the City provide the property owner with a letter of indemnity.

Upon motion of Councilman Michalove, seconded by Vice-Mayor Frank, Resolution No. 87-188 was unanimously adopted.

Complete text of Resolution No. 87-188 will be found in Resolution Book No. 16 at page 451.

CLAIMS - DON WHITAKER (SANITATION)

The City Manager presented a claim received from Don Whitaker (Sanitation).

LAWSUIT - JOHN D. GEORGE V. ASHEVILLE-BUNCOMBE WATER AUTHORITY (INADEQUATE WATER PRESSURE)

The City Manager said the City was named a party in a Small Claims action filed on October 1, 1987 involving John D. George v. Asheville-Buncombe Water Authority (inadequate water pressure).

RALPH BISHOP - LOTTERY SALES

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

ADJOURNMENT

Upon motion of Councilman Price, seconded by Councilman Boland, the meeting adjourned at 6:30 P.M.

MAYOR CITY CLERK
