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Tuesday - May 10, 1988 - 4:00 P.M.

Regular Meeting

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

M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin, 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 Russell Martin.

APPROVAL OF MINUTES - MAY 3, 1988 MEETING

Mayor Bisette announced the approval of the minutes of the May 3, 1988 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - "Tourism Week" - Week of May 15, 1988.

Mayor Bisette said Governor James Martin requested

that the City of Asheville proclaim the week of May 15, 1988 as Tourism Week in the City of Asheville in relation to National Tourism Week and North Carolina

Tourism Week.

Mayor Bisette made the proclamation and said a copy

would be forwarded to the appropriate person.

B. Proclamation - "Nursing Home Week" - May 8 - 14, 1988

Mayor Bisette read the proclamation and presented a

copy to Martha Smart, Director of the Aston Park Health

Care Center.

C. Proclamation - "Law Enforcement Officers Week" -

May 8 - 14, 1988

Mayor Bisette read the proclamation and said a copy

would be forwarded to the Asheville Police Department.

II. PUBLIC HEARINGS:

A. Public hearing relative to endorsement of Master Plan of the University of North Carolina-Asheville.

Mayor Bissette said the Asheville Planning and

Zoning Commission at a meeting on April 6, 1988, reviewed the Master Plan of UNC-Asheville and voted unanimously to endorse the Master Plan with the recommendation that both car and foot access to Belk Theatre and Carmichael Lecture Hall be considered for incorporation into the plan.

Mayor Bissette opened the public hearing at 4:24

p.m.

Verl Emrick, Director of Planning said the purpose

of going through this process of endorsement is to have the project on record in order to have all bases covered as far as the development of the university is concerned.

Dr. David Brown, Chancellor for UNC-A, said the

project is in accordance with all requirements of the City of Asheville.

At the request of Council, Dr. Brown outlined the

components of the proposed retirement center and the conference center.

A discussion was held relative to the access to the developments.

Mr. Emrick said the city staff would be working

closely with the university staff during the construction of the project to obtain both the goals of the university as well as the city.

Mayor Bissette closed the public hearing at 4:37

p.m.

Councilman Boland moved to endorse the Master Plan

of the University of North Carolina-Asheville. This motion was seconded by Councilman Bratton and carried unanimously.

II. OLD BUSINESS:

A. Continuation of a public hearing relative to closing

Parkwood Avenue, Oakwood Street, Oakwood Place (a/k/a Parkwood Place) and a portion of Green Briar Road Extension.

Resolution No. 88-72- Resolution to close Parkwood

Avenue, Oakwood Street, Oakwood Place (a/k/a Parkwood Place) and a portion of Green Brair Road Extension

Mayor Bissette said a petition has been filed by

R.B.R. & S.T., a North Carolina Limited Partnership, requesting that Parkwood Avenue, Oakwood Street, Oakwood Place (a/k/a Parkwood Place) and a portion of Green Briar Road Extension be permanently closed to the public use. All streets are on a certain 14.54 acre tract entitled "West Terrace Apartments,

Inc.

Mayor Bissette said this public hearing was

continued from the April 19, 1988 meeting.

Mayor Bissette reopened the public hearing at 4:40

p.m.

Verl Emrick, Director of Planning, said the street

closings are necessary due to the revamping of the West Terrace center complex in accordance with Phase III of the developer's plans.

Mayor Bissette said he had received comments from

several individuals concerned about the closing of the streets which provide access to the Post Office Building located in the complex.

Stewart Coleman, developer of the West Terrace

Center Complex, said the streets in the complex would be upgraded during Phase III of the project which would include a relocation of Parkwood Avenue and Green Brair Road Extension which currently serves the Post Office Building.

Members of Council questioned the closing of the

streets until final plans for Phase III of the development are submitted and approved.

Councilman Price said she felt Council should be

assured that access would be available in this area.

A discussion was held relative to the need to close

the streets and as to how the streets would provide access after the development of Phase III. A

question also arose as to whether or not Green Brair Road is a public street.

Gail McAlpine, who works with several doctors in the

complex area, expressed concern that the only access to their offices is from Green Brair Road Extension. She questioned how the closings and the new development will affect their access.

Another individual appeared before Council to

express his concerns about the closing of the major artery to the Post Office Building.

Stewart Coleman said he would coordinate the

relocation of the streets in the complex with the City Engineering Department, Fire Department and the Police Department.

Mayor Bissette closed the public hearing at 5:22

p.m.

Mayor Bissette said members of Council were

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

Vice-Mayor Michalove requested that he be excused

from discussion and vote on the closing of the streets since his employer has an office in this area. Councilman Price moved that Vice-Mayor Michalove be excused from discussion and vote on the closing of the streets. This motion was seconded by Councilman Boland and carried unanimously.

Councilman Price moved for the adoption of

Resolution No. 88-72 with the stipulations that the resolution exclude Parkwood Avenue and a section of Green Brair Road Extension. This motion was seconded by Councilman Frank and carried unanimously.

Mayor Bissette requested that Mr. Coleman coordinate

the reconstruction of Parkwood Avenue with Mr. William F. Wolcott, Jr., the Associate City Manager. He said if Green Brair Road Extension is a dedicated street that the developer should come back to Council during Phase III of the project to discuss

this particular street.

Resolution Book No. 17 Page No. 141-142

IV. NEW BUSINESS:

A. Resolution No. 88 -73 - Resolution establishing a fire

protection contract with Skyland Fire District pursuant to annexation.

Mayor Bissette said the North Carolina law requires a

good-faith effort on the part of an annexing city to contract with a fire district a portion of which the City is annexing. The proposed contract represents that good-faith effort. While most such contracts are simple five-year income-replacement contracts, this contract encompasses a management agreement between Asheville and Skyland that will result in maintenance of fire protection service in the annexed area that will be at least as good as pre-annexation service, and will result in management and operational assistance on a continuing basis for the balance of Skyland's fire protection area. The principle effects of the contract would be (a) the transfer of all full-time Skyland personnel to City employment, and (b) maintenance of Skyland assets and managerial and training support for Skyland's firefighters by Asheville staff. This contract is based on good-faith efforts of both parties to prevent any negative impact on fire protection in either jurisdiction during the annexation process and after annexation is complete.

The City Manager said the contract was negotiated

between the Chief of the Asheville Fire Department and the Chief of the Skyland Volunteer Fire Department. He said the contract was negotiated with professionalism in order to provide residents in the Skyland area with continued professional fire protection.

Chief Rukavina said the agreement was negotiated so that

no one in the Skyland area will notice a change in fire protection. He expressed appreciation to all city officials who worked with the Skyland Volunteer Fire Department during this annexation process.

Chief Rukavina outlined the details of the agreement.

Upon motion of Councilman Bratton, seconded by Vice-

Mayor Michalove, Resolution No. 88-73 was unanimously adopted.

Resolution Book No. 17 Page No. 143

B. Ordinance No. 1688 - Ordinance amending Section 28-81.3

and Section 28-81.4 of Article IV, Speed Regulations, of

Chapter 28 of the Code of Ordinances of the City of Asheville reducing speed limits on Ambler Road and Lakeshore Drive.

Mayor Bissette said this action will reduce the

speed limit, based on an engineering investigation, on Ambler Road from 35 mph to 25 mph, and on Lakeshore Drive from 35 mph to 30 mph.

Bob McDonald, Traffic Engineer, said he had received

a petition from residents of Ambler Road requesting that the speed limit be reduced to 25 mph and the City Manager received a petition from the Lakeview Park Commission requesting a speed limit change on Lakeshore Drive from 35 mph to 25 mph. He said based on radar calculations, using the 10 mile per hour pace methodology there is justification to reduce the speed limit on Ambler Road to 25 mph. He said in the case of Lakeshore Drive, the lower limit of the pace speed was 30 mph and he would not recommend going below that limit. He said this speed represents the beginning of the range in which the vast majority of motorists will observe the speed limit voluntarily, and enforcement can be directed to the minority of drivers who don't obey the speed limit.

Councilman Price said she had received calls from

individuals who could not be present at the meeting who supported the Traffic Engineer's recommendation.

Councilman Martin said he lived in the Lakeshore

Drive area and the residents in that area have desired a reduced speed limit for a number of years.

Councilman Bratton moved for the adoption of

Ordinance No. 1688. This motion was seconded by Councilman Martin.

On a roll call vote of 7-0, Ordinance No. 1688

passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and

proceed to the second reading of Ordinance No. 1688. This motion was seconded by Councilman Martin and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1688

passed on second reading.

Mayor Bissette said the third reading of the

ordinance would be held on May 17, 1988.

Councilman Bratton requested that Kenilworth Road

speed limit be investigated. She suggested that a

25 mph speed limit be investigated.

Ordinance Book No. 11 Page No. 263

C. Request for approval of wall signs at 30 Tunnel Road for

Bishop's Food and Spirits.

Mayor Bissette said the signs require the approval

of Council pursuant to the Zoning Ordinance in that they will be situated closer than 600' from a limited access highway. This will be replacement of

existing signs with minor modifications.

Verl Emrick, Director of Planning, presented the

sign permit request. He said the wall signs would be used to replace existing signage. He said the free-standing sign would be outside the 600' limit and would not require approval from Council. He said the signs meet all requirements and is in the spirit of the Sign Commission. He said he would recommend Council's approval of the sign permit.

Councilman Boland moved for the approval of the wall

sign permit request at 30 Tunnel Road for Bishop's Food and Spirits. This motion was seconded by

Councilman Martin and carried unanimously.

D. Request for approval of a wall sign and a free-standing

sign at 295 West Haywood Street for Custom Audio and

Electronics.

Mayor Bissette said the signs require the approval

of Council pursuant to the Zoning Ordinance in that they will be situated closer than 600' from a limited access highway. This will be replacement of

existing signs with minor modifications.

Verl Emrick, Director of Planning, said the signs

meets all requirements and is in the spirit of the Sign Commission. He said the free-standing sign would be 6' tall and would be placed close to the dead-end of the street. He said the wall signs would be used to replace existing signage. He

recommended approval of the sign permit.

Councilman Martin moved to approve the wall sign and

free-standing sign permits for 295 West Haywood Street for Custome Audio and Electronics. This motion was seconded by Councilman Frank and carried unanimously.

V. CONSENT:

A. Resolution No. 88 - 74 - Resolution authorizing the

Mayor to sign a contract with Metropolitan Sewerage District of Buncombe County, North Carolina for the Champion Finishing Company sewer siphon project.

SUMMARY: This contract is for the construction of

temporary piping around the future bar screen vault for the Metropolitan Sewerage District for the Champion Finishing Company sewer siphon project.

Resolution Book No. 17 Page No. 144

B. Resolution No. 88 - 75 - Resolution to establish a policy for procurement of engineering services.

SUMMARY: The General Assembly of North Carolina

has enacted a bill which requires state and local government to announce all requirements for engineering services when the estimated engineering fee is in an amount more than \$30,000. The attached resolution establishes such a policy within State requirements.

Resolution Book No. 17 Page No. 145

C. Resolution No. 88-76 - Resolution authorizing submission of an application to HUD for Rental Rehabilitation Program funds.

SUMMARY: This resolution is to authorize submission

of an application to HUD for funds in the amount of \$84,000 for Rental Rehabilitation Program assistance to investor owners for deferred payment loans to rehab at least 10 apartment units.

Resolution Book No. 17 Page No. 146

D. Resolution No. 88-77 - Resolution appointing member to

the Firemen's Relief Fund.

SUMMARY: This resolution will appoint Donald O.

Fowler as a member of the Firemen's Relief Fund to serve until his term expires on January 1, 1990 or until his successor is duly appointed and qualified.

Resolution Book No. 17 Page No. 147

E. Scheduling of public hearing relative to the submission

of final Statement of Community Development Objectives for FY 89 to Housing and Urban Development for May 24,

1988.

SUMMARY: This action will authorize submission of CDBG entitlement application for 1988-89. Funding will be used as follows:

Hill St/Cherry St. (Head of Montford) Neighborhood Impvt.

\$558,000

Neighborhood Housing Services Loan Pool 100,000

City-wide Housing Rehabilitation 125,000

Asheville-Buncombe Community Relations Council 14,000

Community Development Planning 50,000

Community Development Administration 123,000

Contingency 27,000

Total Budget

\$997,000

F. Scheduling of public hearing relative to Beaver Lake

Villas - (Long-Syrlin Street Apartments) for May 24,

1988.

SUMMARY: The Asheville Planning and Zoning

Commission on May 4, 1988, reviewed and recommended approval of Beaver Lake Villas to be located on Long Street, subject to

the following:

1) Compliance with Erosion Control

Ordinance;

- 2) Compliance with Landscape Ordinance
- 3) Locating fire hydrant at entrance of Long Street; and
- 4) Recommendation of closing Syrlin Street north of Lockley Avenue.

G. Resolution No. 88-78 - Resolution authorizing the City

Manager to execute a negotiated settlement agreement by and between the City of Asheville and the Equal Employment Opportunity Commission.

SUMMARY: The EEOC and the City have agreed upon the terms and conditions of a negotiated settlement agreement with regard to a "Letter of Violation" in regard to Charge No. 140871593.

Resolution Book No. 17 Page No. 148

Upon motion of Vice-Mayor Michalove, seconded by Councilman Frank, the consent agenda was unanimously approved.

OTHER BUSINESS:

CLAIMS - JAMES CARROLL (WATER) - PHIL GADDY (WATER) - MRS. KENNETH RAY (WATER) - ERNEST COCHRAN (WATER) - MRS. MELVIN MORTON (WATER) - VICKI McFEE (WATER)

The City Manager presented claims received from James Carroll, Phil Gaddy, Mrs. Kenneth Ray, Ernest Cochran, Mrs. Melvin Morton, and Vicki McFee.

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

CHIEF OF FIRE DEPARTMENT JOHN RUKAVINA - STATUS REPORT ON 911 EMERGENCY NUMBER

Chief Rukavina of the Asheville Fire Department said the County is still in the process of collecting information to use in the data base for the 911 Emergency Number System. He said the proposed system concerns him in that individuals using the system will have to talk with several telecommunicators before their emergency reaches the appropriate agency. He said in his opinion the only advantage to the proposed system would be that individuals can easily remember the 911 number. He said the system will offer no savings in time and could cause a time loss for an emergency. He said there also might be liabilities involved.

He said the Buncombe County Firefighters Association adopted a resolution in support of a county-wide communication system. He said if the 911 system is to be successful a unified approach is necessary in order to deal with emergencies.

He suggested that this proposal be carefully reviewed immediately because it is proposed that the system be up and operating within a year. He said he feared the community is on the way to a system that will not be workable.

Mayor Bissette suggested that a committee be established involving all parties to review all ramifications of the 911 emergency system.

Councilman Frank said the Intergovernmental Services Committee has been discussing the 911 Emergency System but to

date no response has been received.

WILLIAM ROBINSON - 75 N. LIBERTY STREET - CHESTNUT/LIBERTY STREET

William Robinson of 75 N. Liberty Street, appeared before Council stating concerns with the Chestnut/Liberty Street

Historic District. He said before the ordinance was adopted to create this district 64% of the residents in the area had presented a petition opposing the creation of the district. He said it is his understanding that at least six (6) members of the Council has to vote affirmatively in order for the ordinance to be adopted. He said this was not done. He asked Council if anything was going to be done to correct these deficiencies.

Mr. Robinson said since he owns his property, pays the taxes, and the mortgage, he resents having to get permission to do any improvements to his property.

Mayor Bissette informed Mr. Robinson that a vote was taken on the creation of the Chestnut/Liberty Street Historic District after extended discussions and numerous public hearings, giving everyone an opportunity to express their opinions. He said the ordinance passed on a 4-3 vote. He said the ordinance was later challenged by a law suit which is still pending. He said if the individual filing the law suit prevails Council will have to reconsider the ordinance.

Mr. Robinson asked if his property could be excluded from the ordinance.

Mayor Bissette informed Mr. Robinson that the ordinance would have to be amended to exclude his property which is a lengthy process.

The Corporation Counsel agreed with Mayor Bissette that the ordinance would have to amended and that the amendment would have to be approved by a state agency.

RALPH BISHOP - RIGHT TO HAVE HIS COMMENTS VERBATIM IN THE MINUTES - LOTTERY SALES

At the request of Ralph Bishop relative to his right to have his comments verbatim in the minutes, the Corporation Counsel read the following memorandum which was requested by members of Council:

MEMORANDUM TO: W. Louis Bissette, Jr., Mayor, and Members

of the Asheville City Council

FROM: Bill Slawter, City Attorney

DATE: May 10, 1988

SUBJECT: Minutes of City Council Meetings

Section 11 of the City Charter provides that "the Clerk shall keep records of the proceedings of the Council and all final votes of the Council involving appropriations, expenditures of money or the enactment of ordinances shall be by yeas and nays

and entered on the records." North Carolina General Statutes sec. 160A-72 goes on to state that "full and accurate minutes of the council proceedings shall be kept, and shall be open to the inspection of the public. The results of each vote shall be recorded in the minutes, and upon the request of any member of the council, the ayes and noes upon any question shall be taken" the provisions of N. C. Gen. Stat. sec. 160A-72 have been incorporated into City Council Rule of Procedure No. 29.

City Council Rule of Procedure No. 29 also provides that "tape recordings of the meeting will be kept for a period of one year. Anyone wishing a copy of verbatim statements made at a Council meeting shall make a written, signed request to the City Clerk stating exactly what statements they desire and shall pay a minimum of \$5.00 or \$2.00 per page or portion thereof for the transcript."

With regard to executive sessions, if some action is taken, the minutes should reflect that action. N. C. Gen. Stat. sec. 143-318.11 (d) specifically provides that minutes of an executive session may be withheld from public inspection so long as public inspection would frustrate the purpose of the executive session.

With regard to the requirement of N. C. Gen. Stat. sec. 160A-72 that "full and accurate" minutes of the Council meetings be kept, the statute does not define the detail that is required. There is a handbook published by the Institute of Government which indicates that the minutes are sufficient if they identify the action taken by the Council and reflect any conditions necessary for the taking of the action, such as the presence of a quorum.

Please let me know if you have other questions.

BS:msb

CC: Douglas O. Bean, City Manager

Mr. Bishop requested a copy of the memorandum.

Mr. Bishop then commented on the lottery sales being conducted in the City of Asheville.

ADJOURNMENT:

Upon motion, the meeting adjourned at 6:30 p.m.

MAYOR CITY CLERK
