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Tuesday - June 14, 1988 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bissette, 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 Deputy City Clerk Carol

Hensley.

Absent: Associate City Manager/City Clerk William F.

Wolcott, Jr.

INVOCATION

The invocation was given by Councilman Martin.

APPROVAL OF MINUTES - JUNE 7, 1988 MEETING

Mayor Bissette announced the approval of the minutes of the June 7, 1988 meeting with several noted changes by Councilman Boland.

A discussion was held, instituted by Ralph Bishop, relative to verbatim minutes. It was noted that the Corporation Counsel would furnish Mr. Bishop information relative to

requirements for keeping of the City Council minutes.

I. PROCLAMATIONS:

A. Proclamation - "Soap Box Derby Day"-

Saturday, June 18, 1988

Mayor Bissette read the proclamation and presented a

copy to Ray Kisiah, Director of Parks, Recreation, and Public Facilities. The Soap Box Derby Race is sponsored by the West Asheville Rotary Club, in cooperation with the Asheville Parks, Recreation, and Public Facilities

Department.

II. PUBLIC HEARINGS:

A. Public hearing relative to Beaver Lake Office Plaza

Expansion.

Mayor Bissette said the Asheville Planning and

Zoning Commission at a meeting on December 9, 1987, reviewed and approved the site plan of Beaver Lake Office Plaza Expansion subject to the following conditions:1) Provision of a 12' planted buffer adjacent to the R-3 Residential District property line; 2) Variance to buffer width and planing along northern and southern boundaries provided that

parking lot landscape plan is implemented; 3) Final sign package to be reviewed by Asheville Planning and Zoning Commission; 4) Encourage right-of-way trees along Merrimon Avenue; and 5) Compliance with Erosion Control Ordinance.

Mayor Bissette opened the public hearing at

4:22 p.m.

The Deputy City Clerk presented the notice to the

public setting the time and date of the public hearing and the affidavit of publication.

Julie Cogburn, Acting Planning Director, said the

complex is proposed to be constructed in the rear of the existing office buildings on Merrimon Avenue. She said the complex would consist of a new two story office building containing 7,488 square feet. She said all the provisions stipulated by the Planning and Zoning Commission are indicated on the plans or are to be implemented during construction. She said the project meets all requirements of the Zoning Ordinance.

Larry Traber, Architect for the project, answered

general questions from members of Council and said handicap parking would be provided.

A discussion was held relative to the developer

providing sidewalks around the project.

Mayor Bissette closed the public hearing at

4:30 p.m.

Councilman Frank moved to approve the site plan of

the Beaver Lake Office Plaza Expansion as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman Price and

carried unanimously.

**B. Public hearing relative to an amended sign package for
the Oakley Plaza Shopping Center (previously approved as
Cherokee Shopping Center)**

Mayor Bissette said the Asheville Planning and

Zoning Commission on May 4, 1988, reviewed the amended sign package for Oakley Plaza Shopping Center and recommended partial approval. A summary sheet listing requested signage and recommendation of the Commission is attached for your consideration. The Developer has been notified of right to appeal.

Mayor Bissette opened the public hearing at

4:34 p.m.

The Deputy City Clerk presented the notice to the

public setting the time and date of the public hearing and the affidavit of publication.

Mayor Bissette requested that he be excused from the

discussion and vote on the Oakley Plaza Shopping Center since his law firm represents the developer.

Councilman Price moved to excuse Mayor Bissette from

discussion and vote on the Oakley Plaza Shopping Center. This motion was seconded by Councilman Martin and carried unanimously.

Vice-Mayor Michalove presided over this matter.

Julie Cogburn, Acting Planning Director, presented

the recommendations of the Planning and Zoning Commission relative to individual tenant requests for signage. She indicated that one of the Sign Commission's recommendations would be that for multi-tenant complexes that one sign per store be permitted.

A representative of the Revco Drug Store firm

presented a request that Revco be allowed signage in the amount of 118 square feet in lieu of their requested 150 square feet. It was noted that the Planning and Zoning Commission recommended 65 square feet of signage for the Revco store.

After discussion, Vice-Mayor Michalove closed the

public hearing at 4:49 p.m.

Councilman Price moved to approve the amended sign

package for the Oakley Plaza Shopping Center as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman Boland and

carried unanimously.

C. Public hearing relative to City of Asheville Budget for

FY 1988-89.

Ordinance No. 1696 - Ordinance adopting the Budget and

fixing the tax rate of the City of Asheville for the

Fiscal Year 1988-89.

Mayor Bissette said this ordinance will adopt the

annual operating budget for the City of Asheville for Fiscal Year 1988/89. He noted that the budget was previously presented to members; that the budget was presented in the amount of \$50 million with no tax rate increase.

Mayor Bissette opened the public hearing at

4:50 p.m.

The Deputy 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 reported that he was informed this

week that the County Commissioners had made a change in the method of calculations for the reimbursement to the City for law enforcement services city taxpayers pay for but do not receive from the county sheriff's department. He said this action means a reduction of \$260,000 in payments for the current fiscal year and \$263,000 for 1988-89 which reflects a \$523,999 negative impact on the 1988-89 budget. He said this reimbursement method is stipulated in the Water Agreement. He said it is his understanding that the County Finance Director Jim Roach had asked an auditing firm to reevaluate the county's "direct costs" for law enforcement services in Asheville and the county's other municipalities and this reevaluation led to a recalculating of the formula used to determine the amount of reimbursements. He said the County has informed the City that they could not produce any information on how and why the change was made until late this month or early in July.

Upon inquiry of Councilman Price, the City Manager

reviewed the budget for the Sheriff's Department which indicated a reallocation of funding within the Sheriff's budget.

Vice-Mayor Michalove said it concerned him that the

budget as presented contains approximately \$1 million in cuts due to the County's actions, mandates by the General Assembly, and the federal government, without a tax increase.

Councilman Boland said he felt the City and County

is becoming too aggressive in their comments and reasoning should prevail with reasonable requests. He said he felt both bodies should temper their comments.

Councilman Frank commended the City Manager and the

staff for presenting such a planned budget with so many unknown frustrating factors involved.

Councilman Price said she felt the budget as

presented is a positive budget which includes elements of the 2010 plan. She noted that the County would also benefit from the growth of the City of Asheville.

Upon inquiry of Vice-Mayor Michalove, it was noted

that payments to the County for such items as landfill fees are paid monthly instead of yearly and the City is losing interest on cash flow. It was also indicated that the City receives a check from the County at the end of each fiscal year for payments due the City.

Mayor Bisette said he felt the County

Commissioners' action is a direct violation of the Water Agreement that was just renegotiated last summer after months of turmoil. He said it appears that the commissioners have unilaterally changed the definition of direct cost from the original water agreement that was approved but they haven't provided any information on why or how it was done. He said he was extremely disappointed that no communication was received from the County other than a phone call from the County Finance Director a week before the City's budget was to be adopted and he was not about to accept this action. He said one party to an agreement can not all of a sudden turn around and change the agreement to another way. He said losing the \$523,000 is unacceptable and something that cannot be brushed aside casually.

The City Manager reported that the County had

adopted their budget, this afternoon, with the reduced law enforcement allocation.

Mayor Bissette closed the public hearing at

5:22 p.m.

Councilman Frank moved for the adoption of Ordinance

No. 1696. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1696

passed on first and final reading.

Ordinance Book No. 11 Page No. 286-288

Councilman Boland requested that the Council and

staff look into additional sources of revenue for the City of Asheville as well as efficiency.

Councilman Martin said he did not feel the County

Commissioners should be making unilateral decisions

without communication.

III. OLD BUSINESS:

A. Ordinance No. 1692 - Second reading of an ordinance

amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, petition of Smoky Mountain Petroleum Company,

property located at 27 Governor's View Road.

Mayor Bissette said the Asheville Planning and

Zoning Commission on May 4, 1988, reviewed and recommended approval of the petition of Smoky Mountain Petroleum Company that Ward 8, Sheet 15, Lot 98, and a portion of Lot 65 (27 Governors View Road), be rezoned from R-2 Residential District to CS Commercial Service District. This ordinance was

read on first reading on June 7, 1988.

Mayor Bissette said the ordinance was previously read on

first reading and it would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1692 passed on

second reading.

B. Ordinance No. 1693 - Third reading of an ordinance

amending Section 25-14 of Chapter 25 of the Code of

Ordinances of the City of Asheville.

Mayor Bisette said this ordinance sets forth rules and regulations relative to cutting into or otherwise disturbing streets and sidewalks.

Mayor Bisette said the ordinance was previously read on first and second reading and it would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1692 passed on third reading.

Ordinance Book No. 11 Page No. 281-283

C. Resolution No. 88-91 - Resolution of intent to close a portion of Syrlin Street and calling a public hearing for July 19, 1988.

Mayor Bisette said a petition was received from Norman

C. Bradford, Virginia Bradford, and others requesting that a portion of Syrlin Street be permanently closed to the public use. The petition requested that a portion of Syrlin Street between Tax Lots 178 and 13-1/4 of Ward 9, Sheet 7, be closed as a public street right of way.

Upon motion of Councilman Martin, seconded by Councilman Price, Resolution No. 88-91 was unanimously adopted.

Resolution Book No. 17 Page No. 171-172

D. Ordinance No. 1690 - Third reading of an ordinance for the levy and collection of business license taxes.

Mayor Bisette said the Revenue Ordinance has been rewritten to make it simpler and easier to understand, easier to administer and more equitable in levy.

Mayor Bisette said questions from members of Council have been answered by the staff and clarifications have been presented.

Eric Bright, book publisher/distributor from Skyland, said he felt the tax should be classified as a sales tax since it is based on gross sales.

He also questioned whether wholesalers shipping merchandise in from out of the area would be included in the tax.

The Corporation Counsel clarified the question

relative to the tax not being classified as a sales tax.

The City Manager said the ordinance would only apply

to active businesses located in the City of Asheville. He said only wholesalers located in the City of Asheville would have to comply with the ordinance. He noted that the ordinance has a maximum fee of \$600.

Mike Plemmons, with the Council of Independent

Business Owners, questioned whether or not suppliers furnishing suppliers in the City of Asheville could be taxed under the ordinance.

Vice-Mayor Michalove said it might be worthwhile for

the City Manager and City Attorney to pursue licensing of suppliers.

Larry Fisher, Director of Finance, said the

ordinance was taken from information received from the Institute of Government and the North Carolina League of Municipalities. He said he did not know of a city or town in North Carolina that does not follow these sample ordinances. He said technically any business doing a substantial business in the City could be taxed; however in practicality a supplier furnishing a supplier in the City of Asheville would not be taxed.

Mayor Bisette suggested that guidelines should be

established so as not to have a problem with enforcement of the ordinance.

Mike Plemmons, with the Council of Independent

Business Owners, requested strict enforcement of the ordinance.

On a roll call vote of 7-0, Ordinance No. 1690

passed on third and final reading.

Ordinance Book No. 11 Page No. 270-277

E. Motion adopting the Water Budget for Fiscal Year

1988-89.

Mayor Bisette said the Asheville-Buncombe Water

Authority has submitted the Water Fund Budget for Fiscal Year 1988-89. Council continued consideration of this motion from the June 7, 1988 meeting. He said the budget calls for a 15 percent rate hike and reflects the City-County Water Agreement's provisions that the City receive 5 percent of gross water revenues and the County receive 2-1/2 percent as their return on investment in the system. He said the County approved the Water Budget with an amendment that the City's and County's return on investment be "capped" at the 1987-88 level rather than including additional proceeds resulting from the 15 percent rate hike in the 1988-89 budget.

Upon inquiry of members of Council, Harold Huff,

Director of Water and Sewer Services, noted the capital improvements to be accomplished with the funds received from the 15 percent rate increase. He also presented the impact the 15 percent would have on an average

homeowner.

Councilman Frank moved to approve the Water Budget for 1988-89 as presented by the Asheville-Buncombe Water Authority. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

IV. NEW BUSINESS:

A. Sign permit request for off-premises advertising sign to be located at I-240 at Fairview Road.

Mayor Bisette said Holland Outdoor Advertising

Company has requested approval of a sign permit for a 14' x 48' off-premises advertising sign to be located at I-240 and Fairview Road. This permit requires approval of Council since the sign will be situated closer than 600' from a limited access

highway.

Mayor Bisette said this matter would be postponed until the July 12, 1988 meeting.

B. Ordinance No. 1697- An ordinance amending Chapter 28, (Traffic) Article II, Section 28-51 of the Code of Ordinances of the City of Asheville prohibiting the parking of large trucks on City system streets.

Mayor Bisette said this ordinance will prohibit the parking of certain large trucks and buses, not occupied by a licensed operator, on City system streets.

The Corporation Counsel said this ordinance was prepared at Council's request. He said the definition of a "truck" is standard North Carolina Department of Transportation language.

Councilman Martin questioned whether or not a "motor grader" would apply to the ordinance.

Vice-Mayor Michalove moved for the adoption of Ordinance No. 1697. This motion was seconded by Councilman Bratton.

On a roll call vote of 7-0, Ordinance No. 1697 passed on first reading.

C. Scheduling of public hearing relative to group

development review of "Asheville Terrace Apartments - Reconstruction" on Tunnel Road for June 28, 1988.

Mayor Bissette said the Asheville Planning and Zoning

Commission at a meeting on June 1, 1988, reviewed and approved the site plan of "Asheville Terrace Apartments - Reconstruction," subject to the following

contingencies:

1) Variance on number of parking spaces required

not to exceed ratio approved for existing project; and

2) Developer working with planning staff, prior to

submission to City Council, on buffering requirement.

Councilman Martin moved to schedule the public

hearing relative to the group development review of "Asheville Terrace Apartments - Reconstruction" on Tunnel Road for June 28, 1988. This motion was seconded by Councilman Frank and carried unanimously.

V. CONSENT:

VI. OTHER BUSINESS:

CERTIFICATE OF APPOINTMENT - HOUSING AUTHORITY COMMISSIONER -

REAPPOINTMENT OF PHILLIP E. CROUCH

Mayor Bissette announced the reappointment of Mr. Phillip E. Crouch as a Commissioner of the Housing Authority of the City of Asheville for a five (5) year term, term expiring

June 11, 1993.

OPENING OF WALL STREET PARKING GARAGE

The City Manager said the Wall Street Parking Garage would probably be opening in a few days. He said members of Council

would be given a call for a small grand opening of the garage.

CLAIMS - CARL CARLSON (WATER) - CATHY BINDE (POLICE) - LOU ETTA COURTNEY (STREETS) - CECILS COLLEGE (SEWER) - ELLITA WARD

(WATER) - CORNER CUPBOARD ANTIQUE MALL (STREETS)

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The City Manager presented claims received from Carl Carlson, Cathy Binde, Lou Etta Courtney, Cecils College, Ellita

Ward, and Corner Cupboard Antique Mall.

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

LAWSUITS - GEORGE STUART TODD, ET AL. V. OFFICER JIMMY L.

HUNGERFORD, (ABC OFFICER) ET AL. - (WRONGFUL ACT)

The City Manager said the City was served with a lawsuit on June 7, 1988 involving George Stuart Todd, et. al. v. Officer Jimmy L. Hungerford, (ABC Officer), relative to a wrongful act - alleged assault and violating of Constitutional rights during arrest by police officers.

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

ADJOURNMENT:

Upon motion, the meeting adjourned at 6:25 p.m.

MAYOR CITY CLERK
