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Tuesday - March 28, 1989 - 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 A. Robert York; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City

Manager/City Clerk William F. Wolcott, Jr.

Absent:

**INVOCATION**

The invocation was given by Councilman Bratton.

**I. PROCLAMATIONS:**

**A. Proclamation - "Trout Day" - April 1, 1989**

Mayor Bisette read the proclamation and presented a copy to Rod Baird with Trout Unlimited.

**II. PUBLIC HEARINGS:**

**A. Public hearing relative to UMTA Grant for Bus Downtown**

**Transfer Site.**

**Resolution No. 89-44 - Resolution authorizing the**

**filing of an application with the Department of Transportation, United States of America, for a grant under the Urban Mass Transportation Act of 1964, as amended**

**Resolution No. 89-45 - Resolution authorizing the**

**filing of an application with the North Carolina Department of Transportation for state funds in support of the Planning Project.**

Mayor Bisette said this public hearing will allow for

public comments on an application to request funding from federal and state governments for the planning, engineering, and architectural design of the new

downtown transit transfer site.

UMTA - \$40,000

NCDOT- 5,000

Asheville 5,000

Total \$ 50,000

Mayor Bissette opened the public hearing at

4:35 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.

Carl Owenby, with the Planning Department and the

Asheville Transit Authority said this application is for \$40,000 in federal funds and \$5,000 of state funds for the new downtown transit transfer site.

Bob Carr, Chairman of the Downtown Commission, said

the Downtown Commission and the Asheville Transit Authority has been working on preliminary plans for the new site on South Lexington Avenue. He said with the money already appropriated preliminary drawings have been prepared by Spaceplan architects, for the new site to be located on South Lexington Avenue. He said the property has been appraised at \$90,000. He said a Steering Committee has met twice for a needs assessment. He said a street survey has been taken as well as a ridership survey.

Mr. Carr said a cost estimate to rehabilitate

Pritchard Park was received in the amount of \$1.2 million. He said the purpose of moving the current transit transfer site is to rehabilitate the Park and encourage reinvestment in the downtown area.

Mr. Carr said the drawings for the new downtown

transit transfer site indicates greatly improved amenities.

Carroll Hughes, with Spaceplan, said his staff has

designed a preliminary site plan for the new transfer station as well as estimated costs.

Staff from Spaceplan presented the preliminary

drawings for the new station as well as estimated costs.

A discussion was held relative to security for the

new site as well as structure schedule.

Barry Olin and Dave Poteet, downtown merchants,

spoke in favor of moving the transfer site to South Lexington Avenue.

Mark Rosenstein, Chairman of the Downtown

Association, spoke in favor of moving the site to encourage development in downtown.

Tom Tomlin, Chairman of the Asheville Transit

Authority, said he felt the South Lexington Avenue site is the best option. He expressed concerns about security for the station.

After discussion, Mayor Bisette closed the public hearing at 5:25 p.m.

Upon motion of Councilman Bratton, seconded by Councilman Price, Resolution No. 89-44 was unanimously adopted.

**Resolution Book No. 17 - Page 386 - 387**

Upon motion of Councilman Bratton, seconded by Councilman Price, Resolution No. 89-45 was unanimously adopted.

**Resolution Book No. 17 - Page 388**

**B. Public hearing relative to rezoning property located at 58, 60, and 62 Livingston Street - Mr. L. B. Jackson, Livingston Medical Partnership.**

**Ordinance No. 1758 - An ordinance amending Ordinance**

**No. 322, known as "the Zoning Ordinance for the City of Asheville" as amended rezoning property located at 58, 60, and 62 Livingston Street for Mr. L. B. Jackson.**

Mayor Bisette said the Asheville Planning and Zoning

Commission on March 1, 1989, reviewed and recommended approval of the request of Mr. L. B. Jackson that Ward 4, Sheet 11, Lots 22, 258 and 289, located at 58, 60 and 62 Livingston Street, be rezoned from R-3

Residential District to OI Office Institutional District.

Mayor Bisette opened the public hearing at 5:26 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.

Carol Albrice, from the Planning Department, said the

Planning and Zoning Commission had recommended approval of the request to rezone three parcels. She outlined the zoning of the surrounding properties. She said the rezoning would be in accordance with the comprehensive plan and Livingston Street could adequately handle the medical facility. She said these parcels are owned by the Housing Authority and they are in support of the rezoning.

Carroll Hughes appeared on behalf of the petitioner in

support of the rezoning stating that the use of this property is a continuation of what is being developed in this particular area.

Mayor Bisette closed the public hearing at 5:35 p.m.

Mayor Bisette said the ordinance was previously

presented to members of Council and would not be read in its entirety.

Councilman Bratton moved for the adoption of Ordinance No. 1758. This motion was seconded by Councilman Martin.

On a roll call vote of 7-0, Ordinance No. 1758 passed on first reading.

### **III. OLD BUSINESS:**

#### **A. Continuation of a public hearing relative to an ordinance relative to rezoning property located at 218 East Chestnut Street for Mr. Chris Peterson.**

Mayor Bissette said the Asheville Planning and Zoning

Commission on February 1, 1989, reviewed the request of Mr. Chris Peterson that Ward 2, Sheet 16, Lot 138, located at 218 East Chestnut Street, be rezoned from R-4 Residential District to CG Commercial General District. The Commission recommended denial of this petition and advised Mr. Peterson of his right to appeal to City Council.

Upon request of the City Attorney, Councilman Bratton

moved to go into executive session to discuss a legal matter relative to the rezoning of Mr. Peterson's property. This motion was seconded by Councilman Frank and carried unanimously.

Robert Dungan, 89 N. Liberty Street, spoke in

opposition to the rezoning stating that this would be an encroachment into a residential area. He said any conditions the owner places on the property could be construed as contract zoning and would not be binding on a new owner. He said he felt this was a backyard approach for the destruction of a residential neighborhood.

Wallace Patterson, architect and resident in the area,

spoke in opposition to the rezoning. He also presented a letter from Dr. Bates of 84 N. Liberty Street in opposition to the rezoning.

Neal Grant, of 76 N. Liberty Street, spoke in

opposition to the rezoning stating that the area is designed for single family residential activity.

Susan Patterson also spoke in opposition to the rezoning.

Jean Warner spoke in opposition to the rezoning stating

that the Commercial General zone would have a negative impact on the neighborhood. She also presented letters from Mary Carter, Bridget, Hendrix, and Hunter, residents in the area who are opposed the rezoning.

Marion Gebhardt of 81 N. Liberty Street spoke in

opposition to the rezoning.

W. A. McElduff, of 218 E. Chestnut Street said if the

Peterson property is rezoned he would also like his adjacent property rezoned.

Chris Peterson, petitioner for the rezoning, said his

plans for the property is a restaurant adjacent to Fuddrucker's Restaurant. He said the neighborhood needs rehabilitating and he intends to keep the neighborhood historic. He said he proposes to invest over \$350,000 in this property. He said this area is a commercial area and should not affect the residents on N. Liberty Street.

Larry Holt said he was rehabilitating 166 E. Chestnut

Street and he is in opposition to the rezoning.

Gene Ellison, attorney for the petitioner, spoke in

support of the rezoning. He said Mr. Peterson's plans for the property will not interfere with the residents on N. Liberty Street. He asked that if Council desires not to rezone the property that the city staff consider a conditional use permit for Mr. Peterson that would allow for a restaurant.

Mayor Bissette closed the public hearing at 6:25 p.m.

Mayor Bissette said members of Council turned down a

request to rezone this property about one year ago. He said members of Council feel the Commercial General District is too broad of a zone for this area and would offer an encroachment into a residential area. He said Council does feel Mr. Peterson's proposal does have merit and that if the rezoning is not allowed that the city staff would work with Mr. Peterson for an alternative.

Councilman Price moved to accept the Planning and

Zoning Commission's recommendation to deny the request to rezone property located at 218 East Chestnut Street to Commercial General. This motion was seconded by

Councilman Bratton and carried unanimously.

#### **IV. NEW BUSINESS:**

#### **V. CONSENT:**

##### **A. Resolution No. 89-46 - Resolution authorizing the Mayor**

##### **of the City of Asheville to execute a Drug-Free Work**

##### **Place Act certification.**

SUMMARY: The UMTA is requesting that all recipients of

Federal funds must certify that they will comply with the regulations on a drug-free workplace.

##### **Resolution Book No. 17 Page No. 389**

##### **B. Resolution No. 89-47 - Resolution authorizing the Mayor**

##### **to sign an agreement with Buncombe County for Consolidated Transportation Services under Section 504**

##### **- Handicap Program.**

SUMMARY: By agreement, the City would consolidate its

funding for handicapped transportation services with Buncombe County. The County will provide all specialized transportation services under the UMTA 504 Handicap Program.

**Resolution Book No. 17 Page No. 390**

**C. Sale of Disposal Parcel 49 in the East End/Valley**

**Street Community Improvement Program.**

SUMMARY: The Housing Authority has tentatively accepted

a bid from Ms. Tabby Mpfu for Disposal Parcel 49 of the East End/Valley Street Community Improvement Program. Ms. Mpfu plans to build a 4 bedroom residence with the assistance of WNC Habitat for Humanity. The lot purchase will be under the Incentive Housing (\$1.00

lot) program.

Upon motion of Vice-Mayor Michalove, seconded by

Councilman Martin, the consent agenda was unanimously

approved.

**VI. OTHER BUSINESS:**

**Resolution No. 89-48 - Resolution appointing members to the**

**Asheville School Board. (Harriett Haith, Carol Mathews, and**

**J. R. Downs)**

Mayor Bissette said there are three (3) member's terms

on the Asheville School Board expire April 1, 1989.

He read a resolution reappointing Harriett Haith and

appointing Carol Mathews and J. R. Downs as members of the Asheville School Board to serve a four (4) year term, term expiring April 1, 1993.

Upon motion of Councilman Bratton, seconded by

Councilman Frank, Resolution No. 89-48 was unanimously adopted.

**Resolution Book No. 17 Page No. 391**

At the request of Bob Brown, Mayor Bissette reviewed

the resumes of Carol Mathews and J. R. Downs.

**SHERWOOD HEIGHTS EXTENSION SUBDIVISION - VARIANCE GRANTED**

In order to clear up a motion made on March 14, 1989

relative to the Sherwood Heights Extension Subdivision

and a request for a street grade variance from the

ordinance, Councilman Price moved to approve the request for a variance for a street grade of 18% due to the lack of feasible alternatives and due to the fact that similar streets are throughout the City. This motion was seconded by Councilman York and carried

unanimously.

**CLAIMS - ANN DEHART (STREETS) - JOHN MOYER (WATER) - CHRISTINE STARR (WATER) - WILLIAM BRADLEY (POLICE) - GARY CALDWELL (WATER)**

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The City Manager presented claims received from Ann DeHart, John Moyer, Christine Starr, William Bradley, and Gary Caldwell.

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

**LAWSUITS - DAN C. WORLEY (APPEAL OF CIVIL SERVICE DECISION)**

The City Manager said the city was served with a lawsuit on March 20, 1989 involving Dan C. Worley (appeal of Civil Service decision).

## **VII. ADJOURNMENT**

Mayor Bissette adjourned the meeting at 6:45 p.m.

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