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Tuesday - October 24, 1989 - 4:00 P.M.

Regular Meeting - ASHEVILLE CIVIC CENTER - BANQUET HALL

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

Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, 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: Wilhelmina Bratton - Out of Town

INVOCATION

The invocation was given by Councilman Martin.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the "revised"

minutes of the September 12, 1989 and September 19, 1989 meetings and the minutes of the October 10, 1989 meeting as

submitted.

I. PROCLAMATIONS:

A. Resolution No. 89-147 - Resolution recognizing Jackie

Graves, a recent City of Asheville retiree.

Mayor Bissette said Jackie Graves has been employed with the

City of Asheville since August, 1976. He was a firefighter in the Asheville Fire Department for 13 years before receiving a disability retirement.

Mayor Bissette said this resolution was previously

distributed to members of Council and would not be read in

its entirety unless there was a specific request to do so.

Upon motion of Councilman York, seconded by Councilman Frank, Resolution No. 89-147 was unanimously adopted.

Resolution Book No. 18, Page 3

B. Resolution No. 89-148 - Resolution recognizing Charles

Creasman, a recent City of Asheville retiree.

Mayor Bissette said Charles Creasman has been employed with

the City of Asheville since September, 1974. He was a machine equipment operator in the Water Department for 15 years before receiving a disability retirement.

Mayor Bissette said this resolution was previously distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

Upon motion of Vice Mayor Michalove, seconded by Councilman Martin, Resolution No. 89-148 was unanimously adopted.

Resolution Book No. 18, Page 4

ANNOUNCEMENT BY MAYOR BISSETTE - ABSENCE OF COUNCILMAN BRATTON

Mayor Bissette said Councilman Bratton's job has required her to be out of town and unable to attend today's Council Meeting. However, he said, Councilman Bratton has asked him to announce that she will listen to the tapes of the public hearing relative to the Sign Ordinance in their entirety.

C. Proclamation - "United Nations Day" - October 24, 1989

Mayor Bissette read the proclamation and presented it to Ed Torrence, President of the WNC United Nations Association.

II. PUBLIC HEARINGS:

A. Public hearing relative to amendment to Landscape Plan for

Ingle's - Merrimon Avenue.

Mayor Bissette said the Asheville Planning and Zoning

Commission on October 4, 1989, reviewed and approved the revised landscape plan with the requirement that the developer locate three trees near front (freestanding) sign location. Recommendation does not include installation of sidewalk along Beaverdam Road in accordance with original recommendation to City Council.

Mayor Bissette opened the public hearing at 4:15 P.M.

The City Clerk presented the notice to the public and the affidavit of publication.

Gerald Green of the Planning Department showed a video and

answered questions from Members of City Council. He said the major revisions to the site plan were the omission of the sidewalk on Beaverdam Road and the relocation of trees along the front.

Mayor Bissette closed the public hearing at 4:30 P.M.

Vice Mayor Michalove moved to approve the amendment to the

Landscape Plan for the Ingle's/Merrimon Avenue Store as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman York and carried

unanimously.

III. OLD BUSINESS:

A. Ordinance No. 1796 - Second reading of an ordinance amending

the zoning of property located at 1897 Hendersonville Road and presently identified as a portion of Lot 12 of Sheet 110 of Ward 7 of the Buncombe County Tax Maps.

Mayor Bissette said the Asheville Planning and Zoning

Commission on September 6, 1989, reviewed and recommended approval of zoning a portion of Lot 12, Sheet 110, Ward 7, from R-2 Residential District to CH Commercial Highway District. He said a public hearing was held and this ordinance passed on first reading on October 10, 1989.

Mayor Bissette said this ordinance was previously

distributed to members of Council and would not be read in

its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1796 passed on second reading.

William Shuford, petitioner of the rezoning, requested that Council proceed with the third and final reading of the ordinance.

Vice Mayor Michalove explained that it was the policy of City Council to announce at the public hearing if the City Council intended to have more than one reading of

an ordinance at any meeting.

B. Ordinance No. 1795 - Second reading of an ordinance amending

the zoning of property located partially along Wood Avenue and presently identified as portions of Lots 1, 2, 3, and 93 of Sheet 13 of Ward 7 of the Buncombe County Tax Maps.

Mayor Bissette said the Asheville Planning and Zoning

Commission on September 6, 1989, reviewed and recommended approval of zoning a portion of Lots 1 and 93, Sheet 7,

Ward 13, from HI Heavy Industrial District to LI Light Industrial District, and a portion of Lots 2 and 3, Sheet 7, Ward 13, from R-3 Residential District to LI Light Industrial District. He said a public hearing was held and

this ordinance passed on first reading on October 10, 1989.

Mayor Bissette said this ordinance was previously

distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

On a roll call vote of 6-0, Ordinance No. 1795

passed on second reading.

IV. NEW BUSINESS:**A. Sign permit for Rhapsody's Restaurant at 35 Tunnel Road.**

Mayor Bisette said the applicant is requesting to place

a 12' x 2' wall sign on the front of the building and a 12' x 2' wall sign on the rear of the building. Applicant is also requesting approval for the placement of a 6' x 6' logo sign on the front of the building. Signs are to be placed within 600' of a right-of-way of a limited access highway and must be approved by City Council.

Julia Cogburn, Planning Director, said Rhapsody's Restaurant is

zoned Commercial Highway and is located off Tunnel Road in a building adjacent to the Old Bishop's Steak House. She said this sign requires Council approval since it will be situated within 600 feet of a right-of-way of a limited access highway.

Councilman Martin moved to approve the sign permit for

Rhapsody's Restaurant to place a 12 ft. x 2 ft. wall sign in the front of the building, a 12 ft. x 2 ft. wall sign on the rear of the building, and to place a 6 ft. x 6 ft. logo sign on the front of the building. This motion was seconded by Vice Mayor Michalove and carried unanimously.

B. Resolution 89-149 - Resolution authorizing the City**Manager to execute a contract with Terry Brothers Construction Company, Inc. for the construction of the Haw Creek Annexation area Water Line and Wastewater Line Extensions.**

Mayor Bisette said this project involves the construction of

the water and wastewater collection lines in the Haw Creek Annexation Area. Bids were opened on August 31, 1989 with Terry Brothers Construction Company, Inc. being the lowest bidder in the amount of \$686,009.85.

Mayor Bisette said this resolution was previously

distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Price, seconded by Councilman

Frank, Resolution No. 89-149 was unanimously adopted.

Resolution Book No. 18, Page 5**C. Resolution No. 89-150 - Resolution authorizing the City****Manager to execute a contract with Buckeye Construction Company, Inc. for the construction of the South Area Annexation Water Line and Wastewater Line Extensions - Phase I.**

Mayor Bisette said this project involves the

construction of the water and wastewater collection lines in the South Area Annexation Area. Bids were opened on September 21, 1989 with Buckeye Construction Company, Inc. being the lowest bidder in the amount of \$810,774.14.

Mayor Bisette said this resolution was previously

distributed to members of Council and would not be read in its entirety unless there was a specific request to do so.

Upon motion of Councilman Frank, seconded by Councilman Martin, Resolution No. 89-150 was unanimously adopted.

Resolution Book No. 18, Page 6

V. CONSENT: - ITEMS NOT CONSIDERED NOR APPROVED:

NOTE: Mayor Bissette announced that Items A, B, and D would be deleted from consideration under the Consent Agenda and would be considered at a future Council Meeting.

A. Resolution authorizing execution of an agreement with Roger

A. Derrough, Jr., Owner of Dinner for the Earth, for construction of a parking lot facility on state highway right-of-way.

B. Resolution authorizing execution of a construction

agreement with the North Carolina Department of Transportation allowing placement of the parking lot on State Highway right-of-way.

D. Resolution authorizing execution of an interlocal agreement

with the County of Buncombe and the Buncombe County Judicial System to establish the Buncombe County Association of Criminal Justice Agencies.

NOTE: THESE ITEMS (A, B, AND D) not considered nor voted on by City Council.

V. CONSENT: - ITEMS CONSIDERED AND APPROVED:

C. Resolution No. 89-151 - Resolution authorizing the City

Manager to execute a contract with T. R. Driscoll, Incorporated for roof repairs to the Auditorium and Lobby of

the Asheville Civic Center.

SUMMARY: This project involves the repairs to the Auditorium roof and the Lobby roof of the Asheville Civic Center.

Resolution Book No. 18, Page 7

E. Resolution No. 89-152 - Resolution authorizing the City

Manager to execute agreements to repair the Riverside Drive

Sanitary Sewer.

SUMMARY: This resolution would declare this project an

"emergency" under N. C. General Statutes to permit outside contractors to repair a collapsed 24-inch sewer interceptor on Riverside Drive.

Resolution Book No. 18, Page 8

Upon motion of Councilman Frank, seconded by Councilman Price, the Consent Agenda - Items C and E - were unanimously adopted.

VI. OTHER BUSINESS:**A. Motion - Schedule Public Hearing Relative to Amended Site****Plan for River Ridge Market Place**

Councilman Price moved to schedule a public hearing

relative to the amended site of River Ridge Market Place for November 14, 1989. This motion was seconded by Vice Mayor Michalove and carried unanimously.

B. Recommendation of Asheville Transit Authority Relative to**Route #10 - Skyland Route**

Mayor Bisette said the Skyland Bus Route initiated

approximately 4 months ago has not resulted in much ridership. He said the Council had received a report from the Asheville Transit Authority in which the Authority recommended that the City Council continue the route for another two months before discontinuing the route if ridership did not pick up. He said the City is losing approximately \$10,000 a month, and this is only subsidized 50 percent by the Federal Government.

Vice Mayor Michalove moved to continue the Skyland Route

until December 31, 1989, and requested that the Asheville Transit Authority provide the City Council with weekly reports on ridership. This motion was seconded by Councilman Price and carried by a vote of 5-1, with Councilman York voting "No".

C. Ordinance No. 1798 - Budget Ordinance Amendment for Roof**Repairs on Asheville Civic Center**

The City Manager said this budget ordinance amendment will

provide funding necessary to repair the Auditorium roof and the lobby roof of the Asheville Civic Center. He said \$90,000 has been budgeted for these repairs.

Council Price moved for the adoption of Ordinance No. 1783. This motion was seconded by Councilman Martin.

On a roll call vote of 7-0, Ordinance No. 1798 passed on first and final reading.

Ordinance Book 12, Page 4**D. CLAIMS - BRUCE STAHL (WATER), E. C. HYERS (WATER), DAPHNE**

DIRLAM (FIRE), ERNESTINE OWENS (SANITATION), KAYE LYTLE (WATER), PATRICIA HORTON (PARKS), BASS & ROYSTER (SEWER), PAT SOUTHERLAND (WATER), AND GLEYN'S HALLMARK SHOP (SEWER)

The City Manager reported claims received from Bruce Stahl

(Water), E. C. Hyers (Water), Daphne Dirlam (Fire), Ernestine Owens (Sanitation), Kaye Lytle (Water), Patricia Horton (Parks), Bass & Royster (Sewer), Pat Southerland

(Water), and Gleyn's Hallmark Shop (Sewer).

Mayor Bissette said these claims have been referred to the

City's appropriate insurers for investigation, and that permanent records of the claims will be maintained by the Legal Services Division.

E. Councilman Price - Request for Report on Notification**Procedures Used by Board of Adjustment in Notifying Property Owners**

Councilman Price requested a copy of the procedure used to

notify property owners of matters to be considered by the Board of Adjustment. She said this would provide an opportunity for Council Members to review the procedures and make any revisions that may be desired. She said sometimes property owners located across the street are

more affected than adjacent property owners.

VII. RECESS:

Mayor Bissette called for a 5-minute recess at 4:55 P.M.

Mayor Bissette called the meeting back to order at 5:00 P.M.

VIII. PUBLIC HEARING: - 5:00 P.M**A. Public hearing relative to amendment to Article 9 - Sign****Regulations of the Code of Ordinances of the City of Asheville.**

Mayor Bissette said the Asheville Planning and Zoning Commission on September 27, 1989 moved to forward their recommendations to City Council in the form of an addendum along with the complete, unabridged text of the Asheville Sign

Commission's "Draft Sign Ordinance."

Mayor Bissette said we are gathered together today for a public hearing on the recommendations of the Planning and Zoning Commissions for a new Sign Ordinance for the City of Asheville. He requested those desiring to speak to sign a speaker's card if they had not already done so. He said that individual speakers would be allowed three minutes and anyone speaking as the sole representative of a group would be allowed six

minutes.

Mayor Bissette opened the public hearing at 5:05 P.M.

The City Clerk presented the notice to the public and the affidavit of publication.

Mayor Bissette read the resolution establishing the Asheville Sign Commission and setting forth the responsibilities of the Commission.

Jerry Grant, Chairman of the Asheville Sign Commission, requested that Council adopt the ordinance as drafted by the Sign Commission.

Mr. Grant said the Sign Commission had spent hours and days over the past 13 months agonizing and deliberating over every item of the Sign Ordinance. He said enforcement had been a key question, but that the majority of the Commission had agreed that the existing ordinance was unworkable and needed changing. He said the ordinance presented was a workable ordinance and requested that City Council adopt it. However, Mr. Grant said although he had no objections to the on-premise changes recommended by the Planning and Zoning Commission, he cannot agree to the off-premise changes recommended, which increases the size and number of billboards over the Sign Commission draft. Mr. Grant said he felt if the Sign Ordinance were put to a referendum, the citizens of Asheville and Buncombe County would vote to completely eliminate billboards. He said he would not like to see the needs of our business community ignored either in on- or off-premise advertising. However, he said, he thought all of us could live with smaller and fewer signs.

Frank Graham, representing Naegele Outdoor Advertising Company, stated that since Mayor Bissette's law firm represents the Asheville Citizen-Times Newspaper and WLOS-TV Station that it might give an appearance of a conflict of interest since both medias would stand to gain financially if the proposed ordinance were passed. For this reason, Mr. Graham requested that the Mayor refrain from the discussion and vote on the Sign Ordinance.

Upon a request from Mayor Bissette, City Attorney Bill Slawter said in his opinion, the Mayor's own personal financial interest would not be involved in voting on the Sign Ordinance.

Mr. Graham said the following points were not addressed by the Sign Commission:

- (1) At no time was any evidence presented concerning the cost to businesses for removal or replacement of signs and that was requested.
- (2) No survey was ever done to see how many businesses would be affected by the substantial changes in the size and number of on-premise signs.
- (3) At no time did any representative of the City approach the off-premise businesses and inquire what effect their proposals would have on their businesses. This has never been done.

(4) The City employees admitted that the present Sign

Ordinance had never been enforced and that they had no idea what the City would look like if it were enforced.

(5) No study was ever done to ascertain what, if any, economic

benefit the proposed ordinance would have on the City of Asheville.

(6) The City of Asheville's study cost \$50,000 and was done in

the Fall of 1988 regarding revitalization of downtown specifically stated that off-premise advertising was good for business. This apparently has been totally disregarded and was never brought up in the Sign Commission studies.

(7) It is apparent that little or no thought has gone into

this proposed ordinance other than the single motivation to reduce the number and size of signs within the City limits irrespective of the effect it will have on the businesses within the City and the tax base that the City relies on to pay for City services.

(8) The City has failed to consider the cost of potential

lawsuits that are going to occur because of what it is

contemplating doing.

Mr. Graham recommended that the City Council put the proposed

ordinance on a back burner, that the present ordinance be enforced for a period of time - long enough to see what effect that will have, and that a new and impartial committee be appointed that truly represents the interests of all the people of Asheville to review this proposal along with the effects

enforcement will have had upon it.

The following additional people spoke "for" or "against" the proposed Sign Ordinance:

Against

For

John E. Stewart Roger McGuire

George Morosani Don Martell

Fred Rutledge Barry Olen

Don Noakley Scott Lundy

Mike Summey Leni Sitnick

Ben Pace Pat McGuire

Bob Lawrence, Jr. Jim Groce

Gerald Candler John W. Brooke

Ralph Bishop Bettz Burr

Ruth H. Habenicht, Letter/Carl Ricker Jane Bingham

Jerry Hobbs Doug Campbell

Becki Walker Dennis Hodgson

George Jensen Frank Martin

Lewis Clay Phil Carson

Otis Ware Barbara Field

Ed Gore Susan Fisher

Gary Lowe Jeanne Warner

Darrell Merchant Rich Mathews

Paul Garrison Shirley Berdie

Jack Kasey Helen Guernsey

Jan Davis Bob Carr

Nancy Davis Tom Kuhn

Scott King Lin Brown

Clarence Benton Robert Griffin

Ann Cross George Clark

Against

For

Reynolds Calvert David Gantt

Fred Robinson James J. Skalski

Bob Ledford Jane Gianvito

Thomas L. Thrash

Peter Hall

Frank Palmeri

Gus Kooles

Jack Meade

Robert B. Walker

Chris Moutos

Bill Fishburne

Albert Sneed

David Schulman

Wayne Kinser

Langdon Ammen

Gary Garner

Patrick Thompson

Lloyd Kirk

Barney Bryant

June Grant

Bob Tucker

Mike Plemmons

Bill Johnson

The following people were not able to wait their turn to speak but left written statements indicating their support or opposition to the proposed Sign Ordinance:

Colin M. Hudson - Against

Leah Karpen - For

Mayor Bissette closed the public hearing at 9:30 P.M.

Mayor Bissette thanked those in attendance for their comments. He said City Council would be working on the Sign Ordinance in the next few weeks and that all comments would be given consideration in their deliberations. He said it was great to see this much public interest on the Sign Ordinance issue. He stated that the date of the first reading of the ordinance would be announced at the October 31st City

Council Meeting.

ADJOURNMENT:

Mayor Bissette adjourned the meeting at 9:45 P.M.

MAYOR CITY CLERK
