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Tuesday - November 7, 1989 - 4:00 P.M.

Regular Meeting

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: Councilman Wilhelmina B. Bratton

INVOCATION

The invocation was given by Mayor Bissette.

APPROVAL OF MINUTES

Mayor Bissette announced the approval of the minutes of

the October 31, 1989 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Ordinance No. 1801 - Ordinance amending 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". A public hearing was held on the proposed Sign Regulations on October 24, 1989.

Mayor Bissette said Council has met a number of times

reviewing the two drafts of the proposed Sign Ordinance from the Sign Commission and the Planning and Zoning Commission. He said a number of changes have been

proposed and before the third and final reading of the ordinance Council has indicated that a number of other areas will be reviewed and changed. He said the ordinance to be acted upon today is not the final document.

In response to allegations made at the public hearing

on October 24, 1989 by Frank Graham, Mayor Bissette requested that the following opinion from the North Carolina State Bar Association be made a part of the minutes:

Vice-Mayor Michalove moved for the adoption of

Ordinance No. 1801. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1801 passed
on first reading.

B. Ordinance No. 1762 - Ordinance amending Article 13 of

Chapter 30 of the Code of Ordinances of the City of Asheville to create the Albemarle Park Historic District.

Mayor Bissette said the Asheville Planning and Zoning

Commission on September 27, 1989, again reviewed the request of the Albemarle Park-Manor Grounds Association, through the Historic Resources Commission, that their area be designated a local historic district. The Commission again voted to recommend approval of the designation and to exclude the property on Charlotte Street south of the Gatehouse zoned CG Commercial General. A public hearing was held on this matter on October 31, 1989.

Mayor Bissette said Gene Rainey, Chairman of the

Buncombe County Commissioners hand delivered a letter to the City amending their original protest petition regarding including Lots 70, 71, 72, 73, 91, and 99 of Ward 2, Sheet 15 into the Albemarle Park Historic District. He requested that the letter be made a part of the minutes. (Letter attached)

The City Attorney stated that the Planning Department,

with the assistance of the Buncombe County Mapping Department, had calculated the percentage of property owned by the persons filing protest petitions. He stated that the owners of in excess of 20% of the property within the proposed District had filed petitions protesting the inclusion of Lots 99, 91, 72, and 73 in the District. He stated, therefore, that a 3/4's majority of all members of Council would be required to include either of those lots within the Historic District. He stated further that, with the County's withdrawal of its protest with regard to Lots 70 and 71, the owners of less than 20% of the property within the proposed District were protesting Lots 70 and 71 and only a simple majority of the members of Council would therefore be required to include those two lots in the District.

Mayor Bissette said the ordinance as presented to

members of Council includes the six lots facing on Charlotte Street, being Lots 70, 71, 72, 73, 91, and 99 of Ward 2, Sheet 15, within the Albemarle Park Historic District. He said if Council so desired they could

adopt an ordinance to include all these lots or a portion since the publication indicated that Council would consider including the six lots.

After discussion, Councilman Price moved to adopt

Ordinance No. 1762 including Lots 71, 91, 70, and 99 in the Historic District and to exclude Lots 72 and 73. This motion was seconded by Councilman York.

Vice-Mayor Michalove made a substitute motion to adopt

Ordinance No. 1762 as recommended by the Planning and Zoning Commission which would exclude all six lots facing on Charlotte Street. This substitute motion died for the lack of a second.

At the request of Vice-Mayor Michalove, Julia Cogburn,

Director of Planning, said the creation of the Historic District would have no effect on the permitted uses in the Commercial General zone. She reviewed permitted uses in the Commercial General District.

Vice-Mayor Michalove questioned whether or not

voluntary design review guidelines could be established for the area without the creation of a historic district.

Upon inquiry of Vice-Mayor Michalove, the City Attorney

said if property was included in the historic district and the owners did not want their properties included they could challenge the decision in court.

Albert Sneed, Attorney representing R. L. Bailey and

James Daniels, said his clients do not want their properties included in the historic district. He said his clients do not object to any other properties being included.

Vice-Mayor Michalove moved that Council go into

executive session to discuss a legal matter. This motion was seconded by Councilman Price and carried unanimously.

Mayor Bissette said while in executive session contact

was made with the Buncombe County Commissioners and they have withdrawn their protest against including Lots 70 and 71 in the historic district.

Vice-Mayor Michalove indicated that in order to keep

the concept of the ordinance on the floor he would vote in favor of the ordinance with the understanding that the ordinance could be amended before the second or

third reading.

On a roll call vote of 6 - 0, Ordinance No. 1762 passed

on first reading as amended by Councilman Price's motion to include Lots 71, 91, 70, and 99 and to

exclude Lots 72 and 73.

IV. NEW BUSINESS:

V. CONSENT:

VII. OTHER BUSINESS:

A. Group Development Actions by the Planning and Zoning

Commission

Gerald Green, from the Planning Department, said the City

Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. The action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following action was taken by the Planning

and Zoning Commission at their meeting on November 1, 1989.

(1) Asheville School - Girls Dormitory

The Asheville Planning and Zoning Commission on November

1, 1989 reviewed and approved the site plan of the **Asheville School - Girls Dormitory** subject to the following contingencies: 1) Approval of an erosion control plan by the Planning Department prior to soil disturbance; 2) Compliance with requirements of Fire Department; and 3) Compliance with requirements of Water, Wastewater, and Engineering Department.

He said there were no public comments at the public hearing.

Council accepted the recommendation of the Planning and

Zoning Commission for the site plan of the Asheville School - Girls Dormitory, thereby indicating approval.

B. Approval of Settlement Agreement - Dixie Construction Company

- Parking Garages - Wall Street Improvements

At the request of the City Attorney, Vice-Mayor Michalove

moved that the Mayor be authorized to execute a settlement agreement and release for the Dixie Construction Company lawsuit. This motion was seconded by Councilman Price and carried unanimously.

C. Lennie Sitnick - Issues to be considered by Council -

Nuclear deregulation - CFC's Banning - Recycling Program - Proclamation for Earth Day and Earth Week

Lennie Sitnick requested that Council, in the next few weeks,

consider nuclear deregulation, CFC's Banning, a recycling program for City Hall, and proclaiming April 22, 1990 as Earth Day and April 16 - 22, 1990 as Earth Week.

D. Claims - Marguerite Dec (Streets) - Virginia Holloway (Sewer)

- Doris Bailey (Engineering) - Charles Ricker (Engineering)

Claims were presented from Marguerite Dec, Virginia Holloway,

Doris Bailey, and Charles Ricker.

Mayor Bisette referred the claims to the City Attorney for

investigation and recommendation.

VIII. ADJOURNMENT.

Mayor Bisette adjourned the meeting at 5:55 p.m.

MAYOR CITY CLERK
