

Tuesday - January 8, 1985 - 4:00 p.m.

## Regular Meeting

Present: Mayor Larry McDevitt, Presiding; Vice-Mayor Wilhelmina Bratton; Councilmen Mary Lloyd Frank, Norma T. Price, Gordon Myers, Walter R. Boland, and Louis Bisette; Corporation Counsel William F. Slawter; City Manager Neal Creighton; Associate City Manager/City Clerk William F. Wolcott, Jr.; .

Absent: None

## INVOCATION

The invocation was given by Councilman Norma Price.

## APPROVAL OF THE MINUTES - DECEMBER 18, 1984, MEETING

1. Approval of the minutes of the December 18, 1984, meeting.

Mayor McDevitt announced the approval of the minutes of the December 18, 1984, meeting as submitted.

## PRESENTATION OF "POSTER-OF-THE-YEAR AWARDS" - MAYOR'S COMMITTEE ON EMPLOYMENT OF THE HANDICAPPED

Mayor McDevitt introduced Mr. Gary Martin, Chairman of the Mayor's Committee on Employment of the Handicapped and Pam Crawford who said each year the President's Committee on Employment of the Handicapped sponsors a "National Poster- of-the-Year" contest. He said Asheville's Mayor's Committee on Employment of the Handicapped began a local contest last year. He then asked Mayor McDevitt to present the awards.

Mayor McDevitt presented Jeff Wilson, the First Place winner, with a certificate and a \$75 check; James Dimon, Second Place winner, received a certificate and a \$50 check; and Todd Greene, Third Place winner, received a certificate and a \$25 check. Mayor McDevitt said donations for the Poster-of-the-Year Award Contest were made by Three Mountaineers, Stencil Corporation, Square-D, and Wilson Art.

Mr. Martin said Jeff Wilson will represent the State of North Carolina in the national competition level.

## PROCLAMATION - "DR. MARTIN LUTHER KING, JR. WEEK" - JANUARY 12-19, 1985

Mayor McDevitt read a proclamation proclaiming the week of January 12-19, 1985, as "Dr. Martin Luther King, Jr. Week."

Mayor McDevitt presented the proclamation to Oralene Simmons, Director of the Montford Recreation Center.

Mayor McDevitt said a Prayer Breakfast, sponsored by the Asheville Parks, Recreation, and Public Facilities Department, various clubs, and organizations will be held at the Montford Recreation Center on Saturday, January 12, 1985, at 9:30 a.m. in observance of Dr. King's birthday.

## PUBLIC HEARING - SITE PLAN OF "COUNTRY TOWNS OF ASHEVILLE" - WATERS ROAD

2. A public hearing was held relative to approval of the site plan of "Country Towns of Asheville," a proposed condominium project, to be located on Waters Road.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held on October 3, 1984, reviewed the site plan of "Country Towns of Asheville," a proposed condominium project to be located on Waters Road. The plan was prepared by Nilsson and Watts Associates, Engineers, for First Communities of Asheville, Developers, and

submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to certain easements being recorded and compliance with the Erosion Control Ordinance. This public hearing was scheduled at the meeting on December 11, 1984.

Mayor McDevitt opened the public hearing at 4:20 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.

Verl Emrick, Director of Planning, said the proposed project would consist of 37 buildings, with two units per building, for a total of 74 units to be built on 18 acres. He said all provisions of the ordinance have been met, and water and sewer commitments are in hand. He said, as requested by the Planning and Zoning Commission, easements have been executed for two pieces of property located adjacent to the proposed project area. He said these easements have been recorded.

Mr. Emrick said the roads in the proposed project would be constructed according to City specifications, and the developer would be dedicating the roads to the City of Asheville. He said the project would be developed in one phase and would be geared toward retired people.

Mayor McDevitt closed the public hearing at 4:29 p.m.

Councilman Bissette requested that he be excused from voting on the proposed site plan due to his having a financial interest in the real property.

Councilman Price moved to excuse Councilman Bissette from voting on the site plan for the Country Towns of Asheville. This motion was seconded by Councilman Boland and carried unanimously.

Mayor McDevitt noted that Councilman Bissette did not attend the pre- council work session or discuss the issue of Country Towns of Asheville.

Councilman Myers moved to approve the site plan of "Country Towns of Asheville," a proposed condominium project, to be located on Waters Road. This motion was seconded by Councilman Boland and carried unanimously.

## **PUBLIC HEARING - DEMOLITION OF 48 AND 53 BLALOCK AVENUE**

### **ORDINANCE NO. 1491 - AN ORDINANCE DIRECTING THE DIRECTOR OF INSPECTIONS TO DEMOLISH AND REMOVE THE DWELLINGS KNOWN AS 48 AND 53 BLALOCK AVENUE**

3. A public hearing was held relative to the adoption of an ordinance directing the Director of Inspections to demolish and remove dwellings known as 48 and 53 Blalock Avenue, Asheville, North Carolina.

Mayor McDevitt said proceedings have heretofore been instituted in accordance with the provisions of N.C. General Statutes 160A-441 *et seq.* and the Housing Code of the City of Asheville. A hearing was held, and a Findings of Fact and Order entered finding that the dwellings known as 48 and 53 Blalock Avenue, in their present condition, are dilapidated, unfit for human habitation, unsafe and dangerous to life. These properties are owned by Mr. Ted B. Freck. This public hearing was scheduled on December 18, 1984. Any cost incurred in domolition will be placed as a lien on the property.

Mayor McDevitt opened the public hearing at 4:31 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.

Lem Moore, Director of Inspections, said his division had been involved in efforts to bring the dwellings of 48 and 53

Blalock Avenue up to minimum housing code standards since 1979. He said no satisfactory results have been obtained.

He presented a copy of an agreement with Mr. Ted B. Freck, owner of the dwellings, dated May 1984, in which the agreement stated that all corrections would be made to the dwellings by December 1, 1984, or the owner would consent to signing an order to demolish said houses. He said his division had been more than reasonable with the owner to bring the houses up to code standards. He requested that Council proceed with the first reading of the ordinance. He presented photographs of the two dwellings showing that the dwellings were dilapidated, unfit for human habitation, unsafe, and dangerous to life.

Mr. Freck, owner of 48 and 53 Blalock, said he had been working on 48 Blalock Street in order to bring the house up to the minimum code standards. He said he would consent to demolish 53 Blalock Avenue. He said a new roof, inside repair work, and some electrical work had been done at 48 Blalock. He requested that Council give him time to repair 48 Blalock.

Upon inquiry of several Council members, Mr. Freck said that he had already spent \$2,000 on 48 Blalock Street and it would take at least \$1,000 more to complete the repairs. He said that he could finish the work on 48 Blalock by April or May, provided he could borrow the money to make the repairs.

Upon inquiry of Councilman Bisette, Mr. Moore said a considerable amount of work would have to be done to 48 Blalock Street in order to bring the house into compliance with the housing code. He said the last physical interior inspection of the house was made in 1980. However, the exterior had been monitored since 1979, and no work has been done on the house. He said the Finding of Fact and Order stated that the dwelling value is estimated at \$1,855. He listed specific requirements to bring 48 Blalock Street into compliance with the housing code.

Mr. Moore said Council had considered an ordinance in 1980 to demolish the houses which passed on two readings. However, the third reading was tabled indefinitely. He said since four years have elapsed since the reading of the ordinance, it would be necessary, according to the Corporation Counsel, to start over with the process.

Mayor McDevitt closed the public hearing at 5:03 p.m.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Councilman Price moved for the adoption of Ordinance No. 1491. This motion was seconded by Councilman Boland.

On a roll call vote of 7-0, Ordinance No. 1491 passed on first reading.

In response to Mr. Freck, Mr. Moore noted that any work done on 48 Blalock Street would require a building permit.

## **PUBLIC HEARING - SITE PLAN OF THE PROPOSED NEW VANCE ELEMENTARY SCHOOL - SULPHUR SPRINGS ROAD**

4. A public hearing was held relative to the site plan of the proposed new Vance Elementary School to be located on Sulphur Springs Road.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held December 5, 1984, reviewed the site plan of the proposed new Vance Elementary School to be located on Sulphur Springs Road in West Asheville. The plan was prepared by Wood and Cort, Architects, for Asheville City Schools, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the site plan to City Council subject to compliance with the Erosion Control Ordinance. The Commission further recommended that City Council see whether or not the storm drain system on the lower portion of Harnett Street, below the School, is adequate to support the runoff from the project as it is now and as it is to be constructed. This public hearing was scheduled on December 18, 1984.

Mayor McDevitt opened the public hearing at 5:07 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.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission recommended approval of the project subject to compliance of the Erosion Control Ordinance. He said the erosion control plan had been approved by the State. He said the Asheville City School Board is requesting that the City pay for street improvements proposed for Clinton and Harnett Street. He said these street improvements would provide for additional parking for the new school and a bus turnaround. He said the cost for the street improvements is estimated at \$122,930.

He said there is an off-site drainage problem on the southwestern portion of the property. He said the City Engineering Department had made an inspection of the drainage problem and estimated the cost of upgrading the system at \$40,000. He said at present a 26-inch pipe is emptying into an 18-inch pipe.

Mr. Emrick said the site plan meets all the criteria of the group development section of the zoning ordinance, and all the criteria for State requirements. He said the Fire Department had added a fire hydrant to this area.

Mr. Harold Blankenship of 51 Harnett Street said his dwelling is located directly below the proposed school. He said the drainage system in the area is not sufficient at present. He said Harnett Street is not sufficient to carry the traffic for the new school. He requested that Council look into the possibility of street improvements in the entire area.

At the request of Councilman Boland, Council requested that the City Manager look into the cost to improve the entire area of Harnett Street.

Dr. Don Jones, Superintendent of the Asheville City Schools, said the City Board of Education would support total improvements to Harnett Street.

Mayor McDevitt closed the public hearing at 5:30 p.m.

Councilman Bissette moved to approve the site plan for the proposed new Vance Elementary School to be located on Sulphur Springs Road. This motion was seconded by Councilman Boland and carried unanimously.

Councilman Price moved that Council support street improvements as requested by the Asheville City Board of Education on Clinton Street and Harnett Street, subject to bids being received by the City Board of Education, and further that the City staff look into improvements to all of Harnett Street. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

Councilman Price moved that the storm drainage area on Harnett Street be studied and a determination made as to whether the present sewer system is involved; and cost estimates be given for the upgrading of the storm drainage system in order that this area could be considered along with other storm drainage problems in the City. She also requested that contact be made with the State Department of Transportation to determine if any assistance could be given by the State because this is a state-maintained road. This motion was seconded by Councilman Boland and carried unanimously.

#### **ORDINANCE NO. 1492 - BUDGET ORDINANCE AMENDMENT TO ALLOCATE FUNDS FOR THE SMOKY MOUNTAIN MINORITY SUPPLIER DEVELOPMENT COUNCIL**

5. Consideration was given to a budget ordinance amendment allocating funds to attend and participate in activities of the Smoky Mountain Minority Supplier Development Council.

Mayor McDevitt said this budget ordinance amendment will transfer \$300 from the General Fund Contingency to the Finance Department for the participation in activities of the Smoky Mountain Minority Supplier Development Council. This amount is included in the budget. This action may have a positive impact on the City's use of minority suppliers.

Mayor McDevitt said members of Council were furnished copies of the ordinance and it would not be read in its entirety.

Upon inquiry of Vice-Mayor Bratton, Mayor McDevitt said in his opinion there would not be a conflict of interest in Vice-Mayor Bratton voting on the issue even though she is president of the organization.

Councilman Boland moved for the adoption of Ordinance No. 1492. This motion was seconded by Councilman Myers.

On a roll call vote of 7-0, Ordinance No. 1492 passed on first and final reading.

Complete text of Ordinance No. 1492 will be found in Ordinance Book No. **10** at page **233**.

**RESOLUTION NO. 85-1 - RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND SCHNEIDER NINE, INC. WITH REGARD TO AN AGREEMENT BY AND AMONG THE CITY, THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND THE NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER FOR THE SOUTH PACK PLAZA PROJECT**

6. Consideration was given to a resolution authorizing the Mayor on behalf of the City of Asheville to execute an agreement by and between the City of Asheville and Schneider Nine, Inc. with regard to an agreement by and among the City, the Advisory Council on Historic Preservation, and the North Carolina State Historic Preservation Officer for the South Pack Plaza Project.

Mayor McDevitt said the City of Asheville has entered into a Memorandum of Agreement with the Advisory Council on Historic Preservation and the North Carolina State Historic Preservation Officer with regard to compliance with federal regulations for certain historic buildings in the South Pack Plaza Project. This agreement will set forth the responsibilities of the City and Schneider Nine, Inc. with regard to the provisions of the Memorandum of Agreement.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 85-1 was unanimously adopted.

Complete text of Resolution No. 85-1 will be found in Resolution Book No. **15** at page **129**.

**RESOLUTION NO. 85-2 - RESOLUTION APPROVING THE MEMORANDUM OF AGREEMENT BETWEEN THE NORTH CAROLINA HISTORIC PRESERVATION OFFICER, THE NATIONAL COUNCIL ON HISTORIC PRESERVATION AND THE CITY OF ASHEVILLE FOR THE SOUTH PACK PLAZA PROJECT**

7. Consideration was given to a resolution approving the memorandum of agreement between the North Carolina Historic Preservation Officer, the National Council on Historic Preservation and the City of Asheville for the South Pack Plaza Project.

Mayor McDevitt said the City of Asheville had determined that the South Pack Square Redevelopment Project will have an effect upon properties included in or eligible for inclusion in the National Register of Historic Places and has requested the comments of the Advisory Council on Historic Preservation (Council) pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations, "Protection of Historic and Cultural Properties." The City of Asheville, the North Carolina State Historic Preservation Officer, and the Council agree that the undertaking shall be implemented in accordance with certain stipulations in order to take into account the effect of the undertakings on historic properties. Execution of this agreement will also release CDBG funds for the public improvements agreed to for the Pack Plaza Project. Some cost may be incurred to accomplish the architectural survey. Estimates are in the \$6,000 to \$10,000 range. However, it is anticipated that the developer of the Pack Plaza Project will reimburse the City for any expenditures -- negotiations are underway. Funds are currently budgeted should they be needed.

Upon motion of Councilman Frank, seconded by Councilman Boland, Resolution No. 85-2 was unanimously adopted.

Complete text of Resolution No. 85-2 will be found in Resolution Book No. **15** at page **130**.

**AUTHORIZATION FOR CORPORATION COUNSEL TO SIGN "APPLICATION FOR DISBURSEMENT**

**OF DEPOSIT" - DEPARTMENT OF TRANSPORTATION, PLAINTIFF, VS WILLIAM JAMES FERENCE AND WIFE MAXINE FERENCE, COUNTY OF BUNCOMBE AND CITY OF ASHEVILLE**

Councilman Bissette requested that he be excused from voting on a motion to authorize the Corporation Counsel to sign the "Application for Disbursement of Deposit" in that his law partner, Charles Worley, is involved in the action.

Councilman Boland moved to excuse Councilman Bissette from voting on the authorization of the Corporation Counsel to sign the "Application for Disbursement of Deposit." This motion was seconded by Councilman Frank and carried unanimously.

Councilman Price moved to authorize the Corporation Counsel to sign an "Application for Disbursement of Deposit" in Civil Action 84-CVS-3044 entitled "Department of Transportation, Plaintiff VS William James Ference and wife Maxine Ference, County of Buncombe and City of Asheville" requesting the court disburse the sum of \$67,400 to William James Ference and wife Maxine Ference upon confirmation that all real estate ad valorem taxes through 1984 have been paid upon the property which is the subject matter of that civil action. This motion was seconded by Councilman Frank and carried unanimously.

**CLAIMS - KATHLEEN JACKSON (STREETS) - JAN BRYANT (METER READERS) - VIRGINIA SANDERS (SANITATION) - CLARENCE McCORSLEY (STREETS) - SOUTHERN BELL (WATER) - MOLLY SANDERS (WATER) - HOWARD COLLINS (WATER) - CHARLES HARRELL ASSOCIATES (WATER) - JUSTINE LAVIN (STREETS)**

The City manager presented claims received from Kathleen Jackson (Streets), Jan Bryant (Meter Readers), Virginia Sanders (Sanitation), Clarence McCorsley (Streets), Southern Bell (Water), Molly Sanders (Water), Howard Collins (Water), Charles Harrell Associates (Water), and Justine Lavin (Streets).

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

**LAWSUITS - C. M. McCracken, ADMINISTRATOR OF ESTATE OF JAMES C. BRIGMAN - (PETITION TO ALLOW SALE OF PROPERTY - CITY SERVED BECAUSE OF TAXES DUE) - LORETTA THURMOND VS ROBERT BOONE MOODY (PERSONAL INJURY - AUTO ACCIDENT) - D.O.T. VS JOHN P. HOLT (CONDEMNATION - BRIDGE OVER SOUTHERN RAILWAY ON MEADOW ROAD) - ASHEVILLE HOUSING AUTHORITY (CONDEMNATION OF LESTER CALDWELL PROPERTY)**

The City Manager said the City was served with summonses in connection with lawsuits involving C. M. McCracken, Administrator of Estate of James C. Brigman, Loretta Thurmond VS Robert Boone Moody, D.O.T. VS John P. Holt, and Asheville Housing Authority.

Mayor McDevitt referred the summonses to the Corporation Counsel for investigation and recommendation.

**MRS. CATHERINE JOHNSON - 29 DEVONSHIRE PLACE - PETITION TO OPEN KENILWORTH DRIVE**

Mrs. Catherine Johnson of 29 Devonshire Place presented a petition, with 203 signatures requesting that the Asheville City Council immediately rescind its action to dead end Kenilworth Drive and restore it to its full use as an open drive.

Mayor McDevitt said the City Council would look into the request stated in the petition and would be in touch with Mrs. Johnson.

"PETITION TO THE ASHEVILLE CITY COUNCIL TO RESCIND ACTION

WHICH CONVERTED KENILWORTH DRIVE FROM AN OPEN, THROUGH

STREET TO A DEAD END STREET

WHEREAS, the Asheville City Council's recent action changing one of Kenilworth's newer, much needed and used, twenty-five foot wide, one straight block, open street (Kenilworth Drive) to a dead end street in an effort to deter through traffic and to protect from the traffic a small child resident and other children who may come to reside in this area; and

WHEREAS, this drive was used by Kenilworth residents as the quickest, safest, and only access to Biltmore Avenue at a traffic signal; and the closing of the short, straight through route detours the traffic to two longer, winding blocks less safe to travel; and

WHEREAS, it has been almost two months since Kenilworth Drive was dead ended, no noticeable decrease in traffic has been observed; of course, the travel time and distance for all the traffic has increased; and

WHEREAS, the City has much more effective methods of improving traffic safety and deterring through traffic than dead ending streets; and

THEREFORE, we, the undersigned Kenilworth residents and friends who use the Kenilworth Drive as an open street, hereby respectfully petition the Asheville City Council to immediately rescind its action to dead end Kenilworth Drive and restore it to full use as an open drive.

## RATIONALE

### FOR THE OBJECTION TO THE DEAD ENDING OF KENILWORTH DRIVE

1. It is regressive, uneconomical, and unfair to reroute the traffic from the

newer, twenty-five foot wide, straight, one short block drive to the two longer, winding blocks of the oldest streets in Kenilworth, all of which must be maintained by the taxpayers, including the drive which they are not privileged to use; the building of Kenilworth Drive was a progressive step to open the area for residential development, emergency services, and the convenience of the

residents, visitors and services; but not as a private drive.

2. With the closing of the drive from Pickwick Road, there is no way for visitors,

city services, fuel and postal and other services to get out of Pickwick Road other than by backing out or making a road turn either of which is dangerous on the narrow, winding street with its low, deep shoulders. Of course, the city garbage truck backs into a red clay vacant lot, making red clay ruts, a foot or

more deep, and tracks the mud all the way up Pickwick Road to Kenilworth Road.

3. We do not know of any surveys that have been made to determine the amount of

through traffic that has been traveling Kenilworth Drive. If, indeed, there is such traffic which should be deterred, it would seem that a better deterrence would be the reduction of speed limit in both directions. A speed limit on Pickwick Road above twenty miles per hour is dangerous. There is a need for "Children Playing" caution signs in the first and second blocks of Kenilworth Road and at the entrance of Kenilworth Drive. The enforcement of the "No Thru Trucks" could also serve as a deterrence. With such remedial measures as these available, we see no reason to resort to such a backward step as dead ending a

much needed open street."

## **RALPH BISHOP - LOTTERY SALES IN THE CITY OF ASHEVILLE**

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

## **REQUEST TO RESCIND ACTION TO DEMOLISH 37 EAST CHESTNUT STREET - ATTORNEY BILL**

## **BARNES**

Attorney Bill Barnes, representing Mrs. Carl Fletcher, requested that Council instruct the Director of Inspections to hold off demolishing 37 East Chestnut Street for at least one week. He said this would give the owner an opportunity to put into a trust fund the amount needed to bring the house up to minimum housing code standards.

Mayor McDevitt informed Mr. Barnes that this request had been made many many times by Mrs. Fletcher to no avail to bring the house up to code standards.

After discussion, Council took no action Mr. Barnes' request.

## **ADJOURNMENT**

Councilman Bissette moved to adjourn the meeting at 6:15 p.m. This motion was seconded by Councilman Myers and carried unanimously.

## **COUNCIL WORK SESSION - THURSDAY, JANUARY 10, 1985 - 5:30 P.M.**

Mayor McDevitt reminded members of Council that a Council work session had been scheduled for Thursday, January 10, 1985, at 5:30 p.m. to discuss the "Comprehensive Plan."

MAYOR CITY CLERK

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