

Tuesday - March 19, 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, Louis Bisette, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Neal Creighton; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: None

INVOCATION

The invocation was given by Councilman Walter Boland.

APPROVAL OF THE MINUTES - MARCH 12, 1985 MEETING

1. Approval of the minutes of the March 12, 1985, meeting.

Mayor McDevitt announced the approval of the minutes of the March 12, 1985, meeting as submitted.

RESOLUTION NO. 85-28 - RESOLUTION COMMENDING ASHEVILLE HIGH SCHOOL FOR ITS PARTICIPATION IN THE INTERNATIONAL EXCHANGE PROGRAM AND RECOGNIZING THE FOREIGN EXCHANGE STUDENTS AND TEACHERS FROM JAPAN, LIBERIA, BELGIUM, GERMANY, AND THAILAND THAT ARE PARTICIPATING IN THE PROGRAM

2. Consideration was given to a resolution commending Asheville High School on their participation in the International Exchange Program and recognizing the foreign exchange students and teachers from Japan, Liberia, Belgium, Germany, and Thailand that are participating in the program.

Mayor McDevitt recognized Eloise Beam, from Asheville High School, who explained that the Council of International Education and the National Association of Secondary School Principals are sponsoring a student exchange program from March 12 to April 3, 1985, at which time Asheville High School is hosting the foreign exchange students from Kofu, Japan. She said Asheville High School is also hosting American Field Service Exchange Students from Germany, Liberia, and Belgium; and one teacher from Thailand.

Mayor McDevitt read the resolution.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 85-28 was unanimously adopted.

Complete text of Resolution No. 85-28 will be found in Resolution Book No. **15** at page **158**.

Mayor McDevitt presented each student and teacher with a welcome letter and a copy of the resolution adopted by Council.

PUBLIC HEARING - REZONING PROPERTY LOCATED AT 1530 HENDERSONVILLE ROAD - OXFORD DEVELOPMENT ENTERPRISES, INC.

ORDINANCE NO. 1503 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING FOR THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED ON HENDERSONVILLE ROAD - "OXFORD DEVELOPMENT ENTERPRISE, INC., PETITION"

3. A public hearing was held relative to rezoning property located at 1530 Hendersonville Road requested by Oxford Development Enterprises, Inc., for Harry Clarke, owner, from R-2 Residential District to R-3 Residential District.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held February 6, 1985, considered the request of Oxford Development Enterprises, Inc., for Mr. Harry Clarke, Owner, that Ward 7, Sheet 60, Lots 1, 2, and 3, be rezoned from R-2 Residential District to CH Commercial Highway District. The property is located on Hendersonville Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 60, Lots 1, 2, and 3, be rezoned from R-2 Residential District to R-3 Residential District.

Mayor McDevitt opened the public hearing at 4:13 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 the rezoning to R-3 Residential District, rather than the CH Commercial Highway District requested by the petitioner. He said there were no objections received relative to the rezoning.

After discussion, Mayor McDevitt closed the public hearing at 4:16 P.M.

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

Councilman Boland moved for the adoption of Ordinance No. 1503. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1503 passed on first reading.

ORDINANCE NO. 1501 - AN ORDINANCE AMENDING THE CHARTER OF THE CITY OF ASHEVILLE TO PROVIDE FOR DIRECT ELECTION OF THE MAYOR BY ALL THE QUALIFIED VOTERS OF THE CITY

4. Consideration was given to the third reading of Ordinance No. 1501, an ordinance amending the charter of the City of Asheville to provide for direct election of the Mayor by all the qualified voters of the City.

Mayor McDevitt said Resolution No. 83-209 relative to the process for election of the Mayor was unanimously adopted by the City Council of the City of Asheville on December 6, 1983, and said Resolution provided that the City Council go on record endorsing the concept of examining the feasibility of the Mayor being elected by the citizens rather than by the present process of being elected by the seven (7) members of the City Council. The City Council has continued to examine the feasibility of the direct election of the Mayor by all of the qualified voters of the City. A public hearing was held on February 26, 1985, relative to this ordinance.

Mayor McDevitt said this ordinance was previously read on first and second reading, and would not be reread in its entirety unless there was a specific request to do so.

On a roll call vote of 7-0, Ordinance No. 1501 passed on third and final reading.

Complete text of Ordinance No. 1501 will be found in Ordinance Book No. **10** at page **246-250**..

RESOLUTION NO. _____ - A RESOLUTION CALLING FOR A VOTE OF THE PEOPLE ON ORDINANCE NO. 1501, REGARDING THE DIRECT ELECTION OF THE MAYOR BY THE VOTERS

5. Consideration was given to a resolution calling for a vote of the people on Ordinance No. 1501 regarding the direct election of the Mayor by the voters.

Mayor McDevitt said the Asheville City Council has this day adopted Ordinance No. 1501, an ordinance amending the Charter of the City of Asheville to provide for the direct election of the Mayor by all the qualified voters of the City. This resolution provides that it shall take effect only if it is approved by a vote of the people. N.C. General Statutes Section 160A-102 provides that if an ordinance is so adopted, the council may by resolution call a special election for

the purpose of submitting the ordinance to a vote. This resolution will request the Buncombe County Board of Elections to hold a special election in May for this purpose.

Mayor McDevitt said members of Council were furnished copies of the resolution, and it would not be read in its entirety unless there was a specific request to do so.

Councilman Price moved for the adoption of the resolution calling for a vote of the people on Ordinance No. 1501.

Councilman Price's motion died for the lack of a second.

Mayor McDevitt noted that no referendum would be held on the ordinance amending the charter of the City of Asheville to provide for the direct election of the Mayor.

Mayor McDevitt said Council had been advised by the Corporation Counsel that there were several sections in the City Charter that the General Assembly needed to clarify relative to the Mayor's requirement to vote.

Councilman Frank moved to authorize the Mayor to forward a letter to the Buncombe County Legislative Delegation requesting that the City Charter be amended on the requirement of the Mayor to vote. This motion was seconded by Councilman Myers and carried unanimously.

Vice-Mayor Bratton thanked members of Council for their time and effort in passing this ordinance that she had previously requested.

BIDS - NINE (9) TRUCKS OF VARIOUS SIZES FOR CITY OF ASHEVILLE

6. Consideration was given to bids received for purchasing nine (9) trucks of various sizes for the City of Asheville.

Mayor McDevitt said nine (9) bids were received to furnish three (3) 3/4 ton pickup trucks and one (1) ton Cab & Chassis for Parks, Recreation and Public Facilities; one (1) 1/2 ton pickup truck for Asheville Transit Authority; two (2) Cab and Chassis with dump body for Public Works Department, Street Division; one (1) cab and chassis with dump body for Public Works Department, Sanitation Division; and one (1) 3/4 ton pickup with utility body for Public Works Department, Traffic Engineering Division.

AWARD RECOMMENDATIONS:

Item A - Two (2) each 3/4 ton heavy duty pickup trucks for Parks, Recreation and Public Facilities.

Matthews Ford, Inc. \$8,242.00 ea. \$ 16,484.00

for 2985 Ford F250 H.D.

Item B - One each 3/4 ton heavy duty, four-wheel drive pickup truck for Parks, Recreation, and Public Facilities.

Carolina Truck & Body 9,882.10

for 1985 GMC TK 20903-E63-C6P

Item C - One each 1/2 ton heavy duty, four-wheel drive pickup truck for Asheville Transit Authority.

Carolina Truck & Body 11,465.93

for 1985 GMC TK 20903-E63-C6P-B3J

Item D - One each 3/4 ton heavy duty cab and chassis with utility body for Public Works Department, Traffic Engineering Division.

Matthews Ford, Inc. 10,094.00

for 1985 Ford F250 w/Knapheide #796 body

Item E - One each one (1) ton heavy duty cab and chassis for Parks, Recreation, and Public Facilities.

Carolina Truck & Body 9,997.55

for 1985 GMC TC 31003-ZW9-C7C

Item F - Two each cab and chassis with dump body for Public Works Department, Street Division.

Hickory Int'l Truck Sales 50,285.00 100,570.00

for 1985 International F2574 w/16' Virginian Body.

Item G - One each cab and chassis with dump body for Public Works Department, Sanitation Division.

Matthews Ford, Inc. 15,955.00

for 1985 Ford F600 w/ Fontaine Body

TOTAL AWARDS (As Recommended) \$174,448.58

A complete bid summary for the nine (9) trucks is on file in the Office of the City Clerk.

Councilman Price moved to award the bids as recommended and outlined by Mayor McDevitt. This motion was seconded by Councilman Boland and carried unanimously.

APPROVAL OF CONSENT AGENDA

7. Consideration was given to a motion approving the consent agenda.

Mayor McDevitt said the following items are of a routine nature, and they have been previously reviewed by the members of the City Council. Therefore, by unanimous vote to approve these items, the City Council may, pursuant to the procedures established in Ordinance No. 1008, adopt all of the items with one motion without the full reading and/or separate motion adopting each individual item. Upon the request of a citizen, a member of the City Council, and/or a member of the City staff, any single item scheduled for approval on the consent agenda may be considered separately.

A. Resolution No. 85-29 - Resolution abolishing the City Personnel

Advisory Commission.

HIGHLIGHTS: The City Personnel Advisory Commission was established

April 1, 1982. The Commission was established to study

and evaluate existing policies, practices and procedures with regard to City personnel, including, but not limited to, Civil Service, grievance procedures and working conditions. The Commission has provided the City Council with valuable recommendations as a result of this study. No further study or evaluation is anticipated to be requested from the Commission. This resolution will abolish the

City Personnel Advisory Commission.

Complete text of Resolution No. 85-29 will be found in Resolution Book No. **15** at page **159**.

B. Resolution No. 85-30 - Resolution authorizing the Purchasing Director

to dispose of personal property by private sale.

HIGHLIGHTS: This resolution will authorize the Purchasing Director to

dispose of accumulated surplus property in the Water

Maintenance Division pursuant to N.C. G.S. 160A-267.

FISCAL IMPACT: Estimated revenue of \$2,000 - \$3,000 which is not currently appropriated in the budget.

Complete text of Resolution No. 85-30 will be found in Resolution Book No. **15** at page **160**.

C. Resolution No. 85-31 - Resolution authorizing the Mayor to sign an

application requesting the State Historic preservation officer to certify the City of Asheville as a certified local government program.

HIGHLIGHTS: The National Historic Preservation Amendments Act of 1980

requires that each state establish a procedure by which general local governments may be certified to participate in the national framework for historic preservation established by the National Historic Preservation Act of 1966. The State of North Carolina has defined minimum requirements for local governments to become certified local governments pursuant to the Preservation Act. Upon certification, the City of Asheville will become eligible to compete for funding from the Federal Historic Preservation Fund and will gain authority to review all future nominations to the National Register that are located

within the City limits of the City of Asheville.

Complete text of Resolution No. 85-31 will be found in Resolution Book No. **15** at page **161**.

D. Resolution No. 85-32 - Resolution approving a request for the partici

pation of the North Carolina Housing Finance Agency in financing an apartment project to be located on Sweeten Creek Road.

HIGHLIGHTS: Fralin and Waldron, Incorporated proposes to build a

rental apartment complex, consisting of approximately 186 one and two bedroom apartment units and related recreational facilities, to be located in the County of Buncombe on the east side of Sweeten Creek Road directly to the south of Stockwood Subdivision partially within the Asheville City limits. The Developers of said apartments are requesting the participation of the North Carolina Housing Finance Agency in financing a program for housing for persons of lower income under appropriate federal legislation. N.C. General Statute Section 122A-5 requires that such participation may take place only upon the approval of the request for such participation by the governing body of the county, city or town in which such project has to be located. The Buncombe County Commissioners have previously passed a similar resolution,

Resolution No. 18057.

Complete text of Resolution No. 85-32 will be found in Resolution

Book No. **15** at page **162**.

E. Resolution No. 85-33 - Resolution appointing a member to the Crime

Stoppers Committee.

HIGHLIGHTS: This resolution will appoint Doug Blizzard to the Crime

Stoppers Committee.

Complete text of Resolution No. 85-33 will be found in Resolution Book No. **15** at page **163**.

AMENDMENT TO GENERAL SERVICE ADMINISTRATION EASEMENT

At the request of the Corporation Counsel, Vice-Mayor Bratton moved to authorize the Mayor to sign an amended easement in favor of the General Services Administration amending the easement authorized by City Council on December 11, 1984, for the placing of subsurface telephone conduits beneath Battery Park Avenue between the Federal Building and the United States Post Office Building. This amended easement deletes paragraph 8 of the original easement providing for indemnification to the City for damages caused by acts and omissions of General Service Administration in connection with the easement and provides in lieu thereof for indemnification in accordance with the Federal Tort Claims Act. This motion was seconded by Councilman Price and carried unanimously.

CLAIMS - JOSEPH ROYER (POLICE) - W. W. BRAME (WATER) - CHERRY BANKS (WATER) - BONNIE CAMERON (STREETS) - TIMOTHY RIDDLE (POLICE)

The City Manager presented claims received from Joseph Royer, W. W. Brame, Cherry Banks, Bonnie Cameron, and Timothy Riddle.

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

COMMENTS RELATIVE TO CABLE TELEVISION CHANGES - COUNCILMAN BISSETT

Councilman Bissette said he was requested to report back this week on any response that he might have received from Asheville Cablevision and also any recommendation that he might have. He said he received a letter today from Mr. John Jerose, General Manager of Asheville Cablevision. He said the letter concluded that Asheville Cablevision was not at this time prepared to either take a look at returning any of their programming to its previous level or reducing its basic rate. So, based upon that response, Councilman Bissette moved that Council appoint an Ad Hoc committee to be charged with reviewing the following areas of concern which have arisen in regard to the existing relationship of Asheville Cablevision:

"One would be the City's legal basis for either enforcing a

roll-back in programming to previous levels at least to the end of August, 1985, and/or reducing the approved basic rate of \$9.65 based upon the reduced programming levels and comparable rates which are

charged in other cities.

Two, I would like to include an examination of Asheville Cable

vision's current levels of service and a determination of whether or not they are complying with our franchise agreement and with the FCC regulations. This would include perhaps the development of a questionnaire or survey which would be transmitted to the citizens of Asheville for a response on their feelings regarding the current levels of service and/or a public hearing on the matter to give our citizens the right to be heard. The committee would also review the terms of our existing franchise agreement and whether or not Asheville Cablevision is complying with all of the terms in that agreement, and I am speaking primarily of certain services which they have agreed to provide to the City and the school system and certain requirements which they have got in the franchise agreement for providing

information to the City.

And finally, I would envision the committee reviewing the legal and economic alternatives which might be available to the City which

might permit additional competition in the cablevision area."

This motion was seconded by Councilman Price and carried unanimously.

Councilman Price moved that the committee be called the Ad Hoc Council Cablevision Commission; and that the members consist of Councilman Bissett; Councilman Myers, and Harold Bennett; and that the Commission give a report to the City Council on their findings within 30 days; and further, that the City Attorney be authorized to work with the Commission relative to cable television. This motion was seconded by Vice-Mayor Bratton and carried unanimously.

At the request of John Jerosé, General Manager of Asheville Cablevision, Councilman Bisette outlined the previously adopted motion relative to cablevision.

VICE-MAYOR BRATTON - REPORT RELATIVE TO SATELLITE DISHES IN THE CITY OF ASHEVILLE

Vice-Mayor Bratton requested that the City Manager look into any current provisions and any proposed recommendations relative to the proper control of the installation of satellite dishes in the City of Asheville.

RALPH BISHOP - LOTTERY PEDDELERS IN THE CITY OF ASHEVILLE

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

ADJOURNMENT

Vice-Mayor Bratton moved to adjourn the meeting at 5:10 P.M. This motion was seconded by Councilman Myers and carried unanimously.

MAYOR CITY CLERK
