

Tuesday - August 13, 1985 - 4:00 p.m.

Regular Meeting

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

Absent: Councilman Gordon Myers (arriving later in meeting); Corporation Counsel William F. Slawter.

INVOCATION

The invocation was given by Councilman Norma Price.

APPROVAL OF THE MINUTES - AUGUST 6, 1985 MEETING

1. Approval of the minutes of the August 6, 1985 meeting.

Mayor McDevitt announced the approval of the minutes as submitted.

PUBLIC HEARING - REZONING PROPERTY - SWEETEN CREEK ROAD AT OLD WEST CHAPEL ROAD

ORDINANCE NO. 1528 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED ON SWEETEN CREEK ROAD AT OLD WEST CHAPEL ROAD (EUGENE CARR PETITION)

2. A public hearing was held relative to rezoning property located on Sweeten Creek Road at Old West Chapel Road.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held July 19, 1985, considered the petition of Mr. Eugene M. Carr, Jr., that Ward 7, Sheet 55, Lot 7 be rezoned from R-5 Residential District to CS Commercial Service District. The property is located on Sweeten Creek Road at Old West Chapel Road. After review and discussion, the Commission voted to recommend to City Council that Ward 7, Sheet 55, Lot 7 be rezoned from R-5 Residential District to CS Commercial Service District.

Mayor McDevitt opened the public hearing at 4:08 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 lot requested to be rezoned joins the English Lumber Company. He said Mr. Carr wishes to use this property for his business.

Upon inquiry of Councilman Bisette, Mr. Emrick said no opposition had been received relative to the rezoning.

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

Mayor McDevitt closed the public hearing at 4:11 p.m.

Councilman Boland moved for the adoption of Ordinance No. 15-28. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1528 passed on first reading.

PUBLIC HEARING - REZONING PROPERTY LOCATED AT 105 BUCHANAN AVENUE

ORDINANCE NO. 1529 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY LOCATED AT 105 BUCHANAN ROAD (DR. E.B. BROWN PETITION)

3. A public hearing was held relative to rezoning property located at 105 Buchanan Avenue.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held July 10, 1985, considered the petition of Dr. E. B. Crosby, Asheville Hand Center, that Ward 1, Sheet 8, Lot 70, be rezoned from R-3 Residential District to OI Office Institutional District. The property is located at 105 Buchanan Avenue. After review and discussion, the Commission voted to recommend to City Council that Ward 1, Sheet 8, Lot 70, be rezoned from R-3 Residential District to OI Office Institutional District.

Mayor McDevitt opened the public hearing at 4:12 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 purpose of the rezoning is to expand an existing building for the Asheville Hand Center.

Upon inquiry of Councilman Bisette, Mr. Emrick said no opposition had been received relative to the rezoning.

Mayor McDevitt closed the public hearing at 4:15 p.m.

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

Councilman Bisette moved for the adoption of Ordinance No. 1529. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1529 passed on first reading.

PUBLIC HEARING - REZONING PROPERTY LOCATED BEHIND ACE APPLIANCE ON KNIGHT PLACE

4. A public hearing was held relative to rezoning property located behind Ace Appliance on Knight Place.

Mayor McDevitt said the Asheville Planning and Zoning Commission at a meeting held July 10, 1985, considered the petition of Mr. Wayne Smith of Ace Appliance that Ward 5, Sheet 6, Lot 99¹/₄, be rezoned from R-3 Residential District to CS Commercial Service District. The property is located behind Ace Appliance on Knight Place. After review and discussion, the Commission voted to recommend to City Council that Ward 5, Sheet 6, Lot 99¹/₄ and Lot 99 be rezoned from R-3 Residential District to CS Commercial Service District.

Mayor McDevitt opened the public hearing at 4:17 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, presented the following letter from Wayne E. Smith, Vice-President of Ace Appliance Company, withdrawing the rezoning request:

August 7, 1985

Honorable Mayor and Members

of the City Council

City Hall

Asheville, N.C. 28807

RE: Rezoning Petition -

Mr. Wayne Smith

Dear Mayor and Members of the Council:

The Asheville Planning and Zoning Commission at a meeting held July 10, 1985 considered the petition of Mr. Wayne Smith of Ace Appliance Company that Ward 5, Sheet 6, Lot 99¼ be rezoned from R-3 Residential District to CS Commercial Service District. The property is located behind Ace Appliance on Knight Place.

After review and discussion, the Commission voted to recommend to City Council that Ward 5, Sheet 6, Lot 99¼ and Lot 99 be rezoned from R-3 Residential District to CS Commercial Service District.

Concerning the property discussed above, the Zoning Board approved this with Ace Appliance Company being the new owner of the lot, and with Ace Appliance using the entrance of our parking lot as access to this lot, to which we agreed.

Unfortunately, the owners of the lot, after agreeing to sell it to us at a set price, have since changed their minds. Since we will not be the owners of the lot, we know that the new owners would have to use Knight Place (which is a very dangerous road) for their access. We hereby ask the Council to please remove our petition for rezoning and to leave the property zoned as R-3 Residential District. Any new owners would then need to repetition for rezoning to Commercial. We understand that your formal decision will be announced at your next meeting to be held on Monday, August 12, 1985.

Thank you for your help and consideration in this matter.

Sincerely yours,

Wayne E. Smith

Vice President

Acting Corporation Counsel Patsy Brison said since the petitioner withdrew the rezoning request, no action would be required by Council.

RESOLUTION NO. 85-138 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A DEED OF CORRECTION WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

5. Consideration was given to a resolution authorizing the Mayor to execute a Deed of Correction with the North Carolina Department of Transportation.

Mayor McDevitt said in 1979, the North Carolina Department of Transportation conveyed a utility easement to the City of Asheville across property acquired from William Quarterman. However, by mutual mistake, the Deed of Easement conveyed the entire roadway excepting for N.C. DOT limited roadway rights for ingress and egress to the DOT Resident Engineer's office. The Deed of Correction will correct the scope of the easement to reflect the intentions of the parties and will also allow the City access to the roadway for use as a fire lane.

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

Upon motion of Councilman Price, seconded by Councilman Boland, Resolution No. 85-138 was unanimously adopted.

Complete text of Resolution No. 85-138 will be found in Resolution Book No. **15** at page **281** and **282**.

PRESENTATION BY RETIRED POLICE OFFICERS

6. Captain John Best, retired Police Officer, speaking on behalf of the retired Police Officers, requested that Council initiate a cost of living raise for all retired Police Officers. He said it was his understanding that the General Assembly had adopted legislation amending the Police Pension Law that would allow the City Council to implement a cost of living raise for retired Police Officers. He said if his calculations were correct, there should be approximately \$4,000,000 in the Police Pension Fund.

Mayor McDevitt advised Captain Best that the City Council would take their request under advisement.

RESOLUTION NO. 85-139 - RESOLUTION ADOPTING MINORITY AND WOMEN ECONOMIC ENTERPRISE PROGRAM FOR THE CITY OF ASHEVILLE

7. Consideration was given to a resolution adopting Minority and Women Economic Enterprise Program for the City of Asheville.

Mayor McDevitt said the Minority and Women Economic Enterprise project is designed to affirm the City's active concern and support for the inclusion and economic participation of these groups in the City's purchasing, contracting and procurement programs.

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

Marvin Vierra, Director of Community Development, said this resolution would be a statement or policy by the City Council to provide minorities and women equal opportunity to participate in all aspects of City contracting and purchasing programs. He said this would also set the policy of the City of Asheville to prohibit discrimination against any person or business in pursuit of these opportunities on the basis of race, color, sex, religion or national origin and to conduct its contracting and purchasing programs so as to prevent such discriminations. He said the City would be actively seeking and identifying qualified minority and women business enterprises to offer them the opportunity to participate as providers of goods and services to the City. He said this program would also establish a committee to help improve business conducted with minority and women business enterprises. He requested that Exhibit 2 of the proposed program be deleted, being a list of minority and women businesses in the City of Asheville. He said the list is not complete and the committee and City staff would establish a more complete list within the next six months.

Logan Delany, former Community Development Director, spoke in support of the program.

Upon motion of Vice-Mayor Bratton, seconded by Councilman Frank, Resolution No. 85-139 was unanimously adopted.

Complete text of Resolution No. 85-139 will be found in Resolution Book No. **15** at page **283**.

RESOLUTION NO. 85-140 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER FOR THE PURCHASE OF CITY-OWNED PROPERTY LOCATED ON FANNING BRIDGE ROAD

8. Consideration was given to a resolution directing the City Clerk to advertise an offer for the purchase of City-owned property located on Fanning Bridge Road.

Mayor McDevitt said the City has received an offer for the purchase of a tract of land containing 16.4 acres located east of the intersection of Fanning Bridge Road and Asheville Airport Road. He said the offer is in the amount of \$18,000 per acre and was accompanied by a 5% bid deposit received by the City Clerk. He said this resolution would

authorize the City Clerk to advertise said offer and a notice that within ten days any person may raise the bid not less than 10% of the first \$1,000 and 5% of the remainder of the bid and a statement that the City Council of the City of Asheville reserves the right to reject any and all offers at any time with bid deposits returned to the bidder.

Councilman Myers took his seat at 4:30 p.m.

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

Upon motion of Councilman Frank, seconded by Councilman Bissette, Resolution No. 85-140 was unanimously adopted.

Complete text of Resolution No. 85-140 will be found in Resolution Book No. **15** at page **284**.

CLAIMS - KEN CURTIS (SEWER) - RODNEY WILSON (WATER) - KENNY HAYES (SEWER) - MAXINE DEBRUHL (SEWER) - DALLAS DEAN GARDNER (WATER) - WILLIE MCKNIGHT (PARKS)

The City Manager presented claims received from Ken Curtis, Rodney Wilson, Kenny Hayes, Maxine DeBruhl, Dallas Dean Gardner, and Willie McKnight

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

RESPONSE RELATIVE TO RALPH BISHOP'S QUESTION OF AUGUST 6, 1985, RELATIVE TO CITY EMPLOYEES BEING BONDED

Mayor McDevitt, in response to an inquiry of Ralph Bishop on August 6, 1985, said that General Statutes 159-29 requires the City of Asheville to have fidelity bonds on all City employees. He said the City of Asheville has a general blanket bond on all City employees, full-time and part-time, in the amount of \$25,000 pursuant to said statute. He said there is an individual bond in the amount of \$100,000 on the Director of Finance. He said the City of Asheville also has an insurance policy to cover City employees for wrongful acts in the amount of \$1,000,000.

ADJOURNMENT TO EXECUTIVE SESSION

Upon motion of Councilman Bissette, seconded by Councilman Boland, the meeting adjourned into Executive Session at 4:40 p.m.

MAYOR CITY CLERK
