

Tuesday - November 19, 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; Corporation Counsel William F. Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Councilman Gordon Myers.

**INVOCATION**

The invocation was given by Councilman Walter Boland.

**APPROVAL OF THE MINUTES - OCTOBER 29, 1985 MEETING**

1. Approval of the minutes of the October 29, 1985 meeting.

Mayor McDevitt announced the approval of the minutes as submitted.

**APPROVAL OF THE MINUTES - SPECIAL MEETING OF NOVEMBER 7, 1985**

2. Approval of the minutes of the special meeting of November 7, 1985.

Mayor McDevitt announced the approval of the minutes as submitted.

**PROCLAMATION - NOVEMBER 24 - DECEMBER 1, 1985 - "BIBLE WEEK IN ASHEVILLE"**

3. Mayor McDevitt read a proclamation proclaiming November 24 -

December 1, 1985, as "Bible Week in Asheville."

Mayor McDevitt presented a copy of the proclamation to Dr. Claude Frazier.

Dr. Frazier made comments relative to the proclamation.

**PROCLAMATION - NOVEMBER, 1985 - "ROTARY INTERNATIONAL MONTH"**

4. Mayor McDevitt proclaimed the month of November, 1985, as "Rotary International Month."

**PROCLAMATION - NOVEMBER, 1985 - "ALZHEIMER'S DISEASE AWARENESS MONTH"**

4a. Mayor McDevitt read a proclamation proclaiming the month of November, 1985, as "Alzheimer's Disease Awareness Month."

Mayor McDevitt presented a copy of the proclamation to Mrs. Sid Ezzell.

Mrs. Sid Ezzell said a local organization has an office in the Doctors Building for anyone who would like information relative to Alzheimer's Disease.

**RESOLUTION NO. 85-202 - RESOLUTION OF APPRECIATION TO ASSISTANT CHIEF JOHN W. PARRIS**

4b. Consideration was given to a resolution of appreciation to Assistant Chief John W. Parris.

Mayor McDevitt read the resolution stating that Assistant Chief Parris has faithfully served the City of Asheville since 1956, being promoted to Assistant Chief in 1978, and has requested retirement from his present post, effective July 1, 1985.

Upon motion of Councilman Boland, seconded by Councilman Bisette, Resolution No. 85-202 was unanimously adopted.

Complete text of Resolution No. 85-202 will be found in Resolution Book No. **15** at page **354**.

Mayor McDevitt presented a copy of the resolution to Assistant Chief John Parris.

#### **DONATION FROM LONG JOHN SILVER'S - MAYOR'S COMMITTEE FOR EMPLOYMENT OF THE HANDICAPPED COMMITTEE**

5. Mayor McDevitt introduced Mr. Tom Waller, Manager of Long John Silver's in Biltmore, and Gary Martin, Chairman of the Mayor's Committee for Employment of the Handicapped. He said Long John Silver's in Biltmore recently opened a new store, and he was invited to attend a ribbon cutting of the opening of the new store. He said since he was unable to attend, Vice-Mayor Bratton attended the ribbon cutting. He said Long John Silver's made a donation of \$200 to the Mayor's favorite charity. He said it was his decision to present the donation to the Mayor's Committee for Employment of the Handicapped.

Mayor McDevitt thanked Mr. Waller and Long John Silver's for their contribution to the Mayor's Committee for Employment of the Handicapped.

#### **SWEARING IN OF POLICE RESERVE OFFICERS - B. L. PENLEY - B. R. MARTIN - D. R. GALLAGHER - R. S. DUTCHER**

6. Mayor McDevitt, assisted by Lt. Mike Berry, swore in Police Reserve Officers B. L. Penley, B. R. Martin, D. R. Gallagher, and R. S. Dutcher.

Mayor McDevitt thanked these citizens for offering their time as Police Reserve Officers.

#### **PUBLIC HEARING - REZONING PROPERTY LOCATED AT #4 CLAIRMONT AVENUE**

#### **ORDINANCE NO. 1548 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED ON CLAIRMONT AVENUE (MR. TIM WILSON PETITION)**

7. A public hearing was held relative to rezoning property located at #4 Clairmont Avenue.

Mayor McDevitt said the Asheville Planning and Zoning Commission, at a meeting held October 2, 1985, considered the petition of Mr. Tim Wilson that Ward 9, Sheet 6, Lot 35, be rezoned from R-3 Residential District to CH Commercial Highway District. The property is located at #4 Clairmont Avenue. After review and discussion, the Commission voted to recommend to City Council that Lot 35 and Lot 34, Sheet 6, Ward 9, be rezoned from R-3 Residential District to CH Commercial Highway District.

Mayor McDevitt opened the public hearing at 4:33 p.m.

The Deputy 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 Asheville Planning and Zoning Commission had recommended the rezoning of Lot 35 and Lot 34 from R3 Residential District to CH Commercial Highway District. He said concerns were expressed relative to direct access onto Clairmont Avenue. He said Council could have the option of rezoning only a portion of Lot 35, leaving a 10-foot buffer zoned R3 Residential District to prohibit access onto Clairmont

Avenue.

Jim Groce, with the Citizens Home Center, said his company has the opportunity to purchase this property for expansion of their present business. He said they are not interested in access from Clairmont Avenue, mainly because Clairmont Avenue is a narrow street. He said the expansion would be used for a garden shop and parking.

A discussion was held relative to leaving a 10-foot buffer zoned R3 Residential District prohibiting the use of the property for commercial development.

Mayor McDevitt requested that Council excuse him from participation and voting on the rezoning of #4 Clairmont Avenue due to the fact that his law firm represents Mr. Groce, and he felt this would be a conflict of interest.

Councilman Bissette moved to excuse Mayor McDevitt from voting on the issue relative to rezoning property located at #4 Clairmont Avenue. This motion was seconded by Councilman Frank and carried unanimously.

Vice-Mayor Bratton took over the meeting.

Upon inquiry of Councilman Bissette, Mr. Emrick said during the Planning and Zoning Commission meeting, questions were only raised relative to clarification, and that no opposition had been expressed at the meeting.

Vice-Mayor Bratton closed the public hearing at 4:46 p.m.

Councilman Price moved for the adoption of Ordinance No. 1548, provided that a 10-foot buffer on Lot 35 remain zoned R3 Residential District. This motion was seconded by Councilman Boland.

On a roll call vote of 5-0, Ordinance No. 1548 passed on first reading.

### **PUBLIC HEARING - PHASE THREE OF THE HAZELWOOD SUBDIVISION - NORTH LOUISIANA AVENUE**

8. A public hearing was held relative to Phase Three of the Hazelwood Subdivision to be located on North Louisiana Avenue.

Vice-Mayor Bratton said the Asheville Planning and Zoning Commission, at a meeting held October 2, 1985, approved the final plat of Phase Three of the Hazelwood Subdivision to be located on North Louisiana Avenue. This plat was prepared by S. V. Griffith, R.L.S. for Frank McGahren and Walter Weiss, Developers, and submitted in accordance with Ordinance No. 424, as amended. The Commission approved the preliminary plat subject to compliance with the Erosion Control Ordinance.

Vice-Mayor Bratton opened the public hearing at 4:50 p.m.

The Deputy 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 all other phases of the Hazelwood Subdivision have received prior approval. He said the Planning and Zoning Commission had approved the preliminary plat of Phase Three of the Hazelwood Subdivision subject to compliance with the Erosion Control Ordinance.

A discussion was held, instituted by Councilman Price, relative to the subdivision not being subject to City Building Code requirements. She said she felt the subdivision should be provided with fire hydrants.

Walter Weiss, Developer of Hazelwood Subdivision, said the developers are not required to put in fire hydrants. He said he felt the fire pumper truck with the West Buncombe Volunteer Fire Department would be capable of taking care of any fires in the subdivision.

Councilman Boland said he concurred with Councilman Price that fire hydrants should be provided in a subdivision,

and he also felt that a fire pumper truck would not be sufficient to take care of a fire in a subdivision.

Vice-Mayor Bratton closed the public hearing at 4:56 p.m.

After discussion, Mayor McDevitt moved to defer action on Phase Three of the Hazelwood Subdivision until November 26, 1985, giving the developer an opportunity to review the possibility of installing fire hydrants in the subdivision. This motion was seconded by Councilman Boland and carried unanimously.

## **PUBLIC HEARING - REZONING REDWOOD FOREST SUBDIVISION AND SHAWNEE TRAIL**

### **ORDINANCE NO. 1549 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED IN REDWOOD FOREST AND SHAWNEE TRAIL AREA (MR. TED MORRIS AGENT)**

9. A public hearing was held relative to rezoning the Redwood Forest Subdivision and Shawnee Trail.

Mayor McDevitt resumed the Chair.

Mayor McDevitt said the Asheville Planning and Zoning Commission, at a meeting held October 2, 1985, reviewed and approved the petition of the residents of the Redwood Forest Subdivision and Shawnee Trail to rezone their property from R-2 Residential District to R-1 Residential District.

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

The Deputy 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 property requested to be rezoned contains 98 lots. He said there were 68 signatures of property owners in the area. He said if the property is rezoned, five lots would be nonconforming due to lot size, and 47 lots would be nonconforming due to width of the lots. He said the property requested to be rezoned has deed restrictions. He said objections to the rezoning had been received from Asheville Contracting Company, owner of Lot 18, through their attorney, George Saenger.

Gwen Radeker, Attorney representing Edwin Green, owner of 10.6 acres on Shawnee Trail, spoke in favor of the rezoning. He said the only access onto land on Shawnee Trail is through Redwood Forest.

Richard Schumacher, Attorney representing the Redwood Forest Subdivision, spoke in support of the rezoning, stating that the neighborhood has only one access road and cannot accommodate additional traffic. He said he felt that single family residential district is the best use for the land in Redwood Forest. He said that City Council also, in their adoption of the 1977 Land Use Plan, had stated that this area should be used strictly for single family residences. He said he did not feel Council should delay action on the rezoning pending recommendations from Alternatives for Asheville relative to a comprehensive plan for the City of Asheville.

Attorney George Saenger, representing Asheville Contracting Company, owner of Lot 18, said his client objected and protested to the proposed rezoning. He said his client owns property at the intersection of I-240 and Highway 70, property which was filled from materials from the I-240 cut. He said the property was filled and compacted for future use at State standards, and the property is not appropriate for R-1 zoning. He said his client does not object to other rezonings requested, but did object to their own property being rezoned. He requested that Council delete Lot 18 from the requested rezoning. He said he also feels Alternatives for Asheville recommendations will be important, and it is prudent for Council to listen to their recommendations.

Mayor McDevitt closed the public hearing at 5:26 p.m.

Vice-Mayor Bratton said she was thoroughly familiar with the area and would support the requested rezoning to R-1

Residential District.

Vice-Mayor Bratton moved for the adoption of Ordinance No. 1549. This motion was seconded by Councilman Boland.

On a roll call vote of 6-0, Ordinance No. 1549 passed on first reading.

**ORDINANCE NO. 1546 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" AS AMENDED - PROPERTY LOCATED ON CRAVEN STREET (MR. LAWRENCE LYNCH)**

10. Consideration was given to the second reading of Ordinance No. 1546, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended - property located on Craven Street (Mr. Lawrence Lynch petition).

Mayor McDevitt said the Asheville Planning and Zoning Commission, at a meeting held September 11, 1985, considered the petition of Mr. Lawrence Lynch that Ward 6, Sheet 1, Lot 91, be rezoned from R-3 Residential District to CS Commercial Service District. The property is located at Georgia Avenue and Craven Street. After review and discussion, the Commission voted to recommend to City Council that a portion of Lot 91, Sheet 1, Ward 6, be rezoned from R-3 Residential District to CS Commercial Service District. This ordinance passed on first reading on October 29, 1985.

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

On a roll call vote of 6-0, Ordinance No. 1546 passed on second reading.

**RESOLUTION NO. 85-203 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE AGREEMENT WITH THE ASHEVILLE MALL, INC., FOR LOCATING A TWO-WAY FM RADIO TRANSMITTER AT WHITE FAWN RESERVOIR**

11. Consideration was given to a resolution authorizing the City Manager to execute a lease agreement with the Asheville Mall, Inc., for locating a two-way FM radio transmitter at White Fawn Reservoir.

Mayor McDevitt said the City of Asheville owns and operates a two-way FM radio system under license from the Federal Communications Commission. These facilities and equipment are located at White Fawn Reservoir. The Asheville Mall, Inc., desires to locate a two-way FM radio transmitter and antenna at the White Fawn site. This resolution will authorize the City Manager to enter into a lease agreement on behalf of the City with The Asheville Mall, Inc.

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 Price, Resolution No. 85-203 was unanimously adopted.

Complete text of Resolution No. 85-203 will be found in Resolution Book No. 15 at page 355.

**RESOLUTION NO. 85-204 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND ENWRIGHT ASSOCIATES, INC., FOR THE DESIGN SERVICES FOR A MULTI-LEVEL PARKING DECK ON RANKIN AVENUE**

11. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville an agreement by and between the City of Asheville and Enwright Associates, Inc., for the design services for a multi-level parking deck on Rankin Avenue.

Mayor McDevitt said the Asheville City Council has decided to construct a multi-level parking structure on the site of the current municipal parking lots located on property bounded on the east by Rankin Avenue, on the north by Walnut Street and on the south by College Street. This resolution will authorize the Mayor to enter into an agreement with Enwright Associates, Inc., for the design and construction inspection of a multi-level deck parking structure on Rankin Avenue.

The consultant's design fee of \$111,000 plus reimbursable expenses of \$8,630 (total \$119,630) will be budgeted in the Downtown Redevelopment Fund/

Haywood Street Redevelopment Plan.

Upon inquiry of Ralph Bishop, Mayor McDevitt said the City of Asheville has not yet acquired the property on which the parking facility will be built.

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution No. 85-204 was unanimously adopted.

Complete text of Resolution No. 85-204 will be found in Resolution Book No. **15** at page **356**.

**RESOLUTION NO. 85-205 - RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO EXCHANGE CITY-OWNED PROPERTY KNOWN AS THE "SWAIN PROPERTY" LOCATED NORTH OF IRA B. JONES ELEMENTARY SCHOOL FOR THE EUGENE RANKIN ELEMENTARY SCHOOL TRACT OWNED BY THE ASHEVILLE CITY BOARD OF EDUCATION**

13. Consideration was given to a resolution authorizing the Mayor on behalf of the City of Asheville to execute any and all documents necessary to exchange City-owned property known as the "Swain Property" located north of Ira B. Jones Elementary School for the Eugene Rankin Elementary School tract owned by the Asheville City Board of Education.

Mayor McDevitt said Eugene Rankin Elementary School is property owned by the Asheville City Board of Education. The Board is of the opinion that the use of Eugene Rankin Elementary School property is neither necessary nor desirable for use by the Board for public school purposes. The City of Asheville owns property north of Ira B. Jones Elementary School which is known as the "Swain Property." The City no longer needs this property for its purposes and has determined that this property will most likely be needed by the Board for future expansion of Ira B. Jones Elementary School properties. This resolution will authorize the Mayor to execute any documents required for the exchange of these properties, said documents to be approved by the Corporation Counsel.

Mayor McDevitt also noted that a provision would be in the agreement that the Asheville City Board of Education shall be required to demolish and remove the existing buildings on the Rankin School property at its expense, with the City to provide trucks and truck drivers to haul off the debris from said demolition. He said the conveyance by the City to the Board of the Swain Property shall be by non-warranty deed which shall provide that title thereto shall revert to the City in the event the Board ceases to use the property for public school purposes.

Upon motion of Councilman Bissette, seconded by Councilman Boland, Resolution No. 85-205 was unanimously adopted.

Complete text of Resolution No. 85-205 will be found in Resolution Book No. **15** at page **357** and **358**.

**RESOLUTION NO. 85-206 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH CLEAR DAY, INC., FOR PROFESSIONAL WINDOW CLEANING SERVICES AND EXTERIOR CAULKING OF WINDOWS FOR THE CITY HALL BUILDING**

14. Consideration was given to a resolution authorizing the City Manager to enter into an agreement with Clear Day, Inc., for professional window cleaning services and exterior caulking of windows for the City Hall Building.

Mayor McDevitt said bid requests were sent to 26 prospective vendors with only two companies returning bids. Clear Day, Inc., is the lowest responsible bidder. This resolution will authorize the City Manager to enter into an agreement with Clear Day, Inc., to provide window cleaning service and exterior, caulking of windows for the City Hall Building.

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 Price, Resolution No. 85-206 was unanimously adopted.

Complete text of Resolution No. 85-206 will be found in Resolution Book No. 15 at page 359.

### **SCHEDULING PUBLIC HEARING - ZONING ORDINANCE AMENDMENT - RIDGE LAW AMENDMENT - DECEMBER 10, 1985**

15. Consideration was given to a motion to schedule a public hearing relative to amending the Zoning Ordinance for Ridge Law Amendments for

December 10, 1985.

Mayor McDevitt said at the regular meeting of the Asheville Planning and Zoning Commission held on November 13, 1985, the Commission recommended to Council the adoption of an Ordinance amending Chapter 30 of the Code of Ordinances of the City of Asheville to expand the coverage of the Mountain Ridge Protection Act of 1983 to prohibit tall buildings on all ridges 500 feet above the adjacent valley floor.

Councilman Price moved to schedule a public hearing relative to amending the Zoning Ordinance for Ridge Law Amendments for December 10, 1985. This motion was seconded by Councilman Frank and carried unanimously.

### **APPROVAL OF SIGN PERMIT - 800 FAIRVIEW ROAD - KENTUCKY FRIED CHICKEN**

16. Consideration was given to a motion relative to approving a sign permit for an identification sign at 800 Fairview Road.

Verl Emrick, Director of Planning, said Kentucky Fried Chicken has requested a sign permit to erect an identification sign at 800 Fairview Road advertising "Kentucky Fried Chicken." This sign requires approval of City Council pursuant to the Zoning Ordinance in that the sign will be situated closer than 600' of a limited access highway.

Upon inquiry of Councilman Boland, Councilman Price said Alternatives for Asheville will be addressing signs, both small and large billboards.

After discussion, Councilman Bissette moved to delay consideration of the sign permit until November 26, 1985. This motion was seconded by Councilman Price and carried unanimously.

Councilman Bissette requested that the parties involved in requesting the sign permit be notified that this matter will be discussed on November 26, 1985.

Councilman Price also requested that Quality Forward be notified that Council would be taking action relative to a sign permit at 800 Fairview Road.

### **RESOLUTION NO. 85-207 - RESOLUTION SUPPORTING THE DEPARTMENT OF INTERIOR'S PURCHASE OF PROPERTY ON HEMPHILL KNOB FOR THE HEADQUARTERS OF THE BLUE RIDGE PARKWAY**

17. Consideration was given to a resolution supporting the Department of Interior's purchase of property on Hemphill Knob for the Headquarters of the Blue Ridge Parkway.

Councilman Bissette read the resolution stating that the Blue Ridge Parkway management has found Asheville to be both a logical and desirable location for its permanent headquarters, and after a lengthy identification and evaluation process, a 81.66 acre tract on Hemphill Knob has been selected as the best possible location for a Blue Ridge Parkway Headquarters facility and visitor center in the Asheville area. He said this resolution will support the Department of Interior's purchase of this land for use as the Blue Ridge Parkway's permanent headquarters and would urge our representatives in the United States Congress to seek approval of the project.

Upon motion of Councilman Bissette, seconded by Councilman Price, Resolution No. 85-207 was unanimously adopted.

Complete text of Resolution No. 85-207 will be found in Resolution Book No. **15** at page **360**.

**RESOLUTION NO. 85-208 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO SELL SURPLUS MOTOR VEHICLES AT PUBLIC AUCTION**

18. Consideration was given to a resolution authorizing the Purchasing Director to sell surplus motor vehicles at a public auction.

Resolution No. 85-199, adopted October 29, 1985, authorized the disposal of 47 motor vehicles, and the City's Motor Transport Superintendent has identified seven additional vehicles as surplus property. He says this resolution will authorize the sell of the seven additional vehicles at the auction to be held on November 23, 1985.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-208 was unanimously adopted.

Complete text of Resolution No. 85-208 will be found in Resolution Book No. **15** at page **361**.

**CLAIMS - DAVEY TREE COMPANY (SANITATION) - STEVE HODGENS (WATER) - MARIE CANTRELL (WATER) - SOUTHERN BELL (WATER) - CYNTHIA MCFATTER (WATER) - A. R. RIDDLE (SEWER) - JOHN RAINES (SANITATION)**

The Acting City Manager presented claims received from Davey Tree Company, Steve Hodgens, Marie Cantrell, Southern Bell, Cynthia McFatter, A. R. Riddle, and John Raines.

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

**LAWSUIT - WADE HOWELL VS. CITY OF ASHEVILLE (SEWER BACKED UP)**

The Acting City Manager said the City was served with a summons relative to a lawsuit involving Wade Howell vs. City of Asheville (sewer backed up).

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

**AUTHORIZATION TO EXECUTE LETTER OF INDEMNIFICATION - USE OF LEGAL BUILDING AS HEADQUARTERS FOR THE "LIGHT UP YOUR HOLIDAYS" FESTIVAL FOR NOVEMBER 25 - DECEMBER 31, 1985**

20. Consideration was given to a motion authorizing the City Manager to sign a Letter of Indemnification with Pack Plaza Associates, Ltd., Partnership, for the use of the Legal Building as headquarters for the "Light Up Your Holidays" festival for November 25 - December 31, 1985.

Councilman Frank moved that the City Manager be authorized to execute a Letter of Indemnification to be given to Pack Plaza Associates, Ltd., Partnership, in order that the City may be able to use the Legal Building as headquarters for the "Light Up Your Holidays" festival for November 25 - December 31, 1985. This motion was seconded by Councilman Bissette and carried unanimously.

**RESOLUTION NO. 85-209 - RESOLUTION AUTHORIZING THE BLOCKING OF VEHICULAR TRAFFIC**



**ON PATTON AVENUE FROM BILTMORE AVENUE EAST TO COLLEGE STREET FROM 5:30 P.M. UNTIL 7:30 P.M. ON DECEMBER 1, 5, 12, AND 19, 1985 (FOR "LIGHT OF YOUR HOLIDAYS" FESTIVAL**

21. Consideration was given to a resolution authorizing the blocking of vehicular traffic on Patton Avenue from Biltmore Avenue east to College Street from 5:30 p.m. until 7:30 p.m. on December 1, 5, 12, and 19, 1985, for the "Light Up Your Holidays" festival.

The Corporation Counsel read the resolution stating that the "Light Up Your Holidays" festival will be held November 27 - December 31, 1985, in the City of Asheville and is coordinated by the Asheville Parks, Recreation and Public Facilities Department, the Asheville Area Chamber of Commerce, and the Western North Carolina Community Arts Council. He said the festival will be sponsoring four special public events including the premiere on December 1, 1985, and three other celebrations on December 5, 12, and 19 at Pack Square beginning at 6:00 p.m. He said for the safety of the participants, it is advisable to restrict vehicular traffic in the Pack Square area during the times these programs are in progress.

Upon motion of Councilman Price, seconded by Councilman Frank, Resolution No. 85-209 was unanimously adopted.

Complete text of Resolution No. 85-209 will be found in Resolution Book No. **15** at page **362**.

**RESOLUTION NO. 85-210 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN CONTRACT WITH ATTORNEY MAX O. COGBURN FOR LEGAL SERVICES IN CONNECTION WITH THE LAWSUIT FILED AGAINST THE CITY OF ASHEVILLE BY HARRY BRUMMER**

22. Consideration was given to a resolution authorizing the Mayor to sign a contract with Attorney Max O. Cogburn for legal services in connection with the lawsuit filed against the City of Asheville by Harry Brummer.

The Corporation Counsel read the resolution stating that Harry Brummer has appealed two decisions of the Board of Adjustments of the City of Asheville to the Superior Court. He said one of the actions is pending in Superior Court, and the other action has been concluded in Superior Court, but is on appeal to the North Carolina Court of Appeals. He said the City Council has decided, upon recommendation of the Corporation Counsel, to retain outside Counsel in connection with these proceedings. He said Max O. Cogburn has agreed to provide the necessary legal services.

Upon motion of Councilman Boland, seconded by Councilman Frank, Resolution No. 85-210 was unanimously adopted.

Complete text of Resolution No. 85-210 will be found in Resolution Book No. **15** at page **363**.

**ORDINANCE NO. 1550 - BUDGET ORDINANCE AMENDMENT TO PROVIDE FUNDING FOR COURT JUDGMENT IN WAYNE WARREN MATTER**

23. Consideration was given to a budget ordinance amendment to provide funding for a court judgment in the Wayne Warren matter in the amount of \$50,778.

Mayor McDevitt read the ordinance.

Vice-Mayor Bratton moved for the adoption of Ordinance No. 1550. This motion was seconded by Councilman Bisette.

On a roll call vote of 6-0, Ordinance No. 1550 passed on first and final reading.

Complete text of Ordinance No. 1550 will be found in Ordinance Book No. **10** at page **329**.

Attorney Lawrence Smith, representing Wayne Warren, requested that the funds to be paid to Wayne Warren be paid to him tomorrow on November 20, 1985. He said that the Corporation Counsel had stated that Mr. Warren would

receive his check the day following Council's action.

Corporation Counsel Slawter said he did not make such a statement, and the funds would be paid in due course and within a reasonable period of time.

Mayor McDevitt informed Attorney Smith that the City of Asheville would move timely on this issue. The Acting City Manager said the funds would be forwarded to Mr. Warren before the end of the week.

#### **APPROVAL OF SIGN PERMIT FOR SELF-STOWAWAY SIGN ON HAYWOOD ROAD**

24. Councilman Price moved to approve the sign permit to be located on Haywood Road for Stowaway Self-Storage with a height limitation of the sign being at 20 feet. This motion was seconded by Councilman Frank and carried unanimously.

#### **COMMENTS BY JIM CAIRNES - FLEA MARKET ON MONTFORD AVENUE - SIDEWALKS UNDER CONSTRUCTION ON BILTMORE AVENUE - PAVING CURBING ON WILSON ALLEY**

25. Jim Cairnes of 209 Cumberland Avenue spoke to members of Council relative to an on-going flea market at 200 Montford Avenue. He said the residents at 200 Montford Avenue sell every day of the week in their yard. He said it was his understanding that the Historic Resources Commission was to look into this situation, but to date, they have not.

Council instructed the Acting City Manager investigate this situation, and report back to Council next week.

Mr. Cairnes also spoke relative to the continued construction of sidewalks on Biltmore Avenue. He said it was his understanding that there was some problems with compaction in the area and lack of funds to complete the project. He said the sidewalk construction work had been stopped.

Mr. Cairnes also spoke relative to the curbing on Wilson Avenue. He said garbage trucks and delivery trucks could not travel the street without running up on the curb.

Mr. Cairnes also spoke relative to gambling and prostitution on Wilson Alley.

City Council instructed the Acting City Manager to investigate the problems mentioned by Mr. Cairnes, and report back to Council next week.

#### **COMMENTS BY COPPER COGGINS - RESOLUTION TO NORTH CAROLINA DAY CARE COMMISSION RELATIVE TO OBJECTIONS TO REINTRODUCTION OF CORPORAL PUNISHMENT INTO DAY CARE CENTERS IN NORTH CAROLINA**

26. Copper Coggins spoke to members of Council seeking their support of a resolution urging the North Carolina Day Care Commission to stand firm against the reintroduction of corporal punishment into any day care center in North Carolina in any guise. She requested that Council adopt a resolution at today's meeting so it could be sent to the North Carolina Day Care Center Commission for action on Wednesday.

It was the consensus of the members of Council that resolutions of this nature should be placed on the agenda prior to the meeting date in order that consideration could be given to the resolution prior to the meeting. It was noted that members of Council did not know enough about the requested action to commit the City at this time. It was felt that to take action at today's meeting would be setting a very bad precedent in matters that need Council's careful consideration.

#### **COMMENTS RELATIVE TO BIDS ON 12" SEWER LINE FOR HAW CREEK**

27. Garland Terry, with Terry Brothers Construction Company, appeared before Council, along with other contractors and suppliers in the area to protest the rebidding of the 12" Sewer Line Project in Haw Creek. Mr. Terry said he felt

this was a rush job, and his company was second low bidder on both bids. He said that his company had been treated unfairly. He said at the

first bidding, the low bidder had made an error in his bid, and Terry Brothers Construction was second low bidder. He said he tried to talk to Mr. Huff, Director of Water & Sewer Services, stating that the Code of Ethics would provide that the second low bidder receive the award of the bid. He said

Mr. Huff was very upset with him for requesting this action. He said there was a lot of misunderstandings in this bid process. Mr. Terry said he was also second low bidder at the second bid opening. He said he would protest the awarding of the contract to the low bidder and hoped that Council would award the contract to Terry Brothers Construction Company due to the fact that this would morally be correct.

Mr. Terry introduced the other contractors in attendance at the meeting, all of which concurred with Mr. Terry's comments.

Gary Meece, with Taylor-Murphy Construction Company, said he also felt that Terry Brothers Construction Company should be awarded the contract because during the first bidding process, Terry Brothers had put in a good faith bid. He said this is the first time that a bid has been processed in this manner. He said if a low bidder forfeits his bond, it is customary to automatically award the bid to the second low bidder. He said the project was readvertised without alterations in the design of the project.

Jesse Jayne, with Supply Specialties, said he felt the bid on the Haw Creek Sewer Line Project was mishandled. He said he felt Terry Brothers Construction Company had been done an injustice. He requested that Council award the bid to Terry Brothers Construction Company, and that Council members give this matter strong consideration prior to awarding the bids on November 26, 1985.

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

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

#### **BARRY OWEN - PROPERTY OWNER DOWNTOWN - COMMENTS RELATIVE TO PROPOSED BUS TERMINAL ON LEXINGTON AVENUE**

Barry Owen, property owner in downtown Asheville, spoke in opposition to the proposed bus terminal on Lexington Avenue.

Mr. Owen was informed that the zoning permit for the bus terminal on Lexington Avenue had been revoked.

Mr. Owen said Council should be very careful in the placement of a bus terminal in the downtown area due to the element of people that hang around bus terminals.

Mr. Owen also requested that Council look into the drug trafficking in the area of Biltmore Avenue.

#### **EXECUTIVE SESSION - AJOURNMENT**

Upon motion of Councilman Price, seconded by Councilman Frank, the meeting adjourned to Executive Session at 7:15 p.m.

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MAYOR CITY CLERK

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