

Tuesday - January 21, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor Louis Bisette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Norma Price, Kenneth Michalove, and George Tisdale; Corporation Counsel William Slawter; Acting City Manager William F. Wolcott, Jr.; Deputy City Clerk Carol Hensley.

Absent: Councilman Walter R. Boland

## **INVOCATION**

The invocation was given by Councilman George Tisdale.

## **APPROVAL OF THE MINUTES - JANUARY 14, 1986 MEETING**

1. Approval of the minutes of the January 14, 1986 meeting.

Mayor Bisette announced the approval of the minutes as submitted.

## **RESOLUTION NO. 86-8 - RESOLUTION OBJECTING TO THE SELECTION OF BUNCOMBE COUNTY AS A SITE FOR THE DUMPING OF NUCLEAR WASTE**

1A. Consideration was given to a resolution objecting to the selection of Buncombe County as a site for the dumping of nuclear waste.

Mayor Bisette read the resolution.

Upon motion of Councilman Price, seconded by Councilman Bratton, Resolution No. 86-8 was unanimously adopted.

Complete text of Resolution No. 86-8 will be found in Resolution Book No. **15** at page **416** and **417**.

Councilman Price noted that even though the selection of the site was in the future, the idea of selecting a site in Buncombe County is damaging to our community. She requested that the letters indicating objection to the site for the repository of nuclear waste being in Buncombe County insist that the community be notified that Buncombe County would not be considered as a site as expeditiously as possible.

## **LETTER TO ASHEVILLE CABLEVISION**

Mayor Bisette read the following letter relative to Asheville Cablevision:

January 20, 1986

Mr. Michael P. McPhee

Asheville Cablevision

172 Charlotte Street

Asheville, NC 28801

Dear Mr. McPhee:

On October 22, 1985, the City of Asheville notified you by letter from Larry McDevitt, Mayor, that Asheville Cablevision was in default under Section 20 of its franchise agreement with the City. You were

further notified that if you failed to commence corrections within

sixty (60) days of receipt of this notice and failed to complete corrections within a reasonable time thereafter, the City Council of the City of Asheville would consider revoking and declaring forfeited the franchise agreement and all of Asheville Cablevision's rights thereunder.

On December 17, 1985, you presented to the Asheville City Council a report responding to the City's notification of default. This report included a customer service survey dated December, 1985, and a signal analysis prepared by Warren L. Braun, dated December 12, 1985. These reports were supplemented by a further presentation to City Council by Michael P. McPhee on January 7, 1985 and an update on the previously submitted customer service survey.

A public hearing was held by the Asheville City Council on January 7, 1986 and comments were taken from members of the public, as well as members of the Asheville-Buncombe Cable Television Committee.

Based upon the foregoing evidence, the Asheville City Council hereby acknowledges the commencement of corrections as requested in our notice of default to you, dated October 22, 1985. It appears that Asheville Cablevision has made an effort to improve its service to the residents of the City by addressing the following problems:

1. Excessive service interruptions and outage problems.
2. Poor signal quality and reception.
3. Inadequate service response to the above mentioned problems.

It is much more difficult based upon the evidence received by the City Council to make a final determination at this time as to whether the corrections required have been completed. Therefore, the City of Asheville will continue to monitor on a regular basis the service being provided to the citizens of Asheville under Asheville Cable-

vision's franchise agreement. We propose to monitor this performance through the use of a newly constituted cable television commission. This commission will be named by the City Council and will include a representative from the City Council, the General Manager of Asheville Cablevision, the Chairman of the Asheville-Buncombe Cable Television Committee and two additional representatives from the community to be named by the City Council. It will be the responsibility of this newly constituted commission to monitor Asheville Cablevision's compliance with the terms of its franchise agreement and to provide regular communications between Asheville Cablevision and the City of Asheville.

In addition, the City of Asheville shall renew its request to the Federal Communications Commission for the completion of the investigation which has been requested by the City of Asheville.

Although it is apparent that Asheville Cablevision is making an effort to address many of the service problems which have occurred in the past, Asheville Cablevision has made no significant effort to address the complaints of the citizens of the City of Asheville and

the Asheville City Council regarding the quality of programming

provided on its basic service tier. In our opinion, the programming provided by Asheville Cablevision on its basic service tier is inferior to that provided by other cablevision companies operating in our geographical area. Asheville Cablevision's basic service tier excludes ESPN, WTBS, WGN, and other popular stations carried on the basic tiers of neighboring cablevision companies. It is our hope that you will improve the programming provided on your basic service tier so that it will be comparable with other cablevision companies operating in this area.

Very truly yours,

## ASHEVILLE CITY COUNCIL

Louis Bisette

Mayor

LB/cah

cc: Wade H. Hargrove, Attorney for Asheville Cablevision

Max O. Cogburn, Attorney for Asheville Cablevision

Members of the Asheville City Council

Vice-Mayor Frank moved that the Mayor proceed with providing Asheville Cablevision with the above letter. This motion was seconded by Councilman Tisdale and carried unanimously.

Councilman Bratton said she was still concerned with the number of calls and inquiries she receives relative to the programming on the basic service. She requested that Asheville Cablevision continue to look into changing their programming on the basic service and restoring ESPN to the basic tier.

Councilman Tisdale noted that the program scheduling by Asheville Cablevision is not something the Asheville City Council can regulate.

Ralph Bishop said he felt Asheville should invite other cable companies to do business in the City of Asheville.

Mike McPhee, with Asheville Cablevision, said they would continue to look at their basic service programming, and the value of the Reception and Information service. He said he could not make a commitment to put the programs excluded from the basic service in March back on the basic service. He said Asheville Cablevision could no longer afford to carry these high priced programs on the basic service tier. He said Asheville Cablevision is committed to doing everything they can to prove they are a very good company for the City of Asheville.

### **CONTINUATION OF PUBLIC HEARING - GROUP DEVELOPMENT REVIEW - BUCK COVE DEVELOPMENT**

2. A public hearing relative to a group development review for the Buck Cove Development was continued.

Mayor Bisette said the Asheville Planning and Zoning Commission, at a meeting held November 13, 1985, reviewed the site plan of the proposed Buck Cove Development (Townhouses) to be located on Old Chunns Cove Road. The site

plan was prepared by Dobson Engineering and Associates for Mr. Larry Buckner, Developer, 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 the following conditions: 1) that the street be constructed to an average grade of 15% and a maximum grade of 20%; 2) that the project comply with the Erosion Control Ordinance and that the final plans be shown with 2' contours instead of 5'. This public hearing was opened on December 17, 1985, and continued until January 7, 1986. On January 7, 1986, the developers requested that the public hearing be continued until January 21, 1986.

Councilman Michalove said since it is his understanding that the developer has not yet complied with the Erosion Control Ordinance and our Engineering Division is not satisfied with the plans presented, he would move to continue the public hearing until such information is received by the Engineering Division. This motion was seconded by Councilman Frank.

Councilman Tisdale said he had visited the site of the proposed Buck Cove Development, and felt the developer had complied with all conditions except the Erosion Control Ordinance. He said the City staff would have control over not issuing the permit for the Buck Cove Development until the Erosion Control Plan is in order.

Larry Buckner, Developer of the Buck Cove Development, in response to questions from members of Council, said that he did not start work on construction of the Buck Cove Development as indicated. He said they had started construction and grading of a road. He said they had built one 4-unit building that did not require approval under the Group Development regulations.

Verl Emrick, Director of Planning, in response to questions from members of Council, said no one had spoken in opposition to the Buck Cove Development at the Planning and Zoning Commission meeting. He said Council could approve the Buck Cove Development contingent upon the Erosion Control Plan being approved. He did say, however, that grading is not allowed by a developer prior to Council approving a Group Development Plan.

A discussion was held relative to a misunderstanding between the City staff and the developer for approval of the project.

Mayor Bissette said the Erosion Control Plan could administratively be approved before a building permit is issued for construction of the project.

After discussion, Councilman Michalove's motion to continue the public hearing was unanimously opposed.

Verl Emrick, Director of Planning, proceeded to review the details of the Buck Cove Development. He said five buildings, with four units each, would be constructed in phases. He said water and sewer, parking, and police and fire services are adequate for development. He said the developer had complied with all conditions outlined by the Planning and Zoning Commission except for the Erosion Control Plan.

Upon inquiry of Councilman Michalove, Mr. Buckner said he felt the Erosion Control Plan could be submitted to the Engineering Division within the next two weeks.

After discussion, Mayor Bissette closed the public hearing at 5:10 p.m.

Councilman Tisdale moved to approve the Group Development Plan for the Buck Cove Development subject to the conditions outlined by the Planning and Zoning Commission, and further that the City staff report back to Council within two weeks relative to the Erosion Control Plan for the Buck Cove Project. This motion was seconded by Councilman Bratton and carried unanimously.

### **ORDINANCE NO. 1566 - AN ORDINANCE AMENDING SECTION 28 - 81.6 OF ARTICLE IV, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE**

3. Consideration was given to an ordinance amending Section 28 - 81.6 of Article IV, Speed Regulations, of Chapter 28 of the Code of Ordinances of the City of Asheville.

Mayor Bissette said this ordinance establishes a municipal ordinance declaring a 45 mph speed limit on South Charlotte Street and rescinds the existing 45 mph speed limit on South Tunnel Road (Speed Limit reverts to statutory 35 mph). This is a concurring ordinance with the North Carolina Department of Transportation.

Mayor Bissette said this ordinance was previously presented to members of Council and would not be read in its entirety unless there was a specific request to do so.

Councilman Price moved for the adoption of Ordinance No. 1566. This motion was seconded by Councilman Michalove.

On a roll call vote of 6-0, Ordinance No. 1566 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1566. This motion was seconded by Councilman Tisdale and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1566 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1566. This motion was seconded by Councilman Tisdale and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1566 passed on third and final reading.

Complete text of Ordinance No. 1566 will be found in Ordinance Book No. **10** at page **357**.

**ORDINANCE NO. 1567 - AN ORDINANCE REPEALING ORDINANCE NO. 1287 KNOWN AS AN ORDINANCE ESTABLISHING THE ASHEVILLE DOWNTOWN COMMISSION AND IN LIEU THEREOF A NEW ORDINANCE BE ADOPTED**

4. Consideration was given to an ordinance repealing Ordinance No. 1287 known as an ordinance establishing the Asheville Downtown Commission and in lieu thereof a new ordinance be adopted.

Mayor Bisette said this amendment will change the composition, powers and purpose of the Asheville Downtown Commission.

Verl Emrick, Director of Planning, said the proposed ordinance had been reviewed and approved by the current Asheville Downtown Commission. He reviewed the details of the proposed ordinance stating that the composition of the members would change from seven versus the current eleven members.

Mayor Bisette said this ordinance was previously presented to members of Council and would not be read in its entirety unless there was a specific request to do so.

Vice-Mayor Frank moved for the adoption of Ordinance No. 1567. This motion was seconded by Councilman Michalove.

On a roll call vote of 6-0, Ordinance No. 1567 passed on first reading.

**ORDINANCE NO. 1563 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED (WORDING AMENDMENTS - ARTICLE 2. DEFINITIONS, SECTION 30-2-1. GENERAL, ARTICLE 6. SECTION 30-6-1. GROUP DEVELOPMENTS/PLANNED UNIT DEVELOPMENTS)**

5. Consideration was given to the third reading of Ordinance No. 1563, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the Zoning of the City of Asheville," as amended (Wording Amendments - Article 2. Definitions, Section 30-2-1. General, Article 6. Section 30-6-1. Group Developments/Planned Unit Developments).

Mayor Bisette said this ordinance will amend the zoning ordinance to provide that any mobile home park, camper-trailer park, or any multi-family residential building or structure containing three (3) or more individual units will require approval pursuant to Group Developments/Planned Unit Developments. This ordinance passed on first reading on January 7, 1986 and on second reading on January 14, 1986.

Mayor Bisette 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 6-0, Ordinance No. 1563 passed on third and final reading.

Complete text of Ordinance No. 1563 will be found in Ordinance Book No. **10** at page **353** and **354**.

**RESOLUTION NO. 86-9 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN EASEMENT AGREEMENT WITH THE UNITED STATES OF AMERICA, U.S. FOREST SERVICE, DEPARTMENT OF AGRICULTURE**

6. Consideration was given to a resolution authorizing the City Manager to execute an easement agreement with the United States of America, U.S. Forest Service, Department of Agriculture.

Mayor Bisette 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.

Upon motion of Councilman Price, seconded by Vice-Mayor Frank, Resolution No. 86-9 was unanimously adopted.

Complete text of Resolution No. 86-9 will be found in Resolution Book No. **15** at page **418**.

**RESOLUTION NO. 86-10 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A CONTRACT ON BEHALF OF THE CITY OF ASHEVILLE WITH TERRY BROTHERS CONSTRUCTION COMPANY, INC. FOR THE PROJECT KNOWN AS BEVERLY ROAD SEWER LINE IMPROVEMENTS, CONTRACT NO. E-033/W-012/85**

7. Consideration was given to a resolution authorizing the Mayor to sign a contract on behalf of the City of Asheville with Terry Brothers Construction Company, Inc. for the project known as Beverly Road Sewer Line Improvements, Inc., Contract No. E-033/W-012/85.

Mayor Bisette said bids were solicited for the project known as the Beverly Road Sewer Line Improvements. The project includes installation of approximately 1409 linear feet of eight inch (8") diameter sewer line, nine (9) manholes and associated appurtenances. Installation and materials will conform to plans and specifications issued by the City of Asheville. This resolution will authorize the Mayor to execute a contract with Terry Brothers Construction Company, Inc., the lowest responsible bidder, for Beverly Road Sewer Line improvements project and any change orders for the contract. Cost to be incurred by the Water and Sewer Services Department and Public Works Department. Water and Sewer Services Department share equals \$31,106.64 and Public Works Department share equals \$4,825.00. Funds are budgeted in the Capital construction (33) fund.

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

Upon motion of Councilman Michalove, seconded by Vice-Mayor Frank, Resolution No. 86-10 was unanimously adopted.

Complete text of Resolution No. 86-10 will be found in Resolution Book No. **15** at page **419**.

**RESOLUTION NO. 86-11 - RESOLUTION AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ASHEVILLE TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE ASHEVILLE/BUNCOMBE WATER AUTHORITY**

8. 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 the Asheville/Buncombe Water Authority.

Mayor Bisette said this resolution will authorize the Mayor to execute an agreement between the City and the Asheville/Buncombe Water Authority for certain expenses associated with a watershed management plan which would generate income from timber sales at North Fork Reservoir. The Fiscal 1986-87 budget will include revenues from timber sales estimated to be \$93,500. The estimated cost of the timber management program will be \$30,000.

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

Councilman Michalove said it was his recollection that the Water Agreement was carefully written to exclude the City of Asheville participating in costs such as this.

In response to Councilman Michalove's concern, Corporation Counsel Slawter said such provisions that the City of Asheville would not incur expenses with timber sales was not incorporated into the written Water Agreement. He said evidently that was a silent agreement.

A discussion was held relative to the need for a timber management program at the watershed.

A discussion was also held relative to including a 180 day termination provision in the agreement.

Councilman Bratton moved for the adoption of Resolution No. 86-11 and to amend the agreement to include a 180 day termination provision. This motion was seconded by Vice-Mayor Frank and carried on a voice vote of 5-1 with Councilman Michalove voting "no".

Complete text of Resolution No. 86-11 will be found in Resolution Book No. **10** at page **420**.

### **RESOLUTION NO. 86-12 - RESOLUTION CORRECTING EXPIRATION DATE OF MEMBER'S TERM TO THE ASHEVILLE REGIONAL AIRPORT AUTHORITY**

9. Consideration was given to a resolution correcting expiration date of member's term to the Asheville Regional Airport Authority.

Mayor Bissette said Resolution 83-219 adopted on December 20, 1983 provided that Harold C. Enloe was reappointed as a member of the Asheville Regional Airport Authority to serve a term of four years, expiring December 15, 1987. Pursuant to the November 29, 1979, Agreement between the County of Buncombe and the City of Asheville creating the Asheville Regional Airport Authority, the terms of its members are to expire on June 30. The second term of Harold C. Enloe as a member of the Authority is to expire on June 30, 1988 or at such date as his successor is duly appointed and qualified.

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

Upon motion of Vice-Mayor Frank, seconded by Councilman Michalove, Resolution No. 86-12 was unanimously adopted.

Complete text of Resolution No. 86-12 will be found in Resolution Book No. **15** at page **421**.

### **BIDS - ANNUAL CONTRACT FOR BITUMINOUS CONCRETE MATERIALS (ASPHALT)**

10. Consideration was given to a motion relative to bids received for an annual contract for bituminous concrete materials.

Mayor Bissette said sealed bids were received for a term purchase contract to furnish the City's annual requirement for Bituminous Concrete Materials (asphalt) for force account resurfacing and street repair. One bid was received. A market survey was conducted and the bid price was found to be consistent with other cities and the state's current costs. Clark Brown, Director of Public Works, recommends the acceptance of the bid submitted by APAC-Carolina in the total amount of \$161,737.50. Purchases will be made as required. Funding is budgeted in the Public Work's Department operating and capital budgets.

Councilman Price moved to award the bid for bituminous concrete materials to APAC-Carolina in the total amount of \$161,737.50. This motion was seconded by Councilman Tisdale and carried unanimously.

### **BIDS - VEHICLES FOR POLICE DEPARTMENT AND PUBLIC WORKS DEPARTMENT**

11. Consideration was given to a motion relative to bids received for vehicles for the Asheville Police Department and the Public Works Department.

Mayor Bissette said sealed bids were invited to furnish twelve (12) Patrol (blue and white) and (8) Unmarked Police

Vehicles for the Police Department; (1) 1/2 ton pick-up truck and (1) 3/4-ton, four-wheel drive pick-up truck for Public Works, Street Division; and (2) 1/2-ton pick-up trucks for Public Works, Sanitation Division. Three (3) bids were received. All award recommendations are made to the low bidder for each item, all of which have the lowest energy efficient cost meeting specification requirements. Total Awards - \$261,832.54. Matthews Ford, Inc. - \$236,983.00 and Apple Tree Chevrolet, Inc. - \$24,849.54. Funds for these purchases will come from the Police Department and Public Works Department Capital Equipment appropriations for FY 85-86.

Councilman Michalove moved to accept the bids as recommended for the vehicles for the Police Department and the Public Works Department awarding Matthews Ford, Inc. a total amount of \$263,983.00 and Apple Tree Chevrolet, Inc. \$24,849.54. This motion was seconded by Councilman Price and carried unanimously.

**CLAIMS - CAROL'S CABINET CENTER (WATER) - BRENDA HANCOCK (WATER)**

The Acting City Manager presented claims received from Carol's Cabinet Center and Brenda Hancock.

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

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