

Tuesday - June 17, 1986 - 4:00 p.m.

Regular Meeting

Present: Mayor W. Louis Bissette, Presiding; Vice-Mayor Mary Lloyd Frank; Councilmen Wilhelmina Bratton, Walter R. Boland; Kenneth M. Michalove, Norma T. Price, and George M. Tisdale; Acting Corporation Counsel Patsy Brison; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Corporation Counsel William F. Slawter.

INVOCATION

The invocation was given by Mayor Louis Bissette.

APPROVAL OF THE MINUTES - JUNE 10, 1986 MEETING

1. Consideration was given to the approval of the minutes of the June 10, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

RESOLUTION NO. 86-101 - RESOLUTION OF APPRECIATION TO WILLIAM ROGER WILLIAMS

2. Consideration was given to a resolution of appreciation to William Roger Williams.

Mayor Bissette said William Roger Williams has served the City of Asheville Water and Sewer Services Department since June 1, 1959. Since that time, Roger Williams has contributed generously of himself in the service of his fellow citizens through the work of the Water and Sewer Services Department, and has helped to make the City of Asheville and Buncombe County a better place in which to live.

Upon motion of Councilman Price, seconded by Councilman Michalove, Resolution No. 86-101 was unanimously adopted.

Mayor Bissette presented the resolution to Roger Williams.

Complete text of Resolution No. 86-101 will be found in Resolution Book No. 16 at Page 29.

RESOLUTION NO. 86-102 - RESOLUTION OF COMMENDATION TO MRS. MILDRED MORRIS AND FAMILY

2a. Consideration was given to a resolution of commendation to Mrs. Mildred Morris and family.

Mayor Bissette said the American Family Society sponsors and coordinates an annual Great American Family Awards Program, and Mrs. Mildred Morris and family was chosen as one of the six great American families honored by Mrs. Reagan at the White House on June 10, 1986. He said Mrs. Morris has been a single parent to a dozen children, two of her own and ten foster children, known as "a second mother" rather than a "foster parent".

He said Mrs. Morris actively serves her community through the participation in such organizations as the Commission of the Status of Women, the Planning Committee of the Department of Social Services, the Asheville Day Nursery, and the United Methodist Church. He said this resolution commends Mrs. Morris and her family for outstanding accomplishments in upholding traditional values and for receiving the well-deserved honor of the Great American Family award, and expresses Council's sincere appreciation for their valuable service to our community.

Upon motion of Councilman Bratton, seconded by Councilman Tisdale, Resolution No. 86-102 was unanimously adopted.

Complete text of Resolution No. 86-102 will be found in Resolution Book No. 16 at Page 30.

Mayor Bissette presented the Resolution to Mrs. Morris and her family.

PUBLIC HEARING - SITE PLAN OF SUNSET POINTE CONDOMINIUMS - TOWN MOUNTAIN ROAD

3. A public hearing was held relative to a site plan of the Sunset Pointe Condominiums to be located on Town Mountain Road.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held May 14, 1986, reviewed the site plan of Sunset Pointe Condominiums to be located on Town Mountain Road. The site plan was submitted by Freeman, Wells, and Major, Architects, Greenville, S. C. for W. R. Martin Corporation, Developer, in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to: 1) extension of 6" water line 200' north toward existing apartments and addition of one fire hydrant; and 2) compliance with Erosion Control Ordinance.

Mayor Bissette 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 Asheville Planning and Zoning Commission had reviewed the site plan of the Sunset Pointe Condominiums and recommended approval subject to the two conditions outlined by Mayor Bissette. He said the developer and the Planning staff have reviewed the plans for the proposed project and finds them to be in conformity with Ordinance No. 1558 relative to protected ridges and Ordinance No. 1554, restricting heights to 40 feet. He said the project complies with both ordinances. By the use of a map, Mr. Emrick showed the project to be in compliance with the ordinances. He said the project would be composed of 48 units, constructed on 21 acres. He said 7 acres will be used for the construction site. He said water and sewer lines are available, however, some lines below the project would have to be replaced or upgraded at the expense of the developer. He said the developer would be

providing a 200,000 gallon reservoir which would be used solely for fire protection. He said the developers have submitted plans to the City Engineering Department for erosion control, and approval of the plans is anticipated within two weeks. He said under State statutes, a developer cannot create or exceed more water runoff than is currently existing. He said the developer intends to provide additional retention ponds to take care of any additional runoffs created by the project.

Alfred Adams, Attorney, representing W. R. Martin Corporation, Developer, spoke in support of the project. He said the developer submitted plans a year ago which were denied. He said after months of discussion and revamping, and downscaling of the project, his client had received approval by the Planning and Zoning Commission of the project. He said, in his opinion, the project will enhance the tax base of the City of Asheville, and provide reasonable growth needed in the City. He said the total project is in compliance with the permitted use of the land, and to table or postpone action on the site plan would not be consistent with the developers intent nor with the neighborhood. He said the developer would comply with all laws relative to storm drainage, and would receive approval from the City Engineering Division for erosion control plans prior to beginning the project.

Allan Freeman, Architect for the project, spoke in support of the project, and outlined the details of the construction phase. He said parking would be provided on the top ridge of the mountain, and the entrance would be by the use of a bridge.

Representing the Grove Park Sunset Citizens Association, John Coli of 314 Town Mountain Road, spoke in opposition to the project. He said the proposed project is not in compliance with the Land Development Plan, Phase II, Land Use and Growth, adopted by Asheville City Council on August 4, 1977. He said the plan adopted in 1977 was still in effect and in force. He said the plan provides policies for guiding future growth by elected officials.

Francis Manley of 310 Town Mountain Road spoke in opposition to the project, stating that the residents on Town

Mountain Road have no storm sewer system, and water is dumped on private properties, causing serious problems. He also referred to the 1977 plan and referred to a soil map and a policy set forth in the plan to discourage development on slopes 25% or greater. He further referred to a map of existing and future land use recommending single family residential use. He said when the developers of the proposed project cleared off trees and undergrowth, this caused additional problems to the private properties. He said when the project is completed, runoff problems will be compounded. He said it was his understanding that the City of Asheville has not allocated money for improvements in the City of Asheville for storm drainage. He requested that Council disapprove the project due to existing serious storm drainage problems, traffic congestion on narrow Town Mountain Road, in addition to being an eyesore and an insult to the environment.

Kenneth Pankow, with Pankow Engineering Company, said he was hired by the Grove Park Sunset Citizens Association to review the plans of the proposed project from a professional standpoint. He said in reviewing the plans, he found problems in erosion control. He said one of the guidelines of the Group Development Ordinance is to ensure safe and adequate storm drainage. He said there would be problems with storm water drainage, mainly

because of the very steep slopes involved in the project. He said he understood that another, or a final set of plans, had been submitted to the City Engineering Division for erosion control, but the plans could not be obtained, therefore, the residents had no assurance of safe and adequate drainage control. He also questioned the density of the units per acre for the proposed project. He said, in his opinion, the project does not meet the requirements of the Protected Ridge Law.

Mr. John Coli again spoke to members of Council, requesting that Council disapprove the project on the basis that it is not compatible with the 1977 Land Use Plan, adopted by Council, and the incompleteness of the project due to storm drainage in the area.

Jasmin Gentling of 241 Old Toll Road spoke against the project due to the increased possibility of storm drainage damage. She showed members of Council photographs of damage that had already been done due to erosion control in the area.

Barbara Malloy of 107 Evelyn Place, President of the Grove Park Sunset Citizens Association, also spoke in opposition of the project.

Jerry Hobbs of 106 Old Toll Road spoke in opposition to the project. He stated that he has sustained property damage due to storm water run-off since the cutting of trees on the proposed site.

Loren Wells of 710 Town Mountain Road, owner of "Overlook Castle" spoke in opposition to the project and presented a letter from Dr. William Highsmith regarding restrictive covenants on the proposed site.

Mrs. Wells of 710 Town Mountain Road spoke in opposition to the project, stating that this would have a great effect on the "Overlook Castle" that they had remodeled, and that "Overlook Castle" is on the National Historic Register and is a Local Historic District.

Dorothy Davis-Dodge of 155 Patton Mountain Road spoke in opposition to the project, stating that this project would be an insult to the environment of the neighborhood.

Brainard Rorison of 1 Crestwood Road spoke in opposition to the project.

Mrs. Scully of 17 Bluebriar Road spoke in opposition to the project, citing problems with drainage.

Patricia Davies, of 362 Town Mountain Road spoke in opposition to the project, noting that this would increase the traffic congestion on Town Mountain Road.

Alfred Adams, Attorney, representing the developer, again spoke to members of Council relative to approval of the project, stating that the proposed structure would be in compliance with all local and state laws. He said the units would be in breaks, and would be staggered, and built around the base of the mountain, using 2½ acres of the property

for construction, and would enhance the neighborhood.

William Martin of W. R. Martin Corporation spoke in support of the project.

George Jensen, with Jensen Engineering Company, said the present City ordinance does not require developers to install stormwater retention ponds. However, the developer would be installing these retention ponds, and the erosion control plans were submitted to the City Engineering Department on June 16, 1986.

After discussion, Mayor Bisette closed the public hearing at 6:03 p.m.

Councilman Michalove commented that members of Council should consider many facets of this project, including the zoning plan mentioned by John Coli, and the legal requirements of Council relative to the project. However, Council members also need to make many determinations about the project, questioning whether or not the Planning and Zoning Commission considered the Land Use Plan adopted by City Council in 1977. He said he felt there were two types of storm drainage problems on Town Mountain Road due to buildings and homes on the mountain. He said members of Council should review and study this project, plus the overall area. He said he would also like to review the cross-section drawings of the proposed project as to what it would look like on the mountain. He said members of Council should review and take action on the proposed buffering ordinance and the mountainside zoning ordinance as it relates to this type project. He said he would also like to see formal correspondence from the Fire Chief and the Director of Water and Sewer Services regarding this project. He said he felt the proposed plans for the project were weak in the forms of buffering and storm drainage.

Councilman Boland agreed with Councilman Michalove and said aesthetics are also involved in this project, and Council members should look closely at the storm water drainage problems.

Vice-Mayor Frank said she would also be interested in reviewing the proposed mountainside zoning ordinance as it relates to these type projects.

Councilman Price said she could not support the project because it would have an important visual impact on the mountain, and before she could support the project, she would have to determine if it would be in harmony with the area.

Councilman Tisdale moved to postpone action on the site plan for Sunset Pointe Condominiums until members of Council could see the report from City Engineering Department relative to the erosion control plan and other questions relative to the project are answered, indicating that Council take action on the proposed project on July 1, 1986. This motion died for the lack of a second.

Councilman Price then moved that the site plan for the Sunset Pointe Condominiums be denied, stating that the plans did not meet the intent of the group development section of the Zoning Ordinance. This motion also died for the lack of a second.

Councilman Michalove moved to impose a moratorium on multi-family dwellings in all areas that may be affected by the proposed mountainside zoning ordinance. This motion was seconded by Councilman Boland.

Acting Corporation Counsel Patsy Brison said Councilman Michalove's motion was out of order since members of Council must hold a public hearing and pass an ordinance relative to moratoriums, and also members of Council were strictly considering the site plan of the Sunset Pointe Condominiums at this time.

Councilman Michalove then moved to schedule a public hearing for a six-month moratorium on multi-family development in all areas that may be affected by the mountainside zoning ordinance. This motion was seconded by Councilman Boland and was defeated on a vote of 4-3, with Vice-Mayor Frank, Councilman Michalove, and Councilman Boland voting "aye".

Councilman Bratton said she felt members of Council has had adequate time to consider this proposed project, and should make a decision on the approval or disapproval of the site plan. She said the developer is meeting all

requirements of the zoning and building codes of the City of Asheville.

Councilman Bratton moved to approve the site plan of the Sunset Pointe Condominiums to be located on Town Mountain Road. This motion was seconded by Councilman Price.

Councilman Michalove made a substitute motion to deny the site plan of the Sunset Pointe Condominiums on the information submitted to members of Council. This motion was seconded by Councilman Boland.

After discussion, Councilman Michalove withdrew his substitute motion.

On a voice vote of 6-1, Councilman Bratton's motion for approval for the site plan for Sunset Pointe Condominiums failed, with Councilman Bratton voting "for".

Mayor Bissette then announced that approval of the site plan was denied.

Councilman Michalove again moved to schedule a public hearing for a six-month moratorium on multi-family development in all areas that may be affected by the proposed mountainside zoning ordinance for July 8, 1986. This motion was seconded by Councilman Price and carried unanimously.

PUBLIC HEARING - APPROVING THE REVISION OF RULE 17(e) OF CIVIL SERVICE RULES AND REGULATIONS

4. A public hearing was held relative to approving the revision of Rule 17(e) of the Civil Service Rules and Regulations.

Mayor Bissette said the revision of Civil Service Rule 17(e) will clarify that death leave can only be taken when an employee is scheduled to work and that it must be taken at the time of the emergency. It prohibits employees who are otherwise not working (due to annual leave, sick leave, or regularly scheduled days off) from substituting death leave for any other time they are absent from work. In addition, the definition of "immediate family" has been expanded and time off has been provided for employees to attend the funerals of co-workers and close personal friends.

Anita Jones, Civil Service Manager, explained that the Civil

Service Board had an inquiry on April 2nd, relative to a clarification of this rule. She said a proposal was drafted and was approved by the Civil Service Board to clarify bereavement leave to be taken only at the time of an emergency, and to extend a one-day bereavement leave for a close friend or co-worker. She said this revision would also expand the definition of immediate family. She said employees in the classified service were given notice of the public hearing, stating that they could either attend the public hearing to give their input or submit their comments to department heads, to be submitted to members of Council.

Lem Moore, Director of Inspections Division, said he had received several comments from his employees, taking exceptions to including aunts and uncles in the definition of immediate family, and not including in-laws. He said, in his personal opinion, he felt the written policy should be more general and Administration should grant bereavement leave on the merit of a personal situation.

Councilman Michalove requested that the following be included in the minutes since the memorandum was presented to members of Council.

MEMORANDUM TO: Members of Council

FROM: Margaret Messer

DATE: June 12, 1986

SUBJECT: Proposed Amendment to Rule 17(e) (Bereavement Leave)

As a member of the Classified Service and a City taxpayer, I would like to express my thoughts about the proposed amendment to Rule 17(e) (Bereavement Leave):

1. "Immediate Family" - I agree partly with the extended

definition of "immediate family" whereby it would include father, mother, brother and sister, spouse, children, grandchildren, and grandparents. However, I do not think the definition should include aunts and uncles, but should include step-children.

My reasoning for this is because most people are not obligated nor responsible in helping with the arrangements, etc. when aunts and uncles die, but do provide support to the "immediate family".

If the Council wants to include aunts and uncles, I think they should be included in the "up to 1 day leave" category, designated for "aunts and uncles" only.

2. Bereavement Leave/3 days for Immediate Family - I agree that

this leave should be taken during the time of the emergency. However, I do not feel that if an employee is on vacation or sick and a member of the "immediate family" dies, that days used for arrangements, etc. should be charged to annual or sick leave. You certainly cannot justify those days under the definition of "annual leave" or "sick leave".

I feel this section of the present rule should remain as is,

except for the inclusion of grandchildren, grandparents, and step-children.

3. 1-Day/Personal Friends or Fellow Employees - I do not feel a

whole day is necessary when personal friends or fellow employees. Here again, a person is supporting the immediate family, and the normal obligation is to visit the family "when friends are received" at the funeral home, preparation of food for the family, and attendance of the funeral. In most cases, I believe a person could do whatever is necessary to support the "immediate family" during the evening hours and use "annual leave" or "compensatory time" for the funeral itself. Therefore, I do not feel that Council should authorize a 1-day type leave.

I also see where the inclusion of this amendment could be abused by employees and department heads alike. Whose to make the judgement when an employee says "a close friend" has died and request time off on a weekly basis? Also, I think department heads could show a lot of favoritism under the proposed amendment, and this would result in poor morale and job performance by employees feeling they were not given "equal treatment" by the department head.

I think it would be far better for employees to do as they are now - request whatever time necessary to attend the funeral (usually 1-2 hours is all that is necessary), and charge to comp or leave time.

I appreciate the opportunity to express myself on this important issue.

Mayor Bissette closed the public hearing at 6:53 p.m.

It was the consensus of Council to take no action on the revision of Rule 17(e), but to refer the matter to the Council Personnel Committee for their recommendation.

PUBLIC HEARING - 1986/87 ANNUAL BUDGET

5. A public hearing was held relative to the 1986/87 annual budget.

Mayor Bisette said in accordance with the Local Government Budget and Fiscal Control Act, a public hearing is required to receive public comments on the proposed budget for 1986-87. A copy of the proposed budget was submitted to Asheville City Council on May 30, 1986. He said the total budget would be \$29,310,026.00.

The City Manager noted that members of Council had received copies of the proposed operating, capital, and water and sewer budget. He said the budget was being presented as a balanced budget with a 2 cent tax increase for operations to replace funds lost through federal cutbacks and to continue City services at their current levels, and 7 cents to be used to repay the bond debt if a bond referendum passes in September, or to fund minor capital improvements if the referendum fails. He said the budget also includes the use of 1.4 million of the fund balance to balance the budget.

He said the budget also includes maintaining a 12 cent capital reserve budget. He said the budget also includes an increase to the Chamber of Commerce and the Asheville-Buncombe Community Relations Council since the County of Buncombe was not going to fund the Community Relations Council.

Councilman Bratton commended the City Manager for a job well done on the proposed 1986/87 budget. She said she felt there were several agencies in the City of Asheville where funding is on a formula basis between the City of Asheville and the County of Buncombe. She said she was concerned about this formula and felt the City Council and the County of Buncombe should meet each year at budget time on projects that are jointly funded by the City and the County. She requested that members of Council request the County Commissioners meet with the City Council to discuss, among other things, budgets for agencies set out in the Water Agreement.

Councilman Price requested that Mayor Bisette contact the Buncombe County Commissioners to have a joint meeting within the next week relative to the budgets for outside agencies outlined in the Water Agreement.

Councilman Boland said that he felt the Asheville City Council and the County Commissioners should meet on a regular basis to discuss many mutual efforts.

Councilman Tisdale said he did not support a 2 cent tax increase on the budget since he felt there were many internal controls that could be taken, such as the use of City vehicles, lights in the building staying on after midnight, and energy savings. He said he felt Council or the City staff should have internal committees to cut cost, putting forth real efforts in effectively spending taxpayers money wisely. He said he felt members of Council should live up to the requirements in the Water Agreement relative to funding of the Chamber of Commerce and the Asheville-Buncombe Community Relations Council.

Councilman Michalove said he was concerned about the proposed budget since the City of Asheville does not have enough revenue to balance a budget without having to go into the fund balance. He said, from past experience, he knew that the budget could not be cut without cutting the level of services. He said he did not feel 2 cent on the tax rate was enough for the general operations budget, and should be at least 5 cents.

Councilman Boland said he felt 2 cents on the operational budget is reasonable and would not impose a burden on the taxpayers of the City of Asheville since there has not been a real tax increase in six or seven years.

Mayor Bisette said he felt the proposed budget, with a 2 cent increase in the operational budget, was reasonable and was requested by members of Council to be included in the budget to fund agencies and the contingency fund.

Sybil Bowers, Executive Director of the Historic Resources Commission, asked members of Council to give full support to the Historic Resources Commission budget, as submitted.

J. Thomas Butler, of 13 Sayles Road, spoke in opposition to a tax increase or a bond issue, stating that he felt the City should make public improvements on a "pay as you go" basis, rather than mortgaging every home

in the City of Asheville.

Doug Swain, of 296 Montford Avenue spoke in support of the proposed budget, and requested Council's approval of the full budget as submitted by the Historic Resources Commission. He also spoke in support of submitting a \$27 million bond issue to the voters of the City of Asheville for streets, sidewalks, and storm drainage improvements, as well as a Arts and Science Center.

Councilman Price said she felt members of Council should also talk to the County relative to the Historic Resources Commission budget.

Bob Mayhew, of 131 Deerlake Drive spoke in opposition to a tax increase in the budget, stating that higher taxes will drive businesses and residents out of the City. He said he felt the City of Asheville was in competition with other areas and other states and he felt the City Council members should evaluate all needs and be as efficient as possible.

Richard Hurley, of 177 Wendover Road, speaking as a representative of the Square "D" Company, spoke in favor of submitting a \$27 million bond issue to the voters of the City of Asheville. He said the Square "D" Company is willing to pay their share for the continued growth in the City.

Sally Rhodes, of 456 Merrimon Avenue also spoke in support of submitting the \$27 million bond issue to the voters of the City of Asheville, particularly commenting on the need for an Arts and Science Center in the City of Asheville.

After discussion, Mayor Bissette closed the public hearing at 8:11 p.m.

ORDINANCE NO. 1587 - BUDGET ORDINANCE AMENDMENT TO SET UP STATE SEWER GRANT REVENUE RECEIVED FOR CITY OF ASHEVILLE SEWER MASTER PLAN

6. Consideration was given to a budget ordinance amendment to set up State sewer grant revenue received for City of Asheville Sewer Master Plan.

Mayor Bissette said the State of North Carolina approved a grant application for the City of Asheville Sewer Master Plan. This grant is a 50% match grant. The sewer master plan is currently funded 100% with local funds; however, the staff is recommending that these additional funds be appropriated under the contingency account with the Master Plan, and an appropriation for the Smith Bridge sewer line relocation project (Municipal Agreement Project No. 8.2840101). He said this grant will in effect, increase the available local funds in the amount of \$749,762 for sewer extensions or annexation related improvements.

Mayor Bissette said members of Council were previously furnished copies of the ordinance 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 Ordinance No. 1587. This motion was seconded by Councilman Bratton.

On a roll call vote of 7-0, Ordinance No. 1587 passed on first and final reading.
