

Tuesday - August 19, 1986 - 4:00 p.m.

## Regular Meeting

Present: Mayor W. Louis Bisette, Presiding; 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: Vice-Mayor Mary Lloyd Frank and Corporation Counsel William F. Slawter.

## INVOCATION

1. The invocation was given by Councilman George Tisdale.

## APPROVAL OF THE MINUTES - August 12, 1986 MEETING

2. Consideration was given to the approval of the minutes of the August 12, 1986 meeting.

Mayor Bisette announced the approval of the minutes of the August 12, 1986 meeting as submitted.

## PROCLAMATION - MONTH OF SEPTEMBER, 1986 AS "PLUS" - PROJECT LITERACY U.S.

3. Mayor Bisette read a proclamation proclaiming the month of September, 1986 as "PLUS" - Project Literacy U.S.

Mayor Bisette presented the proclamation to Sherrill Barber of WLOS and Charles Erwin with the Employment Security Commission.

## PUBLIC HEARING - AMENDING ORDINANCE NO. 1487 - SOIL EROSION AND SEDIMENTATION

### ORDINANCE NO. 1601 - ORDINANCE AMENDING ORDINANCE NO. 1487, COTIFIED AS ARTICAL V OF CHAPTER 8 OR THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

4. A public hearing was held relative to an ordinance amending Ordinance #1487, an ordinance to provide for the control of soil erosion and sedimentation.

Mayor Bisette said cities and counties having "Soil Erosion and Sedimentation Ordinances are required to have ordinances that comply with the "State Model Ordinance". Last year the State adopted a new model ordinance that requires all cities and counties amend their current ordinances.

Mayor Bisette opened the public hearing at 4:16 p.m.

The City Clerk presented the notice to the public setting a time and date for the public hearing and the affidavit of publication.

Tom Tarrant, City Engineer, said this ordinance would amend our current Soil Erosion and Sedimentation Ordinance to comply with the State Ordinance. He said there are only minor changes, particularly in notifications relative to violations.

Patsy Brison, Acting Corporation Counsel, explained the amendments to the present ordinance.

Mayor Bisette closed the public hearing at 4:18 p.m.

Mayor Bisette 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 Tisdale moved for the adoption of Ordinance No. 1601. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1601 passed on first reading.

Councilman Michalove moved to suspend the rules and proceed with the second reading of Ordinance No. 1601. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1601 passed on second reading.

Councilman Michalove moved to suspend the rules and proceed with the third and final reading of Ordinance No. 1601. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1601 passed on third and final reading.

Complete text of Ordinance No. 1601 will be found in Ordinance Book No. **11** at page **42-53**.

**PUBLIC HEARING - REZONING PROPERTY LOCATED ON CAMPGROUND ROAD AND U.S.70-E - PETITION OF MR. R. S. CRAIG**

5. A public hearing was held relative to the adoption of an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended - petition of Mr. R. S. Craig - rezoning property located on Campground Road and U.S. 70-E.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held April 9, 1986, considered the petition of Mr. R. S. Craig by Mr. Lee Towery, Realtor, that Ward 8, Sheet 31, Lot 16, be rezoned from R-1 Residential District to CS Commercial Service District. The property is located on Campground Road and U. S. 70-E. After review and discussion, the Commission voted to recommend that the petition be denied and the property remain as it is now zoned. However, the petitioner requested an extension of time to appeal Planning and Zoning Commission's decision, since they were out of the country and unable to return in time to appeal within the time frame allowed. Council granted this request and scheduled the public hearing at their August 5th meeting.

Mayor Bissette opened the public hearing at 4:24 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Director of Planning, said the Planning and Zoning Commission considered this rezoning request on April 9, 1986, and recommended denial of the rezoning from R-2 Residential District to CS Commercial Service. He said the Commission felt the rezoning would introduce an additional commercial zone in an area which could possibly constitute spot zoning. He said many of the uses allowed in the CS Commercial Service District were inappropriate for this particular area.

At the request of Council members, Mr. Emrick defined spot zoning.

Mr. R. S. Craig, petitioner for the rezoning, spoke to members of Council requesting that the property be rezoned. He said the property is presently a deep gulley and could lend itself to commercial use which would bring more taxes to the City of Asheville. He said drainage problems with the property could be corrected.

Mr. Lee Towery, Realtor, speaking on behalf of Mr. Craig, said he felt there was a misunderstanding relative to the rezoning requested, and that the petitioner would accept a Commercial Highway District rezoning because he is only looking for a retail location.

Upon inquiry of members of Council, Mr. Emrick said several citizens from an adjoining church had attended the Planning and Zoning Commission meeting and had inquired as to the proposed use of the land. He said he did not feel the adjoining property owners would object to a retail business in the area.

At the request of Dick Daves, of Edwin Place, Mr. Emrick reviewed the location of the property by the use of a map.

Mayor Bisette closed the public hearing at 4:52 p.m.

After discussion, Councilman Boland moved to remand the rezoning request to the Planning and Zoning Commission for their consideration of a Commercial Highway zone in this area. This motion was seconded by Councilman Bratton and carried unanimously.

**PUBLIC HEARING - AUTHORIZING ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO BEAVER LAKE CAB COMPANY**

6. A public hearing was held relative to authorizing the issuance of a certificate of public convenience and necessity to Beaver Lake Cab Company.

Mayor Bisette opened the public hearing at 4:56 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.

Mayor Bisette said this action would authorize the City Manager to issue a Certificate of Public Convenience and Necessity to Beaver Lake Cab Company pursuant to Section 27.34 of the Code of Ordinances of the City of Asheville upon proof of financial responsibility in accordance with North Carolina General Statutes Section 20-280.

The City Manager said he had received a request from Paul Davis, Beaver Lake Cab Company, requesting the issuance of a Certificate of Public Convenience and Necessities to Beaver Lake Cab Company for the operation of twelve taxi cabs.

Reynald Williams, Attorney representing 3 of the 4 taxicab companies in the City of Asheville said his clients, Bruce Ramsey of the Yellow Cab Company, Amos Miller of the Miller Cab Company, and Mr. Jones of the Jolly Cab Company, strongly believe that the Council should not issue any more Certificates of Public Convenience and Necessity for taxicabs. He said they believe that the market is already saturated and there is no need for additional taxicabs in the City of Asheville. He requested that this matter be tabled for two weeks, giving his clients an opportunity to collect data to present to members of Council as to why another taxicab is not needed in the City of Asheville. He said these companies presently have Certificates authorizing taxicabs that are not being used.

Joe Penland, with Blue Bird and American Cab Company, referring to Chapter 27 of the Code of Ordinances stated that the Taxicab Ordinance is out of date. He said in March, 1984, he was appointed to an Urban Transit Committee and they had made recommendations to amend the Charter, which recommendations never reached members of Council. He said the Committee had also researched the need for taxicabs in the City of Asheville and had recommended one unit per 1000 population. He said there are presently 75 licensed units in the City of Asheville and some companies are holding license that are not being used. He said there are presently more units than are needed in the City of Asheville.

Mr. Penland suggested that Council form a study committee to look at amendments to Chapter 27 of the Code of Ordinances. He also recommended that this matter be tabled until a committee could revise the present regulations and provisions.

After discussion, Councilman Boland moved to continue the public hearing relative to the issuance of a Certificate of Public Convenience and Necessity to Beaver Lake Cab Company until September 2, 1986. This motion was seconded by Councilman Tisdale, with a provision that all cab companies be notified of this public hearing, including the petitioner, Mr. Paul Davis. The motion carried unanimously.

**ORDINANCE NO. 1600 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE" - PETITION OF MR.**

## **BOBBY BARBOUR OF 1616 PATTON AVENUE**

7. Consideration was given to the second reading of Ordinance No. 1600, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville", as amended - petition of Mr. Bobby Barbour of 1616 Patton Avenue.

Mayor Bisette said the Asheville Planning and Zoning Commission at a meeting held June 11, 1986, considered the petition of Mr. Bobby Barbour that a portion of Lot 1, Sheet 24, Ward 5, be rezoned from R-2 Residential District to CH Commercial Highway District. The property is located at 1616 Patton Avenue. After review and discussion, the Commission voted to recommend that the petition be denied and that a portion of Lot 1, Sheet 24, Ward 5, be rezoned from CH to R-2 Residential District to provide a buffer on the eastern property line of Lot 1. However, the petitioner has appealed Planning and Zoning Commission's decision and has asked that a public hearing be scheduled so the rezoning matter can be heard before Council. This public hearing was scheduled at the July 15, 1986 Council Meeting. A public hearing was held August 5, 1986

and the first reading of the ordinance was postponed until August 12, 1986. This ordinance passed on first reading at the August 12, 1986 meeting.

Mayor Bisette 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. 1600 passed on second reading.

## **REPORT FROM PLANNING DIRECTOR ON SIGN REGULATIONS**

8. Mayor Bisette said on June 3, 1986, City Council requested that the Asheville Planning and Zoning Commission review alternatives on how to deal with "Off Premises Signs". The Commission discussed the recommendations of staff, which included background information and statutory authority to implement such regulations at its meeting on June 11, 1986, and received both staff reports and comments from interested parties. After hearing those comments, the Commission scheduled a work session on July 21, 1986, to investigate the questions raised by the Commission and the public. Following that work session, the Commission reconsidered the issue at their August 6, 1986 meeting and recommended that Council impose a moratorium on all off-premise advertising signs within 660 feet of limited access highways within the jurisdiction of the ordinance until a comprehensive plan is developed and considered by Council.

Verl Emrick, Planning Director, said at the Planning and Zoning Commission meeting on June 3, 1986, the Commission has recommended that Council propose a moratorium on all off-premises advertising signs within 660 feet of limited access highways within the jurisdiction of the Sign Ordinance until a comprehensive plan is developed and considered by Council. The Commission felt that it would be immaterial to look at one facet of the Sign Ordinance when they are proposing to draft a comprehensive revision to the present Sign Ordinance in October.

Mike Summey, with Summey Sign Company, asked members of Council why this matter is being studied. He said the present Sign Ordinance was adopted ten years ago after a very lengthy discussion. He said he felt the quality of signs in the City of Asheville have improved and there are fewer signs in the City now than there were ten years ago. He ask members of Council what the outdoor advertising sign companies were doing wrong and also what was wrong with the present Sign Ordinance.

Councilman Boland said he felt there is a visual block of signs in the City of Asheville that could damage the tourist.

Councilman Bratton suggested that a committee be established to review a new comprehensive sign ordinance prior to the revised ordinance being presented to members of Council.

Jane Bingham of Biltmore Forest said she had also attended the meeting ten years ago when the present Sign Ordinance was adopted. She said she felt the present Sign Ordinance was a compromise and was not what the people wanted. She said she was not happy with the present Sign Ordinance and visual pollution of signs has continued. She said she felt it was time for members of Council to rewrite the Sign Ordinance.

Ralph Bishop told members of Council he felt signs are not offensive but informative. He said the felt tourists need signs to see what is available in the City of Asheville. He requested that Council not put restrictions on signs.

## **APPROVAL OF THE CONSENT AGENDA**

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

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

### **Resolution No. 86-155**

#### **A. Consideration of a resolution authorizing the Mayor to execute on**

**behalf of the City of Asheville Amendment No. 1 to Federal Aviation Grant Agreement, Project No. 3-37-005-03.**

HIGHLIGHTS: This resolution will authorize the Mayor to execute

Amendment No. 1 to Federal Aviation Grant Agreement,

Project No. 3-37-0005-03 to cover cost overruns.

FISCAL IMPACT: Total cost \$5,274.00

Resolution Book No. 16 - Page 126

### **Resolution No. 86-156B**

#### **B. Consideration of a resolution appointing member to the Board of**

##### **Adjustment.**

HIGHLIGHTS: This resolution will appoint T. Randy O'Donnell, as a

member of the Board of Adjustment for a term of three (3) years, term expiring January 21, 1989, or until his successor is duly appointed and qualified.

Resolution Book No. 16 - Page 127

#### **C. Consideration of a motion relative to the assignment of lease for**

**space at the Reid Memorial Recreation Center.**

HIGHLIGHTS: This motion will authorize the City Manager to execute

an Assignment of Lease consenting to an assignment by the Opportunity Corporation of Madison and Buncombe County Headstart Program to the Buncombe County Child Development for space in the Reid Memorial Recreation Center.

#### **D. Consideration of a motion approving bid for one (1) refuse collection**

**vehicle.**

HIGHLIGHTS: On May 23, 1986, sealed bids were received for one (1)

refuse collection vehicle and eight (8) bids were received. These bids were reviewed by T. Clark Brown, Director of Public Works, Alfred Hagan, Superintendent of Sanitation, and David Pruett, Superintendent of Motor Transport for technical compliance to specifications. Mr. Brown recommends rejecting the low bid from Quality Equipment and Supply Company, Charlotte, N. C., on the basis that the equipment proposed does not meet all of the specifications. These are major problems with the Loadmaster packer body meeting the specifications required by the City. This motion awards the bid to Western North Carolina Truck Center, Inc., Asheville, N.C., as the lowest, responsible bidder, in the amount of \$80,359.61 for a 1987 White Xpeditor Model WX64 cab and chassis with a Heil Formula 5000 packer body and a Barker dumping unit. This award takes into consideration the quality, performance and the time specified in the proposals for

the performance of the contract.

FISCAL IMPACT: No effect upon revenues. Reduction of operating

expenditures due to reduced maintenance. Adequate funding is available in the Public Works Department's Capital Budget.

**Resolution No. 86-157**

**E. Consideration of a resolution authorizing the City Manager to execute release and agreement with the Asheville Y.M.C.A.**

HIGHLIGHTS: The Asheville Y.M.C.A. was built in 1969 in an Urban

Redevelopment area within the City of Asheville. There exists at the time of said construction a storm sewer across the Y.M.C.A. property. There exists a controversy between the City of Asheville and the Y.M.C.A. regarding the validity of the easement across the Y.M.C.A. property and the responsibility of the City for relocating said storm sewer line. This resolution will authorize the City Manager to execute release and agreement with the Asheville Y.M.C.A. to resolve said matters of dispute.

FISCAL IMPACT: This action will require a budget amendment to

appropriate \$24,000 from the General Fund Contingency prior to completion of the agreement.

Resolution Book No. 16, Page 128

**Resolution No. 86-158**

**F. Consideration of a resolution authorizing the City Manager to execute**

**and an amended agreement by and among the Town of Biltmore Forest, the City of Asheville, the County of Buncombe, Biltmore Forest Company, and Oxford Development Enterprises, Inc. for the four-mile creek sewer line project.**

HIGHLIGHTS: The Town of Biltmore Forest, the City of Asheville, the

County of Buncombe, Biltmore Forest Company, and Oxford Development Enterprises, Inc. entered into an agreement dated October 21, 1985, for the funding of the four-mile creek sewer line project. Cost overruns now require the

expenditure of additional funds for the completion of said project. The parties have agreed to fund said additional costs as set forth in the attached agreement. This resolution will authorize the City Manager to execute an amended agreement by and among the Town of Biltmore Forest, the City of Asheville, the County of Buncombe, Biltmore Forest Company, and Oxford Development Enterprises, Inc. establishing responsibility for cost overruns in connection with the

four-mile creek sewer line project.

**FISCAL IMPACT:** Adequate funding is available in the Sewer Capital

Funds - Annexation to cover the additional cost to be incurred.

Resolution Book No. 16, Page 129

Upon motion of Councilman Michalove, seconded by Councilman Price, the consent agenda was unanimously approved.

### **MAYOR BISSETTE'S REPORT RELATIVE TO US 19-23/I-40 INTERCHANGE**

10. Mayor Bissette said he had received a number of calls relative to US 19-23/I-40 Interchange. He said even though this area is outside the City limits, he had requested that the City Manager inquire of NCDOT as to their proposed revisions at this interchange.

He said the interchange revisions as proposed by NCDOT include the

following:

1. Relocation of I-40 east bound exit ramp to align with

eastbound onramp. This intersection will be signalized.

2. Relocation and widening of I-40 westbound exit ramp, to

provide additional vehicle storage on the ramp. This

intersection will also have new signalization.

3. Concrete median will be installed on centerline of US 19-23,

at Acton Circle, to eliminate crossing movement to I-40 and dangerous left turn onto US 19-23. He said it is his understanding that the contract for this project is to be let in November, 1986. He said also, NCDOT plans to implement a speed limit reduction in this area very soon. He said information and a concurring ordinance on the speed

limit should be received within the next few days.

Mayor Bissette requested that members of Council pass a motion requesting that the North Carolina Department of Transportation expedite these actions as soon as possible.

Upon motion of Councilman Tisdale, seconded by Councilman Bratton, this motion was unanimously adopted.

### **MAYOR BISSETTE'S REPORT RELATIVE TO PACK PLAZA PROJECT**

11. Mayor Bissette noted that a commitment letter has been duly executed by the Schneider Group and the Banking Syndicate and construction could begin on this project in the very near future.

**CLAIMS - MARY BURRELL (WATER) - ROGER SHOOK (STREETS)**

12. The City Manager presented claims received from Mary Burrell and Roger Shook.

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

**RALPH BISHOP - OBTAINING CITY RECORDS AND LOTTERY SALES IN THE CITY OF ASHEVILLE**

13. Ralph Bishop spoke to members of Council relative to the Police Pension Board holding an illegal executive session relative to James A. Mould's pension. He spoke to members of Council relative to the lottery sales in the City of Asheville.

**ADJOURNMENT**

Upon motion of Councilman Tisdale, seconded by Council Boland, the meeting adjourned at 5:50 p.m.

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MAYOR CITY CLERK

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