

Tuesday - September 2, 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; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent: Associate City Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

The invocation was given by Vice-Mayor Mary Lloyd Frank.

APPROVAL OF THE MINUTES - AUGUST 26, 1986 MEETING

1. Consideration was given to the approval of the minutes of the August 26, 1986, meeting.

Mayor Bissette announced the approval of the minutes as submitted.

PROCLAMATION - SEPTEMBER 6-14, 1986 - "FRENCH BROAD RIVER WEEK"

2. Mayor Bissette read a proclamation proclaiming the week of September 6-14, 1986, as "French Broad River Week".

Mayor Bissette presented the proclamation to Councilman Norma Price on behalf of the French Broad River Week Committee.

Councilman Price outlined the activities that would be taking place during the French Broad River Week.

RESOLUTION - 86-162 - RESOLUTION OF APPRECIATION TO FIRE CHIEF POWELL N. BALL

3. Consideration was given to a Resolution of Appreciation to Fire Chief Powell N. Ball.

Mayor Bissette said Powell N. Ball has faithfully served the City of Asheville since 1950, being promoted to Chief in 1970. Powell N. Ball's retirement becomes effective July 1, 1986, and the City Council expresses its appreciation for his loyalty and dedication to the citizens of the City of Asheville.

Upon motion of Councilman Tisdale, seconded by Councilman Michalove, Resolution No. 86-162 was unanimously adopted.

Complete text of Resolution No. 86-162 will be found in Resolution Book No. **16** at page **134**.

Mayor Bissette presented the Resolution to Chief Ball.

PUBLIC HEARING - SCHWAB CONSTRUCTION COMPANY SUBDIVISION - LOCATED OFF LAKESHORE DRIVE

4. A public hearing was continued relative to the final plat of the Schwab Construction Company Subdivision to be located off Lakeshore Drive.

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held June 11, 1986, approved the preliminary plat subject to the developer providing a 16' wide paved drive to all four parcels and recommending that City Council consider placing a caution signal light and signage on each side of the entrance road. The final plat of the Schwab Construction Company Subdivision is to be located off Lakeshore Drive. This plat was prepared by Webb Morgan, R.L.S., for Schwab Construction Company, Developer, and submitted in accordance with Ordinance #424, as

amended. This public hearing was continued from the August 26, 1986, meeting.

Councilman Michalove said in light of discussion during the pre-Council work session, he moved that the public hearing be continued until September 9, 1986, without further advertisement. This motion was seconded by Vice-Mayor Frank and carried unanimously.

Councilman Michalove noted that during the pre-Council meeting, members of Council asked that the City staff discuss with the developer of the proposed project; specifications relative to the road, a turnaround at the end of the road, and final ownership of the road.

PUBLIC HEARING - CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO BEAVER LAKE CAB COMPANY

RESOLUTION NO. 86-183 - RESOLUTION AUTHORIZING THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO BEAVER LAKE CAB COMPANY

5. 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 said this resolution 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 N. C. Gen. Stat. Sec. 20-280.

Corporation Counsel Slawter outlined the requirements for the issuance of a Certificate of Public Convenience and Necessity as specified in Chapter 27 of the Code of Ordinances of the City of Asheville.

Cecil Jackson, Attorney for the petitioner Paul Davis, presented members of Council with several affidavits relative to Mr. Davis' request for a Certificate of Public Convenience and Necessity, and his reputation as a business person in the City of Asheville. He said he felt there was a demand in the City of Asheville for a good taxicab service. He said he felt the Beaver Lake Cab Company could serve the public's needs. He said since there have been quiet a number of mergers with taxicab companies in the last few years, this has created competition. He said the majority of the cab companies in the City of Asheville operate under lease/option policies which

is unreliable. He requested that members of Council seriously consider the application of Mr. Davis and approve the Certificate of Public Convenience and Necessity as requested by Mr. Davis.

Reynald Williams, Attorney representing three taxicab companies in the City of Asheville, being the Miller Cab Company, the Yellow Cab Company, and the Jolly Cab Company, presented members of Council with a report which indicated there was currently an adequate supply of taxicabs within the City of Asheville. He said the analysis shows that Asheville has more taxicabs in operation than is needed. He said from the report, it is indicated that one taxicab is needed per 1,000 population and there are presently 65 taxicabs operating in the City of Asheville, 10 vans, and 3 or 4 limousines. He said, in his opinion, the City of Asheville would not need additional taxicabs until the year 2000. He said other factors that need to be considered were the fact that the present requirements for taxicab certificates need to be revised. He said the present Ordinance regulations are not adequately applied and the requirements are not being enforced. He said it was also his understanding that an Urban Mass Transportation Committee that was established in March of 1984, presented recommendations for revisions to Chapter 27 to the Legal Department for the City; however, no action has been taken on those recommendations. He said members of Council should first address proposed revisions to Chapter 27 regulating taxicabs before issuing any additional Certificates of Public Convenience and Necessity.

Joe Penland, owner of the Blue Bird Taxicab Company, said he also felt that there were presently more taxicabs being operated in the City of Asheville than needed. He said he has a permit to operate 40 taxicabs; however, because of the demand of taxicabs in the City of Asheville, he only operates 31 of those units.

Councilman Tisdale noted that he felt the petitioner for the application for a Certificate of Public Convenience and

Necessity should be allowed to take the risk as to whether or not additional taxicabs are needed in the City of Asheville. He said he felt members of Council should also consider the number of tourists in the City as well as the population.

Upon inquiry of members of Council, Mr. Penland said that, to his knowledge, he has never obtained a Certificate of Public Convenience and Necessity from City Council due to the fact that he purchased existing taxicab companies in the City of Asheville.

Upon inquiry of members of Council, the Corporation Counsel stated that the code provides that if a taxicab business is out of business for more than 30 days, their Certificate of Public Convenience and Necessities are null and void.

Mayor Bisette said members of Council would be working on revisions to the current ordinance regulating taxicabs.

Upon inquiry of Councilman Price, Mr. Jackson said his client would be willing to accept a Certificate of Public Convenience and Necessity to operate no more than 3 taxicabs in the City of Asheville until a new ordinance is adopted and that he will comply with any new ordinance adopted if it was not too cumbersome.

Councilman Bratton said she felt the current ordinance should be followed, and she was not prepared to vote on this issue due to the lack of information and reports from the City staff. She said she felt it was the responsibility of the City staff to conduct a study and survey to determine the need for taxicabs in the City of Asheville.

Mr. Williams said he felt members of Council should contact other cities in North Carolina to determine their methods of regulations. He said he felt this research was needed prior to another Certificate of Public Convenience and Necessity being issued.

After discussion, Mayor Bisette closed the public hearing at 5:30 p.m.

Upon motion of Councilman Boland, seconded by Vice-Mayor Frank, Resolution No. 86-163 was adopted on a voice vote of 6-1, with Councilman Bratton voting "no", authorizing the Beaver Lake Cab Company to operate no more than 3 taxicabs in the City of Asheville.

Councilman Bratton noted that she was not voting against the Beaver Lake Cab Company, but felt that there was a lack of information relative to the issue.

Complete text of Resolution No. 86-163 will be found in Resolution Book No. **16** at page **135**.

ORDINANCE NO. 1602 - BUDGET ORDINANCE AMENDMENT TO PROVIDE ADDITIONAL FUNDING FOR THE HISTORIC RESOURCES COMMISSION

6. Consideration was given to a budget ordinance amendment to provide additional funding for the Historic Resources Commission.

Mayor Bisette said this budget ordinance amendment is to provide additional funding for the Historic Resources Commission through October, 1986.

Mayor Bisette said the 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. 1602. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1602 passed on first and final reading.

Complete text of Ordinance No. 1602 will be found in Ordinance Book No. **11** at Page **54** and **55**.

ORDINANCE NO. 1603 - BUDGET ORDINANCE AMENDMENT FOR APPROPRIATING FUNDS FOR THE CITY'S PARTICIPATION IN THE MAPPING PROGRAM

7. Consideration was given to a budget ordinance amendment for appropriating funds for the City's participation in the Mapping Program.

Mayor Bisette said this budget ordinance amendment is to appropriate \$140,000.00 for City participation in the Mapping Program. He said funding will be provided in the Sewer Capital Fund as follows: Contribution from Water Fund - \$35,000.00, contribution from the General Fund - \$105,000.00 (additional half cent sales tax).

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 specific request to do so.

Councilman Tisdale moved for the adoption of Ordinance No. 1603. This motion was seconded by Councilman Price.

On a roll call vote of 7-0, Ordinance No. 1603 passed on first and final reading.

Complete text of Ordinance No. 1603 will be found in Ordinance Book No. **11** at page **56**.

RESOLUTION NO. 86-164 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH BUNCOMBE COUNTY, THEREBY ACCEPTING BUNCOMBE COUNTY'S OFFER TO PARTICIPATE IN A JOINT MAPPING PROJECT

8. Consideration was given to a resolution authorizing the City Manager to enter into an agreement with Buncombe County, thereby accepting Buncombe County's offer to participate in a joint mapping project.

Mayor Bisette said Asheville City Council finds that it is in the best interest of the citizens of Asheville to accept Buncombe County's offer to participate in a joint mapping project, and to enter into an agreement with Buncombe County. This joint agreement will eliminate the need for two separate mapping projects, thereby eliminating duplication of effort and cost to both City and County residents. Such an integrated mapping system will allow enhanced levels of service by the ability to share information between the governments. He said funding will be provided from the Sewer Capital Budget in the amount of \$140,000.00

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 Tisdale, seconded by Councilman Price, Resolution No. 86-164 was unanimously adopted.

Complete text of Resolution No. 86-164 will be found in Resolution Book No. **16** at page **136**.

APPROVAL OF THE CONSENT AGENDA

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

Mayor Bisette 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. 86-165

A. Consideration of a resolution authorizing the City Manager to enter into an agreement with the Asheville-Buncombe Community Relations Council.

HIGHLIGHTS: The Asheville-Buncombe Community Relations Council was

established in 1960 by joint action of the Asheville City Council and Buncombe County Commissioners for the purpose of bringing together a comprehensive and county-wide effort to solve human problems related to racial, ethnic, religious, political and class relationships. This resolution will authorize the City Manager to enter into an agreement with the Asheville-Buncombe Community

Relations Council.

FISCAL IMPACT: This contract in the amount of \$53,387 is for 50% of the

City/County contribution to the Community Relations Council per the terms of the Water Agreement. Adequate funding is budgeted for Fiscal 1986/87.

Resolution Book 16, Page 137

Resolution No. 86-166

B. Consideration of a resolution appointing a member to the Equal

Employment Opportunity Task Force.

HIGHLIGHTS: Sheila Fellerath was unable to serve on the Equal

Employment Opportunity Task Force. This resolution will appoint David R. Hillier to fill the existing vacancy.

Resolution Book 16, Page 138

Councilman Michalove moved to approve the Consent Agenda. This motion was seconded by Councilman Price and carried unanimously.

RESOLUTION NO. 86-167 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACTUAL AGREEMENT WITH ST. JOSEPH'S URGENT CARE, INC., FOR THE PURPOSE OF PROVIDING ATTENDING PHYSICIAN SERVICES TO THE EMPLOYEE INFIRMARY

10. Consideration was given to a resolution authorizing the City Manager to enter into a contractual agreement with St. Joseph's Urgent Care, Inc., for the purpose of providing attending physician services to the Employee Infirmary.

Mayor Bisette said this resolution will authorize the City Manager to enter into an agreement with St. Joseph's Urgent Care, Inc., for the purpose of providing medical treatment, advice, and consultations to the Employee Infirmary on an on-going basis. The City of Asheville has utilized the

resources of the staff of St. Joseph's Urgent Care, Inc., for the past four and one-half years. He said this would be \$3,500.00 annually. This fee can be covered under 1986-87 Professional Services (.044 line item) in Employee Services' budget.

Mayor Bisette and Councilman Michalove requested that they be excused from voting on the resolution relative to St. Joseph's Urgent Care, Inc., due to a conflict of interest. Mayor Bisette's conflict being that his law firm represents St. Joseph's Hospital and Councilman Michalove is working for a subsidiary of the St. Joseph's Hospital.

Councilman Price moved to excuse Mayor Bisette and Councilman Michalove from participation and vote on the resolution relative to the contractual agreement with St. Joseph's Urgent Care, Inc. This motion was seconded by Councilman Bratton and carried unanimously.

Upon motion of Councilman Tisdale, seconded by Councilman Price, Resolution No. 86-167 was unanimously

adopted.

Complete text of Resolution No. 86-167 will be found in Resolution Book No. **16** at page **139**.

ORDINANCE NO. 1604 - AN ORDINANCE AMENDING ARTICLE IV, SPEED REGULATIONS, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (SMOKEY PARK HIGHWAY)

11. Consideration was given to an ordinance amending Article IV, Speed Regulations, Chapter 28 of the Code of Ordinances of the City of Asheville to provide a speed limit on Smoky Park Highway from a point 0.06 miles northeast of I-40 to Asheville School Road at 40 miles per hour.

Mayor Bissette noted that this ordinance would be a concurring ordinance with the North Carolina Department of Transportation.

Councilman Michalove moved for the adoption of Ordinance No. 1604. This motion was seconded by Vice-Mayor Frank.

On a roll call vote of 7-0, Ordinance No. 1604 passed on first reading.

Councilman Price moved to suspend the rules and proceed to the second reading of Ordinance No. 1604. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1604 passed on second reading.

Councilman Price moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1604. This motion was seconded by Councilman Boland and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1604 passed on third and final reading.

Complete text of Ordinance No. 1604 will be found in Ordinance Book No. **11** at Page **57**.

SCHEDULING OF PUBLIC HEARING RELATIVE TO THE PROPOSED CHESTNUT-LIBERTY STREET AREA BEING DESIGNATED AS HISTORIC DISTRICT

12. Mayor Bissette noted that consideration of scheduling a public hearing relative to a revised proposal to designate the Chestnut-Liberty Street area as a historic district would be on City Council's agenda on September 9, 1986.

It was noted that after the public hearing is scheduled on September 9, 1986, a legal advertisement would be placed in the Asheville Citizen-Times two consecutive weeks as required by North Carolina General Statutes, and that all property owners in the adjacent area would be notified of the date and time of the public hearing.

RESOLUTION NO. 86-168 - RESOLUTION AUTHORIZING THE CITY MANAGER OF THE CITY OF ASHEVILLE TO ENTER INTO AN AGREEMENT WITH THE NEO CORPORATION TO REMOVE ASBESTOS FROM THE HEATING SYSTEM OF THE MUNICIPAL BUILDING

13. Consideration was given to a resolution authorizing the City Manager of the City of Asheville to enter into an agreement with the NEO Corporation to remove asbestos from the heating system of the Municipal Building.

The City Manager said there is a need to upgrade the heating system in the Municipal Building in accordance with the laws of the State of North Carolina governing the heat of such buildings. He said it would be necessary to remove asbestos insulation from the pipes and boilers of the Municipal Building before a new boiler can be installed. He said NEO Corporation of Waynesville, N. C., is duly licensed and capable of removing this asbestos under federal guidelines and restrictions and is the low bidder for this work. He said this resolution would authorize the City Manager to enter into an agreement and any change orders with the NEO Corporation for the removal of the asbestos

from the heating system of the Municipal Building at a price not to exceed \$20,000.00.

Upon motion of Councilman Price, seconded by Councilman Michalove, Resolution No. 86-168 was unanimously adopted.

Complete text of Resolution No. 86-168 will be found in Resolution Book No. **16** at Page **140**.

CLAIMS - WILLIAM A. RIDDLE (SANITATION) - LYNN CHANDLER (STREETS) - AERIAL PHOTOGRAPHY SERVICE (WATER) - 7-UP ASHEVILLE COMPANY, INC. (STREETS)

14. The City Manager presented claims received from William A. Riddle, Lynn Chandler, Aerial Photography Service and 7-Up Asheville Company, Inc.

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

LAWSUITS - HOUSING AUTHORITY OF THE CITY OF ASHEVILLE VS. CONDEMNATION OF CORA SILLS ET. AL. PROPERTY EAST END VALLEY STREET - CONDEMNATION OF LOIS FOSTER ROBERTSON ET. AL. PROPERTY EAST END VALLEY STREET - CONDEMNATION OF T. M. ELROD ET. AL. PROPERTY EAST END VALLEY STREET AREA - CONDEMNATION OF WALTER THOMAS HOUSE ET. AL. PROPERTY EAST END VALLEY STREET AREA

15. The City Manager said the City of Asheville was served on August 26, 1986, with the following lawsuits in which the City of Asheville is a defendant. Condemnation of Cora Sills et.al. property East End Valley Street, Condemnation of T. M. Elrod, et.al, property East End Valley Street area, condemnation of Walter Thomas House, et. al., property East End Valley Street Area. Condemnation of Lois Foster Robertson et. al. property East End Valley Street area.

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

RALPH BISHOP - COMMENTS RELATIVE TO HIS RIGHT TO OBTAIN PUBLIC RECORDS - LOTTERY SALES IN THE CITY OF ASHEVILLE

16. Ralph Bishop again spoke to members of Council relative to his right to obtain public records and lottery sales in the City of Asheville.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by Councilman Boland, the meeting adjourned at 5:55 p.m.

MAYOR CITY CLERK
