

Tuesday - September 16, 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; Deputy City Clerk Carol Hensley.

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

INVOCATION

The invocation was given by Councilman Kenneth Michalove.

PROCLAMATION - OCTOBER 5, 1986 - "PEACE DAY"

1. Mayor Bissette read a proclamation proclaiming October 5, 1986 as "Peace Day" in the City of Asheville.

Mayor Bissette said since Mary Ann Ellison was unable to attend the meeting, a copy of the proclamation would be mailed to her.

PROCLAMATION - SEPTEMBER 29 - OCTOBER 5, 1986 - "FAMILY WEEK" - MONTH OF OCTOBER - "STRENGTHENING FAMILIES MONTH"

2. Mayor Bissette read a proclamation proclaiming September 29 - October 5, 1986, as "Family Week" and the month of October "Strengthening Families Month".

Mayor Bissette presented the proclamation to Jim Stikney, President of the Family Service Center and Don Reed, Past-President of the Family Service Center.

Jim Stikney outlined the events that would be taking place during the 75th anniversary of the Family Service Center.

PROCLAMATION - SEPTEMBER 17 - SEPTEMBER 23, 1986 - "CONSTITUTION WEEK"

3. Mayor Bissette read a proclamation proclaiming September 17-23, 1986 as "Constitution Week".

Mayor Bissette presented the proclamation to Helen Brown and Mary Alice Baird with the DAR Chapters in the City of Asheville.

PROCLAMATION - SEPTEMBER 22, 1986 - "AMERICAN BUSINESS WOMEN'S DAY"

4. Mayor Bissette read a proclamation proclaiming September 22, 1986, as "American Business Women's Day".

Mayor Bissette presented the proclamation to Patsy Cauble, with the American Business Women's Association.

PROCLAMATION - WEEK OF SEPTEMBER 21, 1986 - "PRINCE HALL MASONIC WEEK"

5. Mayor Bissette read a proclamation proclaiming the week of September 21, 1986, as "Prince Hall Masonic Week".

Mayor Bissette presented the proclamation to Oscar McCoy.

PROCLAMATION - SEPTEMBER 21 - "INTERNATIONAL DAY OF PRAYER AND ACTION FOR HUMAN HABITAT"

6. Mayor Bissette read a proclamation proclaiming September 21 as "International Day of Prayer and Action for

Human Habitat".

Mayor Bisette presented the proclamation to Thelma Caldwell with Human Habitat Incorporated.

RESOLUTION NO. 86-175 - RESOLUTION OF APPRECIATION TO DISTRICT CHIEF HOLLY P. OXNER

7. Consideration was given to a Resolution of Appreciation to District Chief Holly P. Oxner.

Mayor Bisette said Holly P. Oxner has faithfully served the City of Asheville since 1956, being promoted to District Chief in 1982. Holly Oxner's retirement became effective August 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 Boland, seconded by Vice-Mayor Frank, Resolution No. 86-175 was unanimously adopted.

Complete text of Resolution No. 86-175 will be found in Resolution Book No. 16 at page 147.

PUBLIC HEARING - FINAL PLAT OF THE SCHWAB CONSTRUCTION COMPANY SUBDIVISION - OFF LAKESHORE DRIVE

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

Mayor Bisette 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. At the September 2, 1986 meeting, this public hearing was continued until the September 9, 1986 meeting. At the September 9, 1986 meeting, the public hearing was continued until September 16, 1986.

Mayor Bisette said it was his understanding that the City staff is still waiting for a revised plat from the developer relative to the Schwab Construction Company Subdivision.

Councilman Tisdale moved to continue the public hearing until October 14, 1986, without further advertisement. This motion was seconded by

Councilman Price and carried unanimously.

ORDINANCE NO. 1605 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY KNOWN AS THE BLACK FOREST RESTAURANT LOCATED ON U.S. 25

9. Consideration was given to the third reading of Ordinance No. 1605, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended, property known as The Black Forest Restaurant located on U.S. 25.

Mayor Bisette said the Asheville Planning and Zoning Commission on July 9, 1986, reviewed and recommended that the Black Forest Restaurant property which became a part of the City of Asheville in 1983 as a non-contiguous, or "Satellite" annexation area be zoned CH Commercial Highway District. This ordinance passed first and second reading at the September 9, 1986 meeting.

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

On a roll call vote of 7-0, Ordinance No. 1605 passed on third and final reading.

Complete text of Ordinance No. 1605 will be found in Ordinance Book No. **11** at page **58-59**.

ORDINANCE NO. 1606 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY KNOWN AS THE POSEIDON RESTAURANT LOCATED ON TUNNEL ROAD

10. Consideration was given to the third reading of Ordinance No. 1606, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended - property known as the Poseidon Restaurant located on Tunnel Road.

Mayor Bissette said the Asheville Planning and Zoning Commission on July 9, 1986, reviewed and recommended that the Poseidon Restaurant property which became a part of the City of Asheville in 1983 as a non-contiguous, or "satellite" annexation area be zoned CH Commercial Highway District. This ordinance passed first and second reading at the September 9, 1986 meeting.

Mayor Bissette 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 7-0, Ordinance No. 1606 passed on third and final reading.

Complete text of Ordinance No. 1606 will be found in Ordinance Book No. **11** at page **60-61**.

ORDINANCE NO. 1607 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY KNOWN AS RAMADA INN-WEST LOCATED ON U.S. 19-23

11. Consideration was given to the third reading of Ordinance No. 1607, an ordinance amending Ordinance No. 322, known as "An ordinance providing for the zoning of the City of Asheville," as amended - property known as Ramada Inn-West located on U.S. 19-23.

Mayor Bissette said the Asheville Planning and Zoning Commission on July 9, 1986, reviewed and recommended that the Ramada Inn-West property which became a part of the City of Asheville in 1984 as a non-contiguous, or "satellite" annexation area be zoned CH Commercial Highway District. This ordinance passed first and second reading at the September 9, 1986 meeting.

Mayor Bissette 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 7-0, Ordinance No. 1607 passed on third and final reading.

Complete text of Ordinance No. 1607 will be found in Ordinance Book No. **11** at page **62-63**.

ORDINANCE NO. 1608 - AN ORDINANCE AMENDING ORDINANCE NO. 322, KNOWN AS "AN ORDINANCE PROVIDING FOR THE ZONING OF THE CITY OF ASHEVILLE," AS AMENDED - PROPERTY KNOWN AS THE COACHLITE RESTAURANT NEAR INTERSECTION OF LONG SHOALS ROAD AND LEDBETTER ROAD

12. Consideration was given to the third reading of Ordinance No. 1608, an ordinance amending Ordinance No. 322, known as "an ordinance providing for the zoning of the City of Asheville," as amended - property known as the Coachlite Restaurant near intersection of Long Shoals Road and Ledbetter Road.

Mayor Bissette said the Asheville Planning and Zoning Commission on July 9, 1986, reviewed and recommended that the Coachlite Restaurant property which became a part of the City of Asheville in April, 1986, as a non-contiguous, or

"satellite" annexation area be zoned CH Commercial Highway District. This ordinance passed first and second reading at the September 9, 1986 meeting.

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 7-0, Ordinance No. 1608 passed on third and final reading.

Complete text of Ordinance No. 1608 will be found in Ordinance Book No. 11 at page 64-65.

RESOLUTION NO. 86-176 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND PACK PLAZA ASSOCIATES LIMITED PARTNERSHIP TERMINATING A LEASE AGREEMENT

13. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville an agreement by and between the City of Asheville and Pack Plaza Associates Limited Partnership terminating a lease agreement.

Mayor Bisette said the City entered into a lease agreement September 29, 1982, for property located on Biltmore Avenue, formerly owned by Bruce C. Jones and wife, Martha G. Jones, and presently owned by Pack Plaza Associates Limited Partnership. This lease agreement was amended on November 1, 1984, to provide, among other things, that the lease can be terminated prior to the expiration of the lease by either lessor or lessee, or their successors and assigns, by the giving of ten (10) days notice in writing to the other party of its intention to terminate the lease. This resolution will authorize the Mayor to execute an agreement by and between the City of Asheville and Pack Plaza Associates Limited Partnership terminating this lease.

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 Boland, seconded by Vice-Mayor Frank, Resolution No. 86-176 was unanimously adopted.

Complete text of Resolution No. 86-176 will be found in Resolution Book No. 16 at Page 148.

RESOLUTION NO. 86-177 - RESOLUTION OF INTENT TO CLOSE ALL PUBLIC ALLEYS LOCATED IN THE PACK PLAZA PROJECT AREA, IN THE BLOCK BORDERED BY BILTMORE AVENUE TO THE WEST, EAGLE STREET TO THE SOUTH, SOUTH MARKET STREET TO THE EAST AND PACK SQUARE TO THE NORTH, AND CALLING FOR A PUBLIC HEARING ON THE QUESTION FOR OCTOBER 14, 1986

14. Consideration was given to a Resolution of Intent to close all public alleys located in the Pack Plaza Project area, in the block bordered by Biltmore Avenue to the west, Eagle Street to the south, South Market Street to the east and Pack Square to the north, and calling for a public hearing on the question for October 14, 1986.

Mayor Bisette said a petition has been filed by Pack Plaza Associates Limited Partnership, owner of all the property located in the Pack Plaza Project in the block bounded by Biltmore Avenue to the west, Eagle Street to the south, South Market Street to the east and Pack Square to the north, requesting that all the public alleys therein, be permanently closed to public use. The permanent closing of these public alleys would not be either detrimental to or contrary to the public interest or the property rights of any individual and no individual owning property in the vicinity of said public alleys would be deprived of reasonable means of ingress and egress to this property.

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 specific request to do so.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 86-177 was unanimously adopted.

Complete text of Resolution No. 86-177 will be found in Resolution Book No. **16** at Page **149, 150** and **151**.

RESOLUTION NO. 86-178 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AMENDMENT TO THE MASTER AGREEMENT BY AND AMONG THE CITY OF ASHEVILLE, THE COUNTY OF BUNCOMBE AND SCHNEIDER NINE, INC; AN AMENDMENT TO THE AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE COUNTY OF BUNCOMBE DATED DECEMBER 4, 1984; AND DOCUMENTS FOR THE CLOSING OF THE CONVENTIONAL LOAN FINANCING FOR THE PACK PLAZA PROJECT

15. Consideration was given to a resolution authorizing the Mayor to execute on behalf of the City of Asheville an amendment to the Master Agreement by and among the City of Asheville, the County of Buncombe and Schneider Nine, Inc; an amendment to the agreement by and between the City of Asheville and the County of Buncombe dated December 4, 1984; and documents for the closing of the conventional loan financing for the Pack Plaza Project.

Mayor Bissette read the resolution stating that this amendment would include some standard language required by the United States Department of Housing and Urban Development with regard to the Urban Development Action Grant among other things. He said the loan closing for the conventional financing on the project has been scheduled and it is necessary to authorize the Mayor to execute the documents on behalf of the City of Asheville for that loan closing.

Upon motion of Vice-Mayor Frank, seconded by Councilman Price, Resolution No. 86-178 was unanimously adopted.

Complete text of Resolution No. 86-178 will be found in Resolution Book No. **16** at Page **152** and **153**.

APPROVAL OF CONSENT AGENDA

16. 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. 86-179

A. Consideration of a resolution appointing a member of the Asheville-Buncombe Crime Stoppers Committee.

HIGHLIGHTS: This resolution will appoint Virginia Washington to fill the unexpired term of Ann Huntington, term expiring June 10, 1987.

FISCAL IMPACT: None

Resolution Book No. 16 Page 154.

Resolution No. 86-180

B. Consideration of a resolution appointing members to Victoria of Asheville Board of Directors.

HIGHLIGHTS: This resolution will appoint Matthew Bacoate and John

F. Shuford to the Victoria of Asheville Board of Directors for a three-year term, term expiring November 29, 1988.

FISCAL IMPACT: None

Resolution Book No. 16 Page 155.

Upon motion of Councilman Price, seconded by Councilman Boland, the Consent Agenda was unanimously approved.

RESOLUTION NO. 86-181 - RESOLUTION REQUIRING EACH MEMBER OF THE CITY PLANNING COMMISSION TO VOTE UPON ALL MATTERS

17. Consideration was given to a resolution requiring each member of the City Planning Commission to vote upon all matters.

Mayor Bissette read the resolution stating that this would require each member of the City Planning Commission, including the chairman, to vote upon all matters unless otherwise disqualified. He said the City Attorney is currently reviewing the authorization to require that all members of all boards and commissions be required to vote on all matters unless they are otherwise disqualified.

Upon motion of Councilman Tisdale, seconded by Councilman Boland, Resolution No. 86-181 was unanimously adopted.

Complete text of Resolution No. 86-181 will be found in Resolution Book No. **16** at Page **156**.

CLAIMS - ANN RANDALL (SANITATION) - J. L. HARRIS (TRAFFIC ENGINEERING) - FENTON CUNNINGHAM (WATER)

18. The City Manager presented claimed from Ann Randall, J. L. Harris and Fenton Cunningham.

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

DISCUSSION RELATIVE TO EQUAL EMPLOYMENT OPPORTUNITY TASK FORCE - JOHNNY HAYES

19. Johnny Hayes, a member of the Equal Employment Opportunity Task Force, presented the following resolution as presented by the Equal Employment Opportunity Task Force. The resolution is as follows:

Whereas: the City Council of the City of Asheville has the

authority under (Chapter 744 of the 1953 Session Laws, as amended by the North Carolina General Assembly.)

Whereas under Section 4 of Civil Service Law which states:

The Civil Service Board shall make, and may amend, rules for promoting efficiency in the classified service of the City, for the appointment, promotion, transfer, layoff, reinstatement,

suspension and removal of employees in the classified service. Such rules and any amendment thereto, shall be submitted to the said Council for approval, and shall be open to public inspection, when filed with the said Council for such approval. The City Council, after giving members of the classified service and citizens of Asheville an opportunity to be heard at a public hearing, shall act upon such proposed rules and amendments, and such rules or amendments, when approved by a majority vote of the Council, shall be in full force and effect. The Council may, before approval, amend the rules or amendments thereto, submitted to it for approval.

We the Equal Employment Task Force Committee, a Committee established by the City Council to investigate hiring and promotional practices of the City and to make recommendations as to their improvement for the benefit of all the citizens of the City hereby request a halt to all hiring and promotions by the Civil Service Commission and by City Manager until such time as the Council has adopted or amended a policy which will increase the opportunity to hire and promote minorities in direct proportion to their ratio within the population of the City as a whole.

Humbly submitted,

O. T. Tomes

Bob Smith, member of the Equal Employment Opportunity Task Force, said the Task Force Committee was not unanimous in its decision to request a halt to all firing and promotions by the Civil Service Commission and the City Manager, but they are in total agreement that there is a problem within the Asheville Police Department which prevents minority officers from rising above the rank of a sergeant. He said he felt like the moratorium on hiring and promotions is a first step to solving these problems.

Carl Johnson, said he felt the "rule of three" of the Civil Service Law is prohibiting black officers from being promoted. He said he felt it was odd that in forty years, the Asheville Police Department has not promoted a black to the rank of Lieutenant. He said he did not feel that a study was needed but that some action needed to be taken.

Jesse Ray, Sr., said he felt the "system" is responsible for blacks not being promoted within the Asheville Police Department. He said he felt members of Council of the City of Asheville should give black people a chance for promotions.

James Harrison, a resident of Asheville, said he helped to solve a similar problem eleven years ago. He said an agreement was reached at that time relative to employment practices in the Police Department, on May 20, 1976. However, everyone did not do their part as far as the agreement is concerned.

Elain Petty, a Memorial Mission Hospital employee, said many of the department stores do not have black employee clerks. She said she did not feel the City of Asheville needed to study the situation, but needed to have equal representation of blacks brought in line with the black population in Asheville.

Bennie Lake said he felt the City of Asheville should do something relative to minority business problems in Asheville. He said he had previously asked for some type of loan pool for minority businesses. He said he did not feel a study is necessary. He said he would like for Council to consider minority businesses, as they address the issue of hiring and promotions within the Asheville Police Department.

Cecelia Workman also spoke relative to blacks being given the opportunity for advancement.

Johnny Hayes presented newspaper articles relative to blacks being promoted within the Asheville Police Department dated June 20, 1978. He said the Majors in the Asheville Police Department were appointed without testing. He said a number of grievances have been filed by Asheville Police Department employees regarding testing, and he said all tests given during the past year should be invalid. He said the 1979 Affirmative Action Plan that was outlined for the Asheville Police Department cannot be found.

Councilman Boland, also a member of the Equal Employment Opportunity Task Force said he felt the Asheville City Council does have a commitment for providing an affirmative action program. He said he did not feel the Task Force was just another study, but felt the study will systemize how to organize goals, time tables and a system for monitoring these goals. He said he felt the recommendation to halt hirings and promotions would be counter-productive. He said the Task Force members and members of Council should be in cooperation.

Mayor Bissette said he felt every employee in the City of Asheville needs an opportunity for promotion and advancement. He said he was committed to changing the system in an orderly fashion. He said he would oppose the recommendation for freezing hiring and promotions but would request that the City Manager, within the next thirty to

sixty days, personally review all hirings and promotions in the best interest of the City of Asheville, as well as considering, in that review, that the Task Force is studying the current system. He said the City of Asheville operates under a Civil Service Law which is complicated. He said this particular law may need some amendments or changes and the Equal Employment Opportunity Task Force will be looking into recommended amendments. He further stated that the City Council members does not legally have the authority to interfere with hiring, firing or promotions of City employees. He said the only three individuals that City Council could hire is the City Manager, City Clerk, and the City Attorney. He said members of Council would be in violation of the Laws of the State of North Carolina if they interfered with the hiring, firing or promotions of employees of the City of Asheville.

Ralph Bishop commented that the City Council under the City Charter has the right to investigate any department within the City of Asheville, and he felt the Asheville Police Department needs an "overhaul".

James Harrison again commented that the 1976 agreement is binding, and is not being followed. He said the department heads have not been doing anything about the plan presented on May 20, 1976. He said it was his hope that the Equal Employment Opportunity Task Force would be more effective than the agreement he was involved in 1976.

Linda Reece questioned the validity of recent tests given for

sergeants and lieutenants. She said there has been a number of grievances filed by the Asheville Police Department employees relative to the scoring on such tests.

Councilman Bratton said since she has been on the Equal Employment Opportunity Task Force, she has found that a number of issues needs reviewing, one being tests being administered, and tests being implemented by department heads.

Jesse Ray, Sr., said he felt this issue has had procrastination and excuses for years.

Bob Smith, a member of the Equal Employment Opportunity Task Force said the members are looking into a vast ocean of concerns relative to equal employment opportunities. He said he felt it was the right thing to do to put a halt to all hiring and promotions by the Civil Service Commission and the City Manager until such time Council has adopted an affirmative action program.

COMPLAINT BY HARLAN HAYNES - SPOOKS BRANCH ROAD

20. Harlan Haynes of 14 Spooks Branch Road spoke to members of Council relative to a water problem he is having on his property since the City of Asheville paved Locust Avenue.

After discussion, Mayor Bisette requested that Mr. Haynes meet with the City Manager to work out this problem.

RALPH BISHOP - COMMENTS RELATIVE TO POLICE PENSION AND DISABILITY FUND

21. Ralph Bishop again spoke to members of Council relative to his being denied copies of documents relating to the Police Pension and Disability Fund. He questioned the opinion of the Attorney General relative to his right to obtain such records.

After discussion, Mayor Bisette requested that Ralph Bishop make an appointment with him to discuss the various statutes involved.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Tisdale, the meeting adjourned at 6:15 p.m.

MAYOR CITY CLERK
