

Tuesday - August 4, 1987 - 4:00 P.M.

Regular Meeting

Present: Mayor W. Louis Bisette, Presiding; Vice-Mayor Mary

Lloyd Frank; Councilmen Kenneth M. Michalove, Norma T. Price, George Tisdale, Wilhelmina Bratton and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City

Clerk William F. Wolcott, Jr.

Absent: None

### **INVOCATION**

The invocation was given by Councilman Wilhelmina Bratton.

### **I. PROCLAMATIONS:**

#### **A. Asheville Swim-A-Cross Week - August 6-14, 1987 --**

##### **Lifeguard Competition and Celebrity Bellyflop Day - August 6, 1987.**

Mayor Bisette read the proclamation stating that the

Asheville Area Red Cross has, for the past several years, conducted its annual Swim-A-Cross for the purpose of raising funds for the Asheville Chapter and to celebrate the millions of people nationwide who over the years have been taught to swim through the Red Cross and its many water safety programs. The week's activities will be kicked off by the Swim-A-Cross Lifeguard Competition and Celebrity Bellyflop Contest on the evening of August 6, 1987, at 6:00 p.m. at the Recreation Park Pool. This proclamation was requested by John Teeter, Chairman of Swim-A-Cross, and Mary Ritter, Promotion Director for the Asheville Area Red Cross.

Mayor Bisette presented the proclamation to John

Teeter, Chairman of Swim-A-Cross.

#### **B. Proclamation proclaiming the month of August, 1987 as**

##### **"Back-A-Boy Month"**

Mayor Bisette read a proclamation proclaiming the month

of August, 1987 as "Back-A-Boy Month".

Mayor Bisette presented the proclamation to Rick

Cristy, Executive Director of Boys Club and J. D. Jackson.

#### **C. Resolution No. 87-136 - Resolution expressing**

##### **appreciation to the Pepsi-Cola Bottling Company of Asheville for the donation of a utility vehicle.**

Mayor Bisette said the Pepsi-Cola Bottling Company of

Asheville has agreed to donate a beverage delivery truck to the Fire Department for use as a special purpose unit. This

donated vehicle will prove very useful in transport of hazardous materials spill control equipment, as well as other specialized equipment used at major fires and emergencies. It will be of value not only to Asheville, but, through mutual aid agreements, to all of Buncombe County.

Upon motion of Councilman Price, seconded by Councilman

Boland, Resolution No. 87-136 was unanimously adopted.

### **Resolution Book 16 - Page 397**

## **II. PUBLIC HEARINGS:**

### **A. Public hearing relative to the site plan of the proposed expansion of the NCDOT Maintenance Complex on U. S. 74.**

Mayor Bisette said the Asheville Planning and Zoning

Commission at a meeting held June 10, 1987, reviewed a site plan of the proposed expansion of the NCDOT Maintenance Complex on U. S. 74. The site plan was prepared by Ellis, Naeyaert, Genheirmer, Associates, Inc. for the State and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to recommend approval of the project subject to compliance with the Erosion Control Ordinance.

Mayor Bisette opened the public hearing at 4:16 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.

Patty Tallerday, with the Planning Department, said the

North Carolina Department of Transportation proposal is for an office, maintenance, and storage building on a 52-acre tract which is owned by NCDOT.

Upon inquiry of Councilman Tisdale, Mr. Genheirmer,

Architect for NCDOT, said the installation of a sidewalk where the property fronts U. S. 74 was not a part of the original plans and had not been addressed, however the installation of a sidewalk would be considered.

Mayor Bisette closed the public hearing at 4:20 p. m.

Councilman Boland moved to approve the site plan of the proposed expansion of the NCDOT Maintenance Complex on U. S. 74 subject to the conditions outlined by the Planning and Zoning Commission and further that NCDOT consider installing a sidewalk where NCDOT's property fronts U. S. 74. This motion was seconded by Councilman Michalove and carried unanimously.

## **III. OLD BUSINESS:**

### **A. Continuation of public hearing relative to rezoning**

#### **property located at 169 and 171 Druid Drive from R-3 Residential District to CH Commercial Highway District.**

Mayor Bisette said the Asheville Planning and Zoning Commission considered the petition of Mr. Peter Wilson et al

that Ward 6, Sheet 13, Lots 27 and 41 be rezoned from R-3 Residential District to CH Commercial Highway District. The property is located at 169 and 171 Druid Drive. After review and discussion, the Commission voted to recommend that the petition be denied and that the property remain as it is now zoned. The petitioner, Mr. Peter Wilson, has appealed the decision of the Planning and Zoning Commission, by letter dated June 8, 1987, and has requested that Council hold a public hearing relative to the rezoning request. This public

hearing was continued from the July 14, 1987 meeting.

Julia Cogburn, with the Planning Department, said two homes are located on the property requested to be rezoned. She said Mr. Matthews, owner of one parcel would like to expand his woodworking operation and Mr. Wilson, owner of the other parcel, would like to have office buildings on this property. She said several property owners on Laurel Loop had expressed objections to the rezoning.

Mr. Peter Wilson, 322 Montford Avenue, petitioner for the rezoning, spoke in support of the rezoning of this property. He said the lower end of Druid Drive, where the property is proposed to be rezoned is in a run down condition and in his opinion any improvements in the location would be beneficial to the neighborhood.

Mr. Jack Keenan, 164 Laurel Loop, spoke in opposition to the rezoning stating that Laurel Loop is a small residential area with a narrow two-lane road. He said in his opinion Druid Drive and Laurel Loop can not handle increased traffic.

Councilman Price pointed out that there are provisions in the Zoning Ordinance which would allow the petitioners to use their property as proposed under the Conditional Use Provisions in the R-3 Residential classification.

Upon inquiry of Councilman Tisdale, Julia Cogburn said letters were received by the Planning Department from seven (7) property owners on Laurel Loop objecting to the rezoning.

Mayor Bissette noted that if the property is rezoned to CH Commercial Highway District, the property could be used for a number of uses. He said if the property remains zoned R-3 Residential, the petitioners could still utilize their property under the Conditional Use Provisions.

Mayor Bissette closed the public hearing at 4:31 p. m.

Councilman Price moved to uphold the Planning and Zoning Commission's recommendation to deny the rezoning request. This motion was seconded by Councilman Michalove and carried unanimously.

## **B. Continuation of public hearing relative to rezoning**

**property in the area north of Hilliard, west of Clingman and southeast of West Haywood Street to Commercial Service District.**

**Ordinance No. 1643 - An Ordinance amending Ordinance No.**

**322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, petition of Mr. Daniel Murphy et al property located at corner of Clingman and Hilliard.**

Mayor Bissette said the Asheville Planning and Zoning

Commission at a meeting held June 3, 1987, considered the rezoning petition, plus lots in an area North of Hilliard, West of Clingman and Southeast of West Haywood Street for possible inclusion in the Commercial Service District. The Commission voted to recommend to City Council that Ward 4, Sheet 3, Lots 22, 26, 27, 28, 29, 31, 32-1/4, 34, 36, 36-1/4, 37, 38, 237, 240, 241, and 252 be rezoned from R-3 Residential District to CS Commercial Service District. This public hearing was continued from the July 14, 1987 meeting. He said the public hearing was continued in order to give the Planning staff an opportunity to meet with the residents of the area that did not understand the ramifications of rezoning.

Julia Cogburn, with the Planning Staff, said a meeting

was held on July 31, 1987 with the several residents in the area. She said the effects of the rezoning were explained as well as the allowable uses within the zoning classification. She said in her opinion all the residents left the meeting satisfied with the rezoning.

Upon inquiry of Councilman Price, Julia Cogburn said

pursuant to the Buffering Ordinance, buffering would be required between a commercial use and a residential use.

Mayor Bissette closed the public hearing at 4:35 p. m.

Councilman Price moved for the adoption of Ordinance No.

1643. This motion was seconded by Vice-Mayor Frank.

On a roll call vote of 7-0, Ordinance No. 1643 passed on

first reading.

### **C. Continuation of a public hearing relative to rezoning**

**property located at Haywood Road and Nevada Avenue from R-3 Residential District to CS Commercial Service District.**

**Ordinance No. 1644 - An Ordinance amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, petition of Mr. Nick**

**Apostolopoulos property located on Haywood Road.**

Mayor Bissette said the Asheville Planning and Zoning Commission at a meeting held May 13, 1987, reviewed and recommended that a portion of Lot 2-1/4, Sheet 11, Ward 5, be rezoned from R-3 Residential District to CS Commercial Service District. This public hearing was

continued from the July 14, 1987 meeting.

Mayor Bissette requested to be excused from voting and participation on this rezoning request since his law firm represents the petitioner.

Councilman Michalove moved to excuse Mayor Bissette from vote and participation on the rezoning request of Mr. Nick Apostolopoulos. This motion was seconded by Councilman Tisdale and carried unanimously.

Mayor Bissette turned the meeting over to Vice-Mayor Frank.

Julia Cogburn, with the Planning Department, said a valid protest petition had been filed which would require a three-fourths favorable vote of the members of Council voting on the issue in order for the approval of the rezoning request. She also noted that a 12' buffer would be required between the adjoining residential area and the Commercial Service District.

Gary Rowe, Attorney representing Nick Apostolopoulos,

questioned the validity of the protest petition filed

with the Planning Division since the petition was directed at the rezoning of the entirety of Lot 2-1/4 and in reality 99% of the lot is presently zoned Commercial Service and the petitioner is only requesting the remaining portion to be zoned Commercial Service. He also noted that it is his understanding that eight (8) property owners had withdrawn

their names from the protest petition.

Nick Apostolopoulos, petitioner, spoke in support of the

rezoning stating that the rezoning would allow a better use of the property for a restaurant. He said a retaining wall and fence would be constructed along his property line and the adjoining property.

Mayor Bissette closed the public hearing at 5:03 p. m.

Councilman Tisdale moved for the adoption of Ordinance No. 1644. This motion was seconded by Councilman Boland.

On a roll call vote of 6-0, Ordinance No. 1644 passed on first reading.

#### **IV. NEW BUSINESS**

None Scheduled

#### **V. CONSENT AGENDA**

##### **A. Approval of bids received for Disposal Parcels 67, 99,**

**115, and 116 in the East End/Valley Street Community Improvement Project and Disposal Parcels 96B.2 and 99 in the East Riverside Urban Renewal Project.**

**SUMMARY:** The Housing Authority has tentatively accepted the following bids for certain disposal parcels in the East Riverside Urban Renewal Project and the East

End/Valley Street Community Improvement Project:

##### **B. Resolution No. 87-137 - Resolution authorizing the City**

**Manager to execute an amendment to the contract between the City of Asheville and Delta Dental Plan of North Carolina, Inc. for the purpose of extending dental benefits to the staff of Asheville/Buncombe Community Relations Council.**

**SUMMARY:** This resolution will authorize the extension of City dental benefits to the staff of the Asheville-Buncombe Community Relations Council. Council to pay full cost of employee's coverage and employees to pay full cost of family coverage.

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##### **C. Scheduling public hearing relative to site plan of the**

**proposed expansion of St. Marks Lutheran Church at 10 North Liberty Street for August 18, 1987.**

**SUMMARY:** The Asheville Planning and Zoning Commission at a meeting held April 8, 1987, reviewed a site plan of the proposed expansion of St. Marks Lutheran Church at 10 North Liberty Street. The site plan was prepared by Wood and Cort, Architects, and submitted in accordance with the Group Development Section of the Asheville Zoning Ordinance. After review and discussion, the Commission voted to approve the project subject to the following conditions: 1. That a variance be granted to permit a side setback of 6" instead of the required 8';

2) That a variance be granted to permit 45 parking spaces instead of the required 56; 3) That a variance be granted to

reduce the buffering on the north property line; and 4) Compliance with the Erosion Control Ordinance.

**D. Resolution No. 87-138 - Resolution appointing member to the Asheville-Buncombe Historic Resources Commission.**

**SUMMARY:** This resolution will appoint Mr. John Nilsson, 165 Vermont Avenue, Asheville, North Carolina, 28806, as a member of the Asheville-Buncombe Historic Resources Commission for a three (3) year term, term expiring July 1, 1990, or until his successor has been duly appointed

and qualified.

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Upon motion of Councilman Michalove, seconded by

Councilman Price, the consent agenda was unanimously approved.

**Resolution No. 87-139 - Resolution supporting selection of Asheville for the site of the 1988 Joint Annual Conference of the North Carolina Firemens and Fire Chiefs Association.**

Chief John Rukavina said representatives of the

Asheville Fire Department and the Buncombe County Firemens Association have been approached regarding the possibility of Buncombe County's fire departments serving as hosts for the 1988 North Carolina Firemens/Fire Chiefs Association Joint Conference in Asheville. If Asheville is selected as the Conference site, approximately 1,000 visitors could be expected for the three-day conference.

He said this resolution will demonstrate the City

Council's support of a bid for this Conference.

Upon motion of Councilman Price, seconded by Vice-Mayor Frank, Resolution No. 87-139 was unanimously adopted.

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**EXTENSION OF WATER AGREEMENT**

Mayor Bissette announced that the City Council and Buncombe County Commissioners have reached an agreement in principle for a five (5) year extension of the Asheville-Buncombe Water Agreement.

**HAROLD BLANKENSHIP - 51 HARNETT STREET - WATER PROBLEM**

Jack Cloninger, Attorney representing Harold Blankenship at 51 Harnett Street, said his client is having an extreme water problem created by the construction of the Vance Elementary School. He said he had talked with Tom Tarrant in the City Engineering Department and was informed that plans and specifications for the correction of this problems are complete and would be advertised for

bid. He said it seems that the priority for this project keeps being shifted to a low priority. He said every time it rains his clients property is flooded and his driveway washed out.

Mayor Bissette requested the City Manager to look into Mr. Blankenship's problem and to inform Mr. Blankenship as to the status of this project.

## PETITION RELATIVE TO ZONING STUDY - BEAVER LAKE

Tom Bell, Attorney, representing himself and other property owners in the Lake View Park area, submitted the following petition:

### PETITION

#### ARTICLE II; SECTION 30-11-1 (c)

#### ASHEVILLE ZONING ORDINANCE

We the undersigned property owners in Lake View Park or Beaver Lake do hereby request that the City Council initiate a special zoning study to determine if a change in the comprehensive development plan of the City of Asheville is warranted for that area adjoining Beaver Lake and upon which a retail shopping center has been proposed for construction. We are of the opinion that the character of this area has changed significantly and such study is warranted at this time.

Mr. Bell said the petition is signed by 51% of the property owners in the vicinity of Beaver Lake as required by Section 30-11-1 (c). He said the petition contains the signatures of 229 families in the Beaver Lake area. He said the last developmental plan for the Beaver Lake area was in 1947 and the area has since changed tremendously. He said the area is now heavily populated with homes and has commercially exploded. He said the area has a very heavy traffic use with the main highway cutting down from four (4) lanes to two (2) lanes. He said the residential area is seriously affected by the heavy traffic. He said the area has had major changes since the last developmental plan. He said Beaver Lake is in serious danger of losing scenic beauty because of proposed commercial development in the area. He said the residents feel it is vital to protect this area.

Upon inquiry of Mayor Bissette, Mr. Bell said the residents are referring to a proposed retail shopping center proposed by Mr. George Beverly.

Mayor Bissette requested to be excused from participation and vote on the petition since his law firm represents Mr. Beverly.

Councilman Tisdale moved to excuse Mayor Bissette from vote and participation relative to the petition. This motion was seconded by Councilman Price and carried

unanimously.

Councilman Tisdale noted that his personal property adjoins the property proposed for commercial development by Mr. Beverly.

Councilman Price suggested that the Planning staff review the petition as to validity and make a recommendation to Council.

Mr. George Beverly, developer, requested that Council not take action on the petition at this time since he felt the petition was directly aimed at his proposed project and that Council wait until the Planning and Zoning Commission makes their recommendation relative to the site plan. He said the Planning and Zoning Commission is scheduled to review the site plan next week. He said in an effort to cooperate with the residents of the area a meeting was held at Grace Covenant Church to share his proposed plans. He said his plans are for 30,000 ft. of specialty shops which would compliment the neighborhood.

E. H. Lederer, Acting Chairman of the Lake View Park Commission, spoke in support of the petition and requested that Council consider the petition at this meeting.

Karen Fields, 109 Westwood Road, said her property overlooks Beaver Lake and would be seriously affected by the

proposed shopping center. She spoke in support of the petition.

Upon inquiry of Vice-Mayor Frank, Corporation Counsel Slawter said Council has the authority to act on the petition if they so desire.

Councilman Tisdale moved that no action be taken on the petition presented and that Council wait on a recommendation from the Planning and Zoning Commission relative to the proposed commercial development. This motion was seconded by Councilman Bratton.

After discussion, Councilman Michalove moved to amend Councilman Tisdale's motion to add that a copy of the petition submitted be forwarded to the Planning and Zoning Commission. This motion was seconded by Councilman Boland and carried unanimously.

On a voice vote, Councilman Tisdale's motion passed unanimously.

### **RALPH BISHOP - LOTTERY SALES**

Ralph Bishop again spoke to members of Council relative to lottery sales in the City of Asheville.

### **CLAIMS - DAN KELLY (WATER) - GEORGIA JEFFERSON (PARKS) - JOHN LAYMAN (WATER) - DAVID CUTSHALL (STREETS)**

The City Manager presented claims received from Dan Kelly, Georgia Jefferson, John Layman, and David Cutshall.

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

### **ADJOURNMENT**

Upon motion of Vice-Mayor Frank, seconded by Councilman Price the meeting adjourned at 6:20 p.m.

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**MAYOR CITY CLERK**

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