

Tuesday - August 25, 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, Wilhelmina Bratton, and George Tisdale;
Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk

William F. Wolcott, Jr.

Absent: Councilman Walter Boland.

INVOCATION

At the request of Councilman Tisdale the audience stood for the pledge of allegiance to the flag. Councilman Tisdale then gave the invocation.

APPROVAL OF MINUTES

Mayor Bisette announced the approval of the minutes of the August 11, 1987 and August 18, 1987 meeting as submitted.

I. PROCLAMATIONS

A. Proclamation recognizing the Land-of-the-Sky

Bassmasters.

Mayor Bisette read the proclamation stating that the

Land of Sky Bassmasters was named the #1 B.A.S.S. Club in America and was awarded the National Public Relations Award.

Mayor Bisette presented the proclamation to Phil

Shope, President of the Land-of-Sky Bassmasters.

B. Resolution No. 87-151 - Resolution endorsing the promotion of Amtrak services from the East Coast to Asheville.

Mayor Bisette read the resolution endorsing and

supporting the Carolina Association of Passenger Train Advocates "CAPTA" to promote and secure AMTRAK service from the East Coast to Asheville.

Upon motion of Councilman Bratton, seconded by

Councilman Price, Resolution No. 87-151 was unanimously

adopted.

Resolution Book No. 16 Page No. 411

C. Resolution No. 87-152 - Resolution endorsing \$46 million

bond referendum

Mayor Bissette read the resolution endorsing the \$46

million bond referendum scheduled by the County of Buncombe for September 22, 1987. The bond issue will include \$32 million for schools, \$8 million for the Asheville Regional Airport, and \$6 million for Asheville-Buncombe Technical Institute.

Upon motion of Councilman Bratton, seconded by

Councilman Michalove, Resolution No. 87-152 was unanimously adopted.

Resolution Book No. 16 Page No. 412 and 413

Mayor Bissette presented to resolution to Curtis

Ratcliff, Chairman of the Buncombe County Commissioners', Carey Owen, Eugene Ochsenreiter, and Mac McGough, members of the Bond Steering Committee.

Chairman Ratcliff and members of the Bond Steering

Committee thanked members of Council for the resolution of endorsement and support.

II. PUBLIC HEARINGS:

A. Continuation of public hearing relative to the proposed

Long Street/Syrlin Street Condominium Project.

Mayor Bissette said the Asheville Planning and Zoning

Commission reviewed the project on July 1, 1987, and recommended denial because of traffic impact on the neighborhood.

(Any approval by City Council should be contingent upon:

1. Board of Adjustment granting a width variance

on buffer on southern property line; and

2. Compliance with Erosion Control Ordinance).

Verl Emrick, Director of Planning, said the developer,

Ms. Goldstein, has requested that the group development plan be withdrawn at this time. He said Ms. Goldstein also requested that Council continue to consider her

petition to close a portion of Syrlin Street.

Mayor Bissette said, at the developer's request, the site plan would be withdrawn from consideration at this time.

B. Continuation of public hearing relative to site plan of the proposed expansion of St. Marks Lutheran Church at 10 North Liberty Street.

Mayor Bissette said 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.

Verl Emrick, Director of Planning, said the Planning

and Zoning Commission recommended approval of the site plan subject to the conditions outlined by Mayor Bissette. He said the Zoning Board of Adjustments, on June 29, 1987 and August 10, 1987, approved the variances requested to permit a side setback of 6" instead of the required 8' and the granting of 45 parking spaces instead of the required 56, and the reducing of buffering on the north property line in order that existing trees can be retained. He said since the property is located in the Chestnut-Liberty Street Historic District, the project was considered and approved by the Historic Resources Commission. He said he had received a letter from James Ervin, Attorney for the adjoining property owner, Mr. Chavaris, indicating that Mr. Chavaris would sell an eight (8') foot strip of land to St. Marks Lutheran Church in order to allow the church an additional side yard. He said this agreement has not been completely consummated but all parties are in agreement. He said it was his understanding that the agreement would be consummated after ratification by the congregation of the church.

John Cort, architect for the project, outlined the

details of the proposed expansion. He also noted that he had talked with Mr. Ervin who indicated that his client has no objections to the proposed expansion by

the church. He said the purchase of the eight (8') foot strip is also contingent upon the approval of the project by Council.

Upon inquiry of Council, Mr. Emrick said the Fire

Department and Traffic Engineering Department requested and is instituting a no parking provision on one side of the street to allow for emergency vehicle access.

Mayor Bissette closed the public hearing at 4:44 P.M.

Upon inquiry of Vice-Mayor Frank, the Corporation

Counsel said, in his opinion, that Council could approve the site plan contingent upon the purchase of the eight (8') foot strip of land by the church from

Mr. Chavaris.

Vice-Mayor Frank moved to approve the site plan for the

expansion of St. Marks Lutheran Church at 10 North Liberty Street subject to the conditions outlined by the Planning and Zoning Commission and contingent upon the church purchasing the eight (8') foot strip from the adjoining property owner, Mr. Chavaris, to be used for a side yard. This motion was seconded by Councilman

Tisdale and carried unanimously.

III. OLD BUSINESS:

A. Ordinance No. 1645 - Third reading of Ordinance No.

1645, Ordinance to extend the corporate limits of the City of Asheville to an area south of the existing corporate limits under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.

Mayor Bissette said all legal requirements have been met

in order for Council to consider an ordinance to extend the corporate limits to an area south of the existing corporate limits.

Mayor Bissette said the ordinance was previously

presented to members of Council and read on first and second readings and the ordinance would not be read in its entirety. He said any individual requesting a copy of the ordinance would be furnished one at no cost.

Ralph Bishop spoke in opposition to the annexation ordinances.

On a roll call vote of 6-0, Ordinance No. 1645 passed on third and final reading.

Ordinance Book No. 11 Page No. 150-155

B. Ordinance No. 1646 - Third reading of Ordinance No.

1646, Ordinance to extend the corporate limits of the City of Asheville to an area lying to the west of Hendersonville Road under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.

Mayor Bissette said all legal requirements have been met

in order for Council to consider an ordinance to extend the corporate limits to an area lying to the west of Hendersonville Road.

Mayor Bissette said the ordinance was previously

presented to members of Council and read on first and second readings and the ordinance would not be read in its entirety. He said any individual requesting a copy of the ordinance would be furnished one at no cost.

On a roll call vote of 6-0, Ordinance No. 1646 passed on

third and final reading.

Ordinance Book No. 11 Page No. 156-159

C. Ordinance No. 1647 - Third reading of Ordinance No.

1647, Ordinance to extend the corporate limits of the City of Asheville to a portion of the area generally known as the Oteen Area under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.

Mayor Bisette said all legal requirements have been met

in order for Council to consider an ordinance to extend the corporate limits to an area generally known as the Oteen Area.

Mayor Bisette said the ordinance was previously

presented to members of Council and read on first and second readings and the ordinance would not be read in its entirety. He said any individual requesting a copy of the ordinance would be furnished one at no cost.

On a roll call vote of 6-0, Ordinance No. 1647 passed on

third and final reading.

Ordinance Book No. 11 Page No. 160-164

D. Resolution No. 87-153 - Resolution further amending the

report of plans for extension of city services into the area proposed for annexation which is generally known as the Haw Creek Area

The City Manager said since the area being annexed was

amended by the deletion of one area the plans for services should be amended to reflect a change in the statistical information in the plan as well as the estimated annual revenue.

Mayor Bisette read the resolution.

Upon motion of Vice-Mayor Frank, seconded by Councilman

Price, Resolution No. 87-153 was unanimously adopted.

Resolution Book No. 16 Page No. 414

E. Ordinance No. 1648 - Third reading of Ordinance No.

1648, Ordinance to extend the corporate limits of the City of Asheville to a portion of the area generally known as the Haw Creek Area under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.

Mayor Bisette said all legal requirements have been met

in order for Council to consider an ordinance to extend the corporate limits to an area generally known as the Haw Creek Area.

Mayor Bissette said the ordinance was previously

presented to members of Council and read on first and second readings and the ordinance would not be read in its entirety. He said any individual requesting a copy of the ordinance would be furnished one at no cost.

On a roll call vote of 6-0, Ordinance No. 1648 passed on third and final reading.

Ordinance Book No. 11 Page No. 165-168

F. Resolution No. 87-154 - Resolution further amending the

report of plans for extension of city services into the area to the west of the existing corporate limits proposed for annexation.

The City Manager said since the area description has

been changed by the deletion of several parcels the plans for services should be amended to reflect a change in the statistical information in the plan as well as the estimated annual revenue.

Mayor Bissette read the resolution.

Vice-Mayor Frank moved for the adoption of Resolution

No. 87-154. This motion was seconded by Councilman Michalove.

Ben Pace, speaking on behalf of the Enka-Candler

Businessmen's Association, said the association unanimously opposes the annexation. He said, speaking for himself, Council is legally right in annexing the

property, but they should also be morally correct. He said the people of the Enka-Candler area would be monitoring the annexation process and requirements very closely to see to it that the City of Asheville carry out the annexation process and its requirements.

Beulah Wilson, 787 Sand Hill Road, retired senior

citizen, spoke in opposition to the annexation. She said the people should have been given an opportunity to vote of the annexation.

Ila Fisher, 791 Sand Hill Road, retired senior citizen,

spoke in opposition to the annexation. She said she was concerned whether or not she could pay the additional taxes. She requested that Council reconsider the annexation of the Enka-Candler area.

W. V. Henry, Enka-Candler resident, spoke in opposition

to the annexation stating that he did not appreciate City Council taking control of peoples lives and property.

Tom Thrash, Enka-Candler resident, spoke in opposition

to the annexation. He said there were emotional and factual issues involved. He said in addition to increased taxes the people would have other controls placed upon them such as zoning and licensing. He said he also opposed the City not following natural boundary lines.

Ralph Bishop again spoke in opposition to the annexation ordinances.

On a voice vote of 6-0, Resolution No. 87-154 was unanimously adopted.

Resolution Book No. 16 Page No. 415

G. Ordinance No. 1649 - Third reading of Ordinance No.

1649, Ordinance to extend the corporate limits of the City of Asheville to an area to the west of the existing corporate limits under the authority granted by Part 3, Article 4A, Chapter 160A of the General Statutes of North Carolina.

Mayor Bissette said all legal requirements have been met

in order for Council to consider an ordinance to extend the corporate limits to an area to the west of the existing corporate limits.

At the request of the City Manager, Councilman Price

moved to amend Ordinance No. 1649 to change the description as set forth in the final draft of the ordinance as distributed to City Council. This motion

was seconded by Vice-Mayor Frank and carried unanimously.

Mayor Bissette said the ordinance was previously

presented to members of Council and read on first and second readings and the ordinance would not be read in its entirety. He said any individual requesting a copy of the ordinance would be furnished one at no cost.

On a roll call vote of 6-0, Ordinance No. 1649, as

amended, passed on third and final reading.

Ordinance Book No. 11 Page No. 169-172

IV. NEW BUSINESS:

A. Resolution No. 87-155 - Resolution granting certain variances for Highland Gate Subdivision.

Mayor Bissette read the resolution.

Verl Emrick, Director of Planning noted that the

Asheville Planning and Zoning Commission granted preliminary plat approval to Highland Gate Subdivision (then called Vance Gap Road Subdivision) on March 25, 1987, subject, among other things, to City Council granting a variance from the width requirement for the road right-of-way and cul-de-sac radius from 50 feet to 40 feet. He said Section 26-13 of the Code of Ordinances of the City of Asheville provides that the City Council may authorize a variance where a subdivider can show that a provision of the regulations prescribed by Chapter 26 of the Code would cause unnecessary hardship if strictly adhered to and where, because of topographical or other conditions peculiar to the site, in the opinion of the Planning and Zoning Commission, a departure may be made without destroying the

intent of such provision.

Bill Ashley, Project Engineer, outlined the details of

the proposed subdivision. He said the property would be used for single family structures.

Upon inquiry of Councilman Michalove, Mr. Emrick said

the project would not be affected by the Hillside Ordinance, Ordinance No. 1613 since single family structures would be placed on the property.

After discussion, Councilman Michalove moved for the

adoption of Resolution No. 87-155 contingent upon the developer complying with the Hillside Ordinance, Ordinance No. 1613. This motion was seconded by

Councilman Tisdale and carried unanimously.

B. Consideration of approval of revisions to the Water

System Master Plan.

Mayor Bissette said at the regular meeting of the

Asheville-Buncombe Water Authority on August 18, 1987 revisions to the previously adopted water system Master Plan was approved. The Authority has recommended these revisions to both the City and the County.

The City Manager at the last Water Authority meeting it

was recommended by the consultant that several large size water lines in the Master Plan be either eliminated or reduced in size. In addition, it was further recommended that the Peach Knob Reservoir be increased in size. The cost savings in eliminating the transmission lines will pay for the increased cost for the larger reservoir at Peach Knob.

Vice-Mayor Frank moved to approve the revisions to the

water system Master Plan as recommended by the Asheville-Buncombe Water Authority and as outlined by the City Manager. This motion was seconded by Councilman Michalove and carried unanimously.

V. CONSENT:

A. Scheduling of public hearing relative to site plan of

the proposed conversion of an existing house at 302 Cumberland Avenue into four apartment units for September 8, 1987.

SUMMARY: The Asheville Planning and Zoning Commission

at a meeting held August 12, 1987, reviewed a site plan of the proposed conversion of an existing house at 302 Cumberland Avenue into four apartment units. The plan was prepared by Mr. lanwehr, Developer, 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: 1) A variance from the 12' buffer requirement on the southern property line from the Board of Adjustment; and 2) Compliance with the Erosion Control Ordinance, if any grading occurs.

B. Scheduling of public hearing relative to proposed

expansion of Twin Oaks Mobile Home Park on Bingham Road for September 8, 1987.

SUMMARY: The Asheville Planning and Zoning Commission

at a meeting held August 12, 1987, reviewed the proposed expansion of Twin Oaks Mobile Home Park on Bingham Road.

The plan was prepared by Ray Anders, RLS, for Mr. Allen Moss, Developer, 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: 1) Elimination of Site No. 6 and provision of plantings; and 2) Compliance with Erosion Control Ordinance.

C. Scheduling of public hearing relative to rezoning

property located on Hildebrand Street in the East End/Valley Street Redevelopment Area for

September 15, 1987.

SUMMARY: The Asheville Planning and Zoning Commission

at a meeting held August 12, 1987, considered the petition of Mr. Sidney Shorter et al that Lots 89, 90, 2-1/4, 100, 4, and 6, Sheet 2, Ward 1, be rezoned from CS Commercial Service District to R-3 Residential District. The property is located on Hildebrand Street in the East End/Valley Street Redevelopment Area. After review and discussion, the Commission voted to recommend to City Council that Lots 89, 90, 2-1/4, 100, 4, and 6 and 2-1/2, Sheet 2, Ward 1, be rezoned from CS Commercial Service District to R-3 Residential District. (Staff recommended including Lots 6 and 2-1/2 for contiguity although owners had not signed petition).

D. Resolution No. 87-156 -Resolution authorizing the City

Manager to enter into agreements necessary to conduct the French Broad Riverfest and authorizing the City Manager to temporarily close a portion of Riverside Drive for the French Broad Riverfest to be held on Saturday, September 12, 1987, and Sunday, September 13, 1987.

SUMMARY: The City of Asheville and the French Broad

River Foundation, Inc. will be sponsoring the French Broad Riverfest to be held on Saturday, September 12, 1987, and Sunday, September 13, 1987. It is necessary to establish agreements between these sponsors and various land owners of property wherein the Riverfest will be held. It is also necessary to temporarily close a portion of Riverside Drive from its intersection with West Haywood Street south to its intersection with Clingman Avenue. Access to businesses, delivery trucks, and emergency vehicles will be allowed and monitored by the Riverfest Committee.

Resolution Book No. 16 Page No. 417

Upon motion of Vice-Mayor Frank, seconded by Councilman

Price, the consent agenda was unanimously approved.

CLAIMS - CLIFFORD JOHNSON (WATER)

The City Manager presented a claim received from

Clifford Johnson.

Mayor Bissette referred the claim to the Corporation

Counsel for investigation and recommendation.

DISCUSSION - ASHEVILLE SPEEDWAY

Mayor Bissette said during the pre-council work session

Council discussed the issue of the Asheville Speedway in relation to an amendment to the Zoning Ordinance that was adopted in 1977 which called for the race track to cease operation ten (10) years from the effective date of the ordinance which would be in October, 1987. He said the amendment also applies to junkyards, salvage yards and several other businesses. He said Council is trying to determine what businesses would be affected by the amendment if it is upheld by the present Council, as well as other legal matters regarding the amendment. He said Council is in the process of gathering the facts before making a decision on the amendment. He said Council would not make a decision pending a report from city staff. However, Council would like to hear comments from the public on the issue.

Micheal Moore, Attorney representing the speedway owner,

Russ Leicht, Jr., contended that the language specified in the amendment did not necessarily eliminate the operation of a race track since the property where the race track operates is zoned HI Heavy Industrial which zone states that "any use may be permitted." He contended that the present race track does not operate as a nonconforming use.

Mr. Moore presented Council with petitions with

signatures from 6,000 race track supporters. He said the speedway is an important recreational sports outlet for the area and draws more than 170,000 people each year from throughout Western North Carolina. He said the track also provides substantial tax revenue to the city as well as supporting area businesses. He said the track is a certified NASCAR approved track and if it is taken away there would not be another one in our surrounding area. He said the closing of the race track would place a tremendous financial hardship on investors of the track.

Upon inquiry of Mayor Bissette, Mr. Moore said his

client would be glad to work with the city to ease the noise problems, with the possibility of requiring mufflers on the race cars, and other measures that might be taken to resolve the problems.

Herman Rector, West Asheville resident, said the noise

and dust from the race track was almost unbearable. He said the present owner of the race track was aware of the ten (10) year amortization period when he purchased the track. He said the residents of West Asheville are also getting their facts together to see what can be done to stop the noise and dust from the track.

Captain Lee Warren, operator of security at the race

track, said in his opinion the noise from the race track is not great in West Asheville. He said there are very few problems at the race track and the majority of the people attending the races are gone by 11:15 P.M. He said he felt to close the race track would be a misjustice to the citizens of Asheville, Buncombe County, and Western North Carolina.

Earl Hampton, 84 Nevada Avenue, said he was opposed to

the noise from the race track. He said the people of West Asheville are tired of listening to this noise and is not going to tolerate the race track any longer, particularly since they have waited the ten (10) year period. He suggested putting a dome over the track to keep the noise level down.

Gordon McCarson, 40 Vermont Court, said he had been

going to the track for 26 years and never experienced a problem. He said the speedway has a non-drinking area, they have fund drives for charity, and there are good professional people involved in the sport. He said the race track keeps kids off the street. He said he felt the race track could not be compared to a junk yard.

Angela Apolisto spoke in favor of keeping the race track

open. She said this is a safe, reasonable recreational event. She said the race track does no harm and it would be a disservice to the young people to take the race track away.

Wallace Leatherwood, speaking in support of the race

track, said noise is an acceptable part of life. He said since the present owner has been operating the track it has become a clean, family-oriented place for recreation.

Herman Rector said he was also concerned about multi-

events going on at the race track such as rock concerts.

Russ Leicht, owner of race track, said there would be no

more concerts at the speedway. He said he was also concerned that no one from the city had ever contacted him about the noise at the race track.

John Ponder, Fletcher, North Carolina, said the City

should work with the owner to resolve the problems but the race track should not be forced to cease operation.

Steve Anderson, 149 Brucemont Circle, speaking in

support of the race track, said the track always closes by 11:30 P.M.

David Cole, property owner in North Asheville, said

racing is a form of art and the race track should not be forced to close. He said there would be a lot of jobs affected and tax revenue lost. He requested that Council not put them out of business but work with them to solve the problems.

Upon inquiry of Councilman Bratton, it was noted that

there were a number of young people involved with the race tracks, selling newspapers, working on cars, and many other jobs. It was also noted that a large percentage of spectators were young people.

Mayor Bissette thanked the individuals for their

comments stating that there were good comments from both sides of the issue. He said Council would be looking very carefully at the issue in an effort to come up with a solution to satisfy everyone concerned. He said Council would be discussing this issue more when they receive the city staff report.

ADJOURNMENT

Upon motion of Councilman Tisdale, seconded by

Councilman Price, the meeting adjourned at 6:55 P.M.

MAYOR CITY CLERK
