

Tuesday - December 8, 1987 - 4:00 P.M.

Regular Meeting

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

M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell M. Martin, and Walter Boland; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City

Manager/City Clerk William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Vice-Mayor Michalove.

APPROVAL OF MINUTES - DECEMBER 1, 1987

Mayor Bisette announced the approval of the minutes of the December 1, 1987 as submitted.

I. PROCLAMATIONS:

A. STAN GUDGER - CRIME STOPPERS - ANNOUNCEMENT OF FUND

RAISING DRIVE

Mayor Bisette recognized Stan Gudger, Coordinator

for Crime Stoppers, who announced a fund raising drive by Crime Stoppers for their Reward Fund. He said Domino's Pizza will be donating \$5.00 for every pizza sold tonight to Crime Stoppers. He encouraged members of Council and everyone to buy a Domino's Pizza tonight to help increase the Reward

Fund for Crime Stoppers.

B. PROCLAMATION - HILLHAVEN REHABILITATION AND

CONVALESCENT CENTER - NORTH POLE SUBSTATION - HO-HO

HOTLINE

Mayor Bisette proclaimed that Hillhaven

Rehabilitation and Convalescent Center be designated as the North Pole Substation in recognition of the Center's Ho-Ho Hotline, a program for the residents, where children can call and talk to "Santa Claus".

Mayor Bisette presented the proclamation to Agnes

Taylor, who presented the Mayor with a Ho Ho

Hotline Certificate.

II. PUBLIC HEARINGS:

A. Public hearing relative to Asheville Mall Expansion.

Mayor Bissette said the Asheville Planning and Zoning

Commission at a called meeting on June 19, 1985, reviewed and approved the site plan of the Expansion of the Asheville Mall subject to nine contingencies. The Commission also recommended that the City Council, at a later date, request that a study be made of the feasibility of making Bracketown Road one-way out only to White Pine Drive. A grading plan was submitted and approved on January 15, 1987, and this work has been completed.

Mayor Bissette opened the public hearing at 4:20 P.M.

The City Clerk presented the notice to the public

setting the time and date for the public hearing and the affidavit of publication.

Verl Emrick, Planning Director, said the Planning and

Zoning Commission recommended approval of the project

subject to the following conditions:

1) Establish and maintain buffering to extend southerly

along the contour line, Sheet R3A2, on sheet dated 6-10-85, and that be extended to the northeast corner of Lot 65 until it intersects with the new buffering;

2) Approve the gross parking (full deck as shown) area

plan, but in the event the deed restrictions will not permit this plan that parking plan two, with the triangle cut off of the deck, be approved;

3) That the plans be updated to show the contours as it

relates to Mr. Rex Moseley's property;

4) That the detailed R3A3, typically new buffering, be

tied down with the dimension of 2-1/2 feet from the right-of-way of the property line to the first planting be added. (Clarified from lip of bank to fence line) (Marked on plans);

5) That it be in compliance with present erosion

control;

6) That existing contours on portions of the Johnson

property zoned residential are not to be disturbed;

7) The location as well as the elevations of the

buffering as shown on this plan is a fundamental condition of approval of this group development proposal;

8) Require a schematic drawing of the existing drainage

system and the proposed drainage system to be submitted to staff prior to its going to City Council; and

9) Require a schematic lighting plan to be submitted

prior to its going to City Council.

The Commission further voted to recommend that City

Council be requested to study the feasibility of making Brackettown Road one way out only on White Pine Drive.

Mr. Emrick noted that the Traffic Engineer had taken

traffic counts on Brackettown Road on March 25, 1985 indicating a count of 5,047 during peak periods and on December 2, 1987 showing a count of 4,565 during peak periods. He said the decrease is due to recent improvements to U. S. 70 and the entrances to the Asheville Mall.

Mr. John Stevens, Attorney for the Asheville Mall, said

the Mall owners have been negotiating with existing and new tenants since the property at the Mall was rezoned in the Spring of 1985. He said Asheville Mall is proposing a new wing to include a new store with a series of shops. The new wing would be located in a southwesterly direction behind Belk's close to the Mall theaters. He said a parking deck is also planned as part of the expansion.

Danie Johnson, Architect for the Project, said for the

record he would note that Council is reviewing plans entitled R3, R3A2, and R3A3. He said these plans are the same plans reviewed by the Planning and Zoning Commission with the exception that changes have been made to comply with the conditions outlined by the Planning and Zoning Commission.

Mr. Johnson said the expansion project includes a two-

story structure to house a department store of 130,000 square feet at a cost of approximately \$18 to \$20 million. He said parking would be provided by a single story parking deck with 700 parking spaces. He said grading has been substantially completed. He said the traffic pattern is as recommended by Wilbur Smith and Associates, Traffic Consultants. He said the project will also include the upgrading of the interior of the existing Mall. He said the parking deck is scheduled to begin in January, 1988 and mall construction is scheduled to begin in July, 1988. He said the existing storm drainage system would be utilized. He said the lighting plan for the area will cause no bleed over into the residential area. He said the project is designed where no requests for variances is needed and the owners will comply with all conditions outlined by the Planning and Zoning Commission as well as conditions outlined by Council in the rezoning of the property. He said a tremendous amount of time, effort and money has been put into the project and he requested Council's favorable approval and support of the project. He also requested that Council consider the economic impact of the project.

The following individuals spoke in opposition to the

project because of additional noise and fumes from cars, storm drain problems created by the Mall, buffering problems and trash generated by mall patrons. The main area of contention was traffic problems on White Pine Drive, generated by Brackettown Road leading from the north side of the Sears Parking Lot to Tunnel Road via White Pine Drive. It was noted the area from

Brackettown Road is usually packed with cars entering and leaving the mall through the Sears lot causing difficulty for area residents to enter their neighborhood.

Brad Thompson, 281 White Pine Drive

Rex Mosely, 28 White Pine Drive

Mr. Fore, 4 East Shore Drive

Bob Young, with U. S. Senator Terry Sanford's Office, speaking on behalf of the residents who had contacted the Senator's Office relative to the problems associated with Bracketown Road. He said he had a petition with 157 signatures relative to these problems. He requested that Council request a feasibility study from N.C.D.O.T. to make the area safer for the residents.

Janice Willard, 292 White Pine Drive

Arthur Williams, 36 White Pine Drive

Helen Payne, 290 White Pine Drive

Mrs. Dewey Ramsey, 258 White Pine Drive

Harold Payne, 290 White Pine Drive - Co-Chairman of

Kenilworth Forest Homeowners Association

Dewey Ramsey, 258 White Pine Drive

William Payne, 290 White Pine Drive

Councilman Price requested that the landscape plan for the project be resubmitted to Council for review and approval.

Upon inquiry of Vice-Mayor Michalove, Danie Johnson

said the Wilbur Smith and Associates traffic recommendations did not include specific recommendations for Bracketown Road since it is not on Asheville Mall property. He said studies have shown that at present approximately 391 trips are made into the mall through Bracketown Road and 360 trips are made out of the mall through Bracketown Road. He said it is projected after the expansion that 446 trips will be made into the mall through Bracketown Road and 417 trips will be made out through Bracketown Road.

Upon inquiry of Vice-Mayor Michalove as to how critical

it would be to leave Bracketown Road open, John Stevens said since Bracketown Road is not a public street, and Sears owning the land; Sears as well as other mall tenants would have a vital interest in Bracketown Road.

Vice-Mayor Michalove said he felt further studies need

to be made as far as Bracketown Road is concerned and

Council should consider all options to alleviate traffic problems in the area.

Danie Johnson, in response to Vice-Mayor Michalove

relative to the storm drainage problem on Mrs. Willard's property, said McGill Associates and City Staff determined that the problem is not associated with the mall property but with the drainage direction on White Pine Drive. He said to correct this problem it was suggested that the City redirect the drainage to the western side of White Pine Drive. He said it was also determined that the drainage system on the mall property is adequate to carry a 25 year storm capacity. He said steps will be taken not to increase the problem.

Councilman Price suggested that Council continue the

public hearing for two weeks giving the staff an opportunity to study the problems associated with Brackettown Road.

Upon inquiry of Councilman Frank, Danie Johnson said

the lighting level for the expansion will be the same as the existing system.

John Stevens said the entire expansion project has been

carefully reviewed by the Planning and Zoning Commission and Council and the project will be complying with all ordinances and conditions outlined by the Commission and Council. He said the project needs to go forward and Brackettown Road can be addressed separately from the expansion project. He said the owners of the Mall will cooperate with any studies relative to Brackettown Road.

After discussion, Councilman Price moved to continue

the public hearing for two (2) weeks without further advertisement and that the City Manager and City Attorney obtain all information possible relative to alternatives to alleviate traffic problems on Brackettown Road and White Pine Drive. This motion was seconded by Councilman Martin.

After further discussion, Councilman Price's motion

failed on a vote of 4-3 with Mayor Bisette, Vice-Mayor Michalove, Councilman Frank and Councilman Bratton voting "no".

Mayor Bisette closed the public hearing at 7:15 P.M.

Vice-Mayor Michalove moved that the site plan be

approved subject to the conditions stipulated by the Planning and Zoning Commission as outlined in a letter dated June 21, 1985 from Verl Emrick, Planning Director, to Mayor and Members of Council; further that the developer resubmit a landscaping plan to be approved by Council; and further that the City reserves the right to deal with ingress and egress on Brackettown Road after a report is received from the City Manager relative to possible alternatives, said report to be given to Council by January 12, 1987 in a public meeting; further that the City Manager give members of Council a report relative to storm drainage on White Pine Drive. This motion was seconded by Councilman Bratton.

Corporation Counsel Slawter suggested that Vice-Mayor

Michalove's motion contain language that the developer would be obligated to abide with any determination made by City Council in regard to access to Brackettown Road and if the developer does not abide with Council's determination that the site plan approval be revoked.

Councilmembers noted that if the language suggested by

the Corporation Counsel is added to the motion that this in essence is postponing action on the site plan until after January 12, 1987..

After discussion, Vice-Mayor Michalove withdrew his motion, which was accepted by Councilman Bratton.

Councilman Price then reentered her motion to continue

the public hearing for two (2) weeks without further advertisement and that the City Manager and City Attorney obtain all information possible relative to alternatives to alleviate traffic problems on Brackettown Road and White Pine Drive. This motion was seconded by Councilman Martin and carried unanimously.

B. Public hearing relative to Sevier Street Apartments,

Phase A.

Mayor Bissette said the Asheville Planning and Zoning

Commission at a meeting on November 11, 1987, reviewed and approved the site plan of Sevier Street Apartments, Phase A, subject to reducing the number of units to nine, specifically deleting unit number one, and compliance with Erosion Control Ordinance.

Mayor Bissette opened the public hearing at 7:31 P.M.

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

Verl Emrick, Planning Director, said the proposed

project is located on Sevier Street with access from Barnard Avenue. He said the developers have agreed to comply with the stipulations of the Planning and Zoning Commission. He said water, sewer, fire, and access provisions for the project have been approved.

Mayor Bissette closed the public hearing at 7:34 P.M.

Councilman Price moved for the approval of the site

plan for the Sevier Street Apartments, Phase A, subject to the stipulations outlined by the Planning and Zoning Commission. This motion was seconded by Councilman Boland and carried unanimously.

III. OLD BUSINESS:

A. Ordinance No. 1668 - Second reading of an ordinance

amending Section 28-52 (b) of Chapter 28 of the Code of Ordinances of the City of Asheville prohibiting truck traffic on Hazel Mill Road, between Patton Avenue and North Louisiana Avenue.

Mayor Bissette said this action will add the portion of

Hazel Mill Road, between Patton Avenue and North Louisiana Avenue, to the list of streets on which certain truck traffic is prohibited.

Mayor Bissette said members of Council were previously

furnished copies of the ordinance and it would not be reread in its entirety.

On a roll call vote of 7-0, Ordinance No. 1668 passed on second reading.

IV. NEW BUSINESS:

V. CONSENT:

A. Resolution authorizing the Mayor to execute an agreement

between Southern Railway Company and the City of Asheville for reconstruction of the Hazel Mill Road Bridge.

SUMMARY: This agreement will allow the City of

Asheville to encroach upon the right-of-way of Southern Railway Company for the purpose of reconstructing Hazel Mill Road

Bridge.

B. Resolution authorizing the City Manager to sign an

agreement with the Skyland Volunteer Fire Department, Inc. for fire protection services at the Airport Annexation Area.

SUMMARY: This is a continuation of the agreement

with the Skyland Volunteer Fire Department to provide fire protection to the area at the Asheville Regional Airport within the

corporate limits.

C. Resolution authorizing execution of an agreement with the Municipal Code Corporation.

SUMMARY: The City Code was last written in 1965. Due to

numerous changes in the law since that time, portions of the existing City Code are outdated. The Municipal Code Corporation has made a proposal to prepare and publish a new Code of Ordinances for the City. This resolution will authorize the City Manager to execute a contract with Municipal Code

Corporation for the preparation of a new Code.

Upon motion of Vice-Mayor Michalove, seconded by

Councilman Frank, the consent agenda was unanimously

approved.

CLAIMS - DENISE CODY (WATER) - KATHERINE DUCKER (WATER) - SANDRA CAPPS (WATER) - MARTHA LOWE (WATER) - JERRY BURLESON (POLICE) - KEITH GILLESPIE (FIRE) - ROSELYN NORWOOD (STREETS)

The City Manager presented claims received from Denise Cody, Katherine Ducker, Sandra Capps, Martha Lowe, Jerry Burlison, Keith Gillespie, and Roselyn Norwood.

GEORGE TISDALE - COMMENTS RELATIVE TO REQUEST FOR STATE AUDIT ON PACK PLAZA PROJECTS

George Tisdale, 65 Shorewood Drive, former Councilman, requested that the minutes of the December 1, 1987 meeting be amended to include Mayor Bisette's statement relative to Mr. Tisdale's request for a state audit on the Pack Plaza Projects be included in the minutes.

The exact statement being "Councilman Tisdale, we appreciate that idea last week and as you know we are trying to follow through on it and if we can develop some specifics which we are trying to do, then the Council will consider that request and, of course, keep you apprised of Council's decision."

Councilman Price moved that the minutes of the December 1, 1987 meeting be amended to include Mayor Bisette's statement as requested by Mr. Tisdale. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

Mr. Tisdale said after last weeks meeting he had made contacts with the City Staff and Housing Authority to obtain all the documents he needed to set out specifics relative to the Pack Plaza Projects. He said he has had difficulty in obtaining all the documents he needed, making contact with the appropriate officials involved in the two projects and deciphering the information he did receive. He said he had tried to retain legal counsel to assist him in this matter, but unfortunately, every lawyer he would like to consider is tied up with one of these two projects and has a conflict of interest. He said he may have to go out of town to obtain legal counsel.

Mr. Tisdale then presented specific documents relative to the two projects, starting back in 1981 with the Strouse Greenberg proposal. He said from observing these documents there is no documented record of time city employees have spent working with the projects; the fact that the federal Department of Housing and Urban Development no longer does annual audits on the city and the Asheville Housing Authority; there is no documentation of meetings with Pack Plaza developer, Schneider Nine and other downtown developers or of meetings with lending institutions; that he questions how the city achieved a 7.3 percent loan rate on a loan to Schneider Nine.

Mr. Tisdale said he has requested copies of all Housing and Urban Development's monitoring visit reports and copies of the City's response to these visits. He cited discrepancies noted in one monitoring report which he interpreted as "not too good of an audit."

Mr. Tisdale discussed in detail actions taken relative

to Plaza Theatre. He questioned why the City Building Inspectors were not involved with this parcel.

Mr. Tisdale also questioned the signatures obtained on Resolution No. 84-31, dated February 22, 1984 and the signatures on the agreement specified in the resolution.

Mr. Tisdale said after reviewing the documents he has obtained he really had more questions than he did answers. He said he still thinks the air needs to be cleared on both projects, and requested that Council consider letting the State Auditor conduct an Audit Review and if necessary a full audit of the two projects.

In response to Mr. Tisdale, Mayor Bisette said he had not received a list of specific questions Mr. Tisdale wanted answered. He said he was having difficulty focusing on exactly what Mr. Tisdale wanted. He said members of Council would go over what information has been given to them to determine if an audit is necessary.

Roger McGuire, Chairman of the Board for Pack Place, in response to Mr. Tisdale, said the individuals involved in the projects are puzzled as to what they can contribute to help solve Mr. Tisdale's questions. He said it is regrettable that the appearance in the press is that something is strange about Pack Place. He asked that Mr. Tisdale tell them what it is he wants so they can help respond. He said the project is on schedule to open in the fall of 1989. He said he felt Mr. Tisdale's charges are totally without merit.

Mr. Tisdale responded that as a previous elected official he is concerned about the project and he was not questioning the service or decisions made by Roger McGuire or John Daniel, but only the matters he as a Councilmember had to make decisions on relative to these projects.

Note: A complete tape recording of these proceedings will be on file in the City Clerk's office for one year.

ADJOURNMENT

Upon motion of Councilman Michalove, seconded by Councilman Martin, the meeting adjourned at 8:50 P.M.
