

Tuesday - December 15, 1987 - 4:00 P.M.

Regular Meeting

Present: Vice-Mayor Kenneth M. Michalove, Presiding; Councilmen

Mary Lloyd Frank; Norma T. Price, Wilhelmina Bratton, Russell M. Martin, and Walter Boland; Corporation Counsel William F. Slawter; Assistant City Manager Charles Penny; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mayor W. Louis Bissette and City Manager Douglas O.

Bean (attending National League of Cities Meeting)

INVOCATION

The invocation was given by Councilman Martin.

APPROVAL OF MINUTES - DECEMBER 8, 1987

Vice-Mayor Michalove announced the approval of the minutes of the December 8, 1987 meeting as submitted.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. Public hearing relative to Adams Hill Mobile Home Park.

Vice-Mayor Michalove said the Asheville Planning

and Zoning Commission at a meeting on November 11, 1987, reviewed and approved the site plan subject to several conditions.

Vice-Mayor Michalove 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, Director of Planning, said the project

is to be located north of Louisiana Avenue. He said the project meets all requirements of the zoning ordinance. He said access points to the

project have been reviewed by the N.C.D.O.T. Traffic Engineer and the City Traffic Engineer. He said the Planning and Zoning Commission recommended approval of the site plan subject to the following: That the plan be approved provided an 80' buffer be provided between any lot for mobile home use and the adjacent property owners along the property lines bearing N 85 deg. 27' 04" 464.17', S 80 deg. 33' 27" W 275.68', appearing to be adjacent to the Roger Keener, Charlene Webb and Edwin Hensley property; no land disturbing activities to be permitted on this 80' buffer except for purposes of control of storm water and that planting be in accordance with the buffering requirements for the entire 80', subject to review by the appropriate sedimentation board review authority. That a temporary silt basin and permanent silting basins be installed in the two buffer areas mentioned before and also for Area C. Pumping station closest to space number 29 will have to be moved up the hill 60'.

Upon inquiry of Councilman Price, Mr. Emrick said

in his opinion the concerns expressed by individuals during the Planning and Zoning Commission meeting were addressed by the stipulations specified by the Planning and Zoning Commission.

Vice-Mayor Michalove closed the public hearing at

4:32 p.m.

Councilman Frank moved to approve the site plan of

the Adams Hill Mobile Home Park subject to the conditions specified by the Planning and Zoning Commission. This motion was seconded by Councilman Martin and carried unanimously.

III. OLD BUSINESS:

A. Ordinance No. 1668 - Third 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.

Vice-Mayor Michalove 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.

Vice-Mayor Michalove said this ordinance was previously

read on first and second reading and would not be reread in its entirety.

On a roll call vote of 6-0, Ordinance No. 1668 passed on

third and final reading.

Ordinance Book No. 11 Page No. 222

IV. NEW BUSINESS:

A. Ordinance No. 1669 - Budget Ordinance amendment to

provide funding for Vance School Drainage Project.

Vice-Mayor Michalove said this budget ordinance

amendment will provide funding for Vance School Drainage Project.

Vice-Mayor Michalove said this ordinance was

previously presented to members of Council and would not be read in its entirety.

On a roll call vote of 6-0, Ordinance No. 1669

passed on first and final reading.

Ordinance Book No. 11 Page No. 223

B. Resolution No. 87-215 - Resolution authorizing City

Manager to execute an agreement with Huntley Construction Company for the construction of the Vance School Drainage Improvements.

Vice-Mayor Michalove said this project involves the

installation of approximately 420 l.f. of 42" storm sewer and associated appurtenances in Harnett Street and Sand Hill Road in the vicinity of Vance School. The object of these improvements is to alleviate a drainage problem adjacent to the Vance School property. Plans and contract documents were prepared and a low bid received from Huntley Construction Company in the amount of \$69,542.50.

Vice-Mayor Michalove said the resolution was

previously presented to members of Council and it would not be read in its entirety.

Upon motion of Councilman Price, seconded by

Councilman Boland, Resolution No. 87-215 was unanimously adopted.

Resolution Book No. 17 Page No. 48

C. Approval of temporary freestanding identification sign

for Piney Mountain Associates to be located at 305 Pine

Mountain Drive.

Vice-Mayor Michalove said this free standing

identification sign will be situated closer than 600' from a limited access highway, requiring the approval of Council pursuant to Zoning Ordinance No. 322.

Verl Emrick, Director of Planning, said this

temporary identification sign will be a construction sign for the condominium project approved by Council last summer. He said the owners are requesting that the construction sign be 160 square feet. He said the Sign Ordinance allows construction signs, however the usual temporary sign is 50 square feet and is allowed for a specified time.

After discussion, Councilman Martin moved to

approve a temporary identification sign for Piney Mountain Associates to be located at 305 Pine Mountain Drive provided that the sign be no more than 50 square feet and further that the sign permit be reviewed in six (6) months to determine if the construction sign is still needed. This motion was seconded by Councilman Frank and carried

unanimously.

D. Sign Permit for 2 wall signs and 1 freestanding sign to

be located at 111 Hazel Mill Road for Federal Express.

Vice-Mayor Michalove said these signs will be

situated closer than 600' from a limited access highway, requiring the approval of Council pursuant to Zoning Ordinance No. 322.

Verl Emrick, Director of Planning, said the two

4 x 9 wall signs will be used as a logo sign and identification sign for parking and access information. He said the 5 x 7 freestanding sign was approved, during the approval of the group development plan, however due to elaborate landscaping plans and visibility being limited the owners wish to move the sign closer to the access to the building. The owners plan to place the sign on N.C.D.O.T right-of-way. Mr. Emrick said the Asheville Sign Ordinance will not allow signs to be placed on a right-of-way.

A representative from Creative Signs of Asheville

said because of the awareness of the zoning and Council's concerns the 5 x 7 freestanding sign

has been reduced in size to 3.4 x 7.1. He said the

signs will be moved from the old location of Federal Express. He said the signs will be single-sided.

After discussion, Councilman Frank moved to approve

the sign permit for two (2) wall signs and one (1) freestanding sign to be located at 111 Hazel Mill Road for Federal Express. This motion was seconded

by Councilman Price and carried unanimously.

E. Announce cancellation of December 29, 1987 meeting.

Vice-Mayor Michalove announced that due to the

Christmas Holidays, there will be no meeting of Council

on December 29, 1987.

RESOLUTION NO. 87-216 - RESOLUTION BY THE GOVERNING BOARD OF THE CITY OF ASHEVILLE TO PROVIDE FOR A REFERENDUM BY THE GOVERNMENTAL UNIT'S ELIGIBLE POLICEMEN UNDER PROVISIONS OF ARTICLE 2 OF CHAPTER 135 OF THE GENERAL STATUTES OF NORTH CAROLINA AND UNDER PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDER OF JULY 21, 1961

The Assistant City Manager read the resolution which would allow for a separate referendum of eligible policemen, on March 15, 1988, to determine whether or not the Local Governmental Employees' Retirement System, as it applies to eligible policemen or other law enforcement members, shall be coordinated with the Old-Age Survivors Insurance provisions of the Federal Social Security Act.

Upon motion of Councilman Price, seconded by Councilman Martin, Resolution No. 87-216 was unanimously adopted.

Complete text of Resolution No. 87-216 will be found in **Resolution Book No. 17 at Page 49.**

RESOLUTION NO. 87-217 - RESOLUTION BY THE BOARD OF DIRECTORS OF THE CITY OF ASHEVILLE TO PROVIDE FOR A REFERENDUM BY THE CITY OR TOWN'S ELIGIBLE EMPLOYEES UNDER PROVISIONS OF ARTICLE 2 OF CHAPTER 135 OF THE GENERAL STATUTES OF NORTH CAROLINA AND UNDER PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDER OF JULY 21, 1961

The Assistant City Manager read the resolution which would allow for a separate referendum of eligible firemen, on March 15, 1988, to determine whether or not the Local Governmental Employees' Retirement System, as it applies to

eligible firemen as members of this governmental unit, shall be coordinated with the Old-Age Survivors Insurance provisions of the Federal Social Security Act.

Upon motion of Councilman Frank, seconded by Councilman Price, Resolution No. 87-217 was unanimously adopted.

Complete text of Resolution No. 87-217 will be found in **Resolution Book No. 17 at Page 50.**

CLAIMS - HILDA SULLIVAN (STREETS) - BOB BOEBERTIZ (STREETS) - JOSEPH AUSTIN (PARKS)

The Assistant City Manager presented claims received from Hilda Sullivan, Bob Boebertiz, and Joseph Austin.

Vice-Mayor Michalove referred the claims to the Corporation Counsel for investigation and recommendation.

REPORT FROM CORPORATION COUNSEL - ASHEVILLE SPEEDWAY

The Corporation Counsel reported that on December 11, 1987, Judge Walter Allen issued a Declaratory Judgement with regard to the application of the Asheville Zoning Ordinance to the Asheville Speedway. In the ruling Judge Allen said the Asheville Speedway conforms to local zoning laws and would not apply to the specific provision regarding certain non-conforming uses being prohibited after ten (10) years from its adoption in October, 1977. He said in summary, the ordinance as adopted by Council in October, 1977 has not been held up by the courts in regard to racetracks. He said Council has two choices: 1) Appeal Judge Allen's decision or 2) look at other alternatives to alleviate the problems associated with the racetrack. He said in his opinion Judge Allen's decision would be upheld if the City appealed the decision to a higher court.

After discussion, it was the unanimous decision of Council not to proceed with an appeal to a higher court but to work with the race track owner in an attempt to modify the speedway's noise level and hours of operation in response to complaints by City residents.

After further discussion, Council directed that the City Staff prepare a report by January 19, 1988 dealing with other businesses which would be affected by the non-conforming

use provision of the Zoning Ordinance; the status of the city's noise ordinance; what other cities have done in regard to racetracks; and alternatives for different hours of operation and schedules for practice and actual races at the track.

Vice-Mayor Michalove said the public would be given an opportunity to speak relative to the racetrack at the January 19, 1988 meeting.

RALPH BISHOP - RIGHT OF REDRESS

Ralph Bishop spoke to members of Council relative to his right of redress before the Asheville City Council.

ADJOURNMENT

Upon motion, the meeting adjourned at 5:15 p. m.

MAYOR CITY CLERK
