

Tuesday - December 22, 1987 - 400 P.M.

Regular Meeting

Present Mayor W. Louis Bisette, Presiding; Vice-Mayor Kenneth M. Michalove, Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, and Walter Boland; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent Russell M. Martin - Vacation

INVOCATION

The invocation was given by Councilman Boland.

APPROVAL OF MINUTES - DECEMBER 15, 1987

Mayor Bisette announced the approval of the minutes of the December 15, 1987 meeting as submitted.

I. PROCLAMATIONS

None

II. PUBLIC HEARINGS

None

III. OLD BUSINESS

A. ACTION RELATIVE TO ASHEVILLE MALL EXPANSION

Mayor Bisette 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. At the December 8, 1987 meeting Council postponed action relative to the expansion until December 22, 1987 in order to obtain additional information relative to Bracketown Road.

Verl Emrick, Director of Planning and Zoning, said staff had met with Gene Edmonds, District Engineer with the N. C. Department of Transportation; and Bob McDonald, Traffic Engineer; to look at the problems being encountered at Bracketown Road and White Pine Drive. He said they would recommend adding an additional lane on White Pine Drive from the top of the hill down to Tunnel Road and to modify the entry of Bracketown Road into White Pine Drive by creating a "T" intersection. He said the additional distance on White Pine Drive would give individuals a greater sight distance and would allow more time for making a decision on which traffic lane to enter.

Mr. Emrick said in order to determine the flow of traffic into and out of the Mall, the following traffic counts had been made from Saturday through Monday at the following intersections

Intersection Sat./Dec. 19 Mon./Dec. 21

Bracketown Road 8,154 5,154

Sears Auto Entrance 5,139 2,800

Main Entrance/Beaucatcher 11,104 10,573

Cinema Theaters

Center Entrance/K-Mart 5,677 3,922

(Proposed to be Closed)

South Entrance 14,824 8,815

Total Counts 44,898 31,264

In response to Mayor Bissette's request for an opinion on the City's legal right for controlling traffic on Brackettown Road, City Attorney William F. Slawter said Brackettown Road is a private road owned by Sears, the Mall, and other property owners. He said the road has not been dedicated to the City and is not maintained by the City; therefore, the City has no legal right to control traffic on the road.

Mr. Emrick said Assoc. City Manager William F. Wolcott, Paul Gilewicz and Tom Tarrant of the Engineering Division, Planner Al Kopf and himself had met at Mrs. Willard's residence at 292 White Pine Drive to look at the drainage problem she had been experiencing. He said following that site inspection, they agree that additional studies and data are needed to determine what

alternatives are available to resolve the problem. In the meantime, he said, they propose to divert some of the water off from White Pine Drive to another storm drain system. He said Mrs. Willard had been advised of the group's findings and recommendations.

Mr. Danie Johnson, Architect for the project, said Council had been presented with revised drawings of the Buffering Plan, which were dated yesterday. He said these drawings reflect the

following changes

Parking Lot Trees - 112 trees will be planted in the parking lot based on 1690 parking spaces. He said 36 of these trees will be planted within "710" parking field near Belk's. He said these plantings will exceed the requirements of the current ordinance.

White Pine Drive Buffer - Redrew Typical New Buffering (1/R3A3) - For lots 43, 45, 47, 49, and 51 and other locations as determined by Planning Staff, buffer will consist of 8-ft chain link fence with tennis screening, 2 rows of evergreens at least 8-ft high (staggered) and additional plantings consisting of foster holly, mountain

laurel, and rhododendron.

Upon inquiry of Councilman Price, Mr. Johnson said the lighting plan for the project had not been finalized yet, but upon completion would be submitted to city staff for approval.

Mayor Bissette said a public hearing had already been held on this issue, but that he wanted to give everybody interested in the project an opportunity to speak. However, he requested that everybody restrict their comments to the new information presented.

Mr. Harold J. Payne, Jr., 299 White Pine Drive, said that he doesn't see how adding the additional lane on White Pine Drive will alleviate the traffic problem. He said this would only permit 2 lanes of traffic to back up on White Pine Drive. He also questioned whether or not the additional lane would cut into the present buffer zone. He said he had a personal concern about a road (Brackettown Road) emptying onto a city street and the City having no control over it.

City Attorney William F. Slawter said Brackettown Road has

been a long standing road that has been used by various property owners and was not built during the original development of the Mall.

Councilman Price said the city staff is working with the N. C. Department of Transportation for the installation of a leading green on the traffic signal at White Pine Drive and Tunnel Road. She said she felt the signal, combined with the additional lane, would improve the traffic conditions for the residents of White Pine Drive.

Helen Payne of 299 White Pine Drive asked who is the actual owner of Bracketown Road to which the City Attorney responded that Sears, the Mall, IHOP, and any other property owner whose property adjoins the road, have equal rights to use of the road by virtue of their property adjoining the road.

There was a short discussion relative to the width of the proposed additional lane and whether or not it would leave room for the 50-foot buffer strip. Mr. Emrick said he thought the new lane would leave a 48-foot buffer strip.

Mrs. Payne said she would prefer the buffering over the proposed lane, but that she would like the "T" intersection to ensure that tractor-trailers cannot make the turn onto Bracketown Road. She said the city's figures show this to be the third most used exit/entrance to the Mall, and that the residents of White Pine Drive are depending on the Council for assistance.

Mrs. Janice Willard, 292 White Pine Drive, said the flooding problem on her property had not been resolved. She said she had been given a copy of the report that recommends taking 25% of the rainfall from System B and diverting it to System A. However, she said, this proposal will not alleviate the problem and she asked what the City intends to do. She said she is not able to use her backyard due to the flooding problem.

On the show of hands requested by Mrs. Willard, it was the consensus of the residents of White Pine Drive that the proposed additional lane on White Pine Drive would not be of any benefit to resolving their traffic problem.

Mayor Bissette told Mrs. Willard that her drainage problem would not be any worse, but may improve and be better as a result of the proposed diversion of water off White Pine Drive. He said the City is also looking at other drainage improvements on White Pine Drive. He said the site plan being considered by the City Council should not affect her flooding problem. He said the city has storm drainage problems all over the city to which there are no immediate solutions due to the astronomical cost.

Mr. Rex W. Mosely, 28 White Pine Drive, said he thought the "T" intersection on Bracketown Road would be of some benefit, but was against the proposed extra lane because he felt it would not help traffic problem.

Mr. Rendell Davis, 285 White Pine Drive, said he could see a big difference between property owners having access to a city street and a development that pulls 8,000 cars a day onto a city street. He said this is an interesting problem, and court may be where the problem has to go.

Mrs. Florence Davis, 285 White Pine Drive, said the backup of traffic can create a dangerous situation when emergency vehicles are needed in the White Pine residential area.

Mr. J. C. Chandley, 48 White Pine Drive, said he felt the City should do whatever is necessary to keep the White Pine lanes of traffic open.

Mr. Phillip Hawkins, 244 White Pine Drive, asked the following questions:

Q. Why can't the City determine who owns Bracketown Road? He said he thought this would be fairly simple by just looking at the tax records.

City Attorney William F. Slawter said the ownership could probably have been determined with several more hours of research. However, he said, the ownership of the road was not what really mattered, but rather who had rights to the use of the road.

Q. How can City Council propose to change the intersection to a "T" intersection if they can't determine ownership?

Mayor Bissette said the construction of the intersection would be done within the right-of-way.

Q. If City put in a new lane, who would own it?

City Attorney William F. Slawter said any improvements within the right-of-way would be owned by the City. Also, he said, if it is built outside of the city's right-of-way and built to the city's specifications, it could be dedicated to the City.

Q. Driveway Access to White Pine Drive (where house used to be) - This is currently being used by cars from the Mall and city vehicles. Can the City Council stipulate that the Mall will never take any more of the existing residential property in Kenilworth Forest as entrance/exit into Kenilworth Community and would the stipulation be binding?

City Attorney William F. Slawter said the current City Council could not make any zoning restrictions that would be binding on future City Councils. However, he said, as long as the area remains a residential area and zoned as such, this could not be done.

Q. Are the provisions of previous City Councils still valid after this Council approves this group development plan today? Will the area known as "the triangle" be wiped out? Does the Council know what the initial stipulations were? What's going to happen in the future?

Mayor Bissette said a new City Council could come in and rezone the whole city, but he felt the previous City Council's stipulations would be valid after today's Council action.

Q. How much will the City benefit from the expansion?

Mayor Bissette said the Council, regardless of their personal emotions, must approve site plans of proposed projects based on whether or not they meet the guidelines of the laws in effect without consideration to what benefit the project will be to the tax base or any other benefits the project may bring to the city.

Mr. Hawkins said he didn't think the City had caused Mrs. Willard's drainage problems because it was not there before the Mall was built. He said the problem was caused by the Mall construction, and the taxpayers should not have to pay for the studies and steps taken to alleviate the problem.

Mayor Bissette said the same type of drainage problems have occurred all over town by construction that has taken place since the 1900's.

Mr. Dewey L. Ramsey, 258 White Pine Drive, asked whether or not Council could take any action if the Mall is adversely affecting the community. He said the closing of the entrance on South Tunnel Road will divert more traffic to Brackettown Road and will impose an additional burden on White Pine Drive.

Mayor Bissette said the Council could not do anything unless it was a matter of public safety. The City Attorney also said the City cannot arbitrarily deny site plans when the group development guidelines have been met.

Mr. Donald P. Ingold, P.E., Vice President of Wilbur Smith Associates, said his company had been hired by Mr. Coleman to study the traffic situation at the intersection of White Pine Drive with Brackettown Road and the intersection of White Pine Drive with U.S. 70/74. He said northbound vehicles on White Pine Drive back up onto Brackettown Road. This restricts northbound traffic on White Pine Drive from accessing the right/through lane at US 70/74, thereby removing the possibility of a right turn on red. However, he said, the conflicting eastbound traffic is so heavy the right turn on red movement is very difficult and highly unlikely during peak periods.

Mr. Ingold said he identified additional problems at the intersection of White Pine Drive and US 70/74. These problems add to the delay at the intersection of White Pine and Brackettown Road. He said the delay at this intersection has been calculated at 38 seconds for left turning vehicles and 28 seconds

for right turning and through vehicles. He said his analysis revealed a need for a protected westbound left-turn phase at the intersection.

Mr. Ingold said his recommendations to Mr. Coleman included the following:

1. Add short leading left-turn to traffic signal at White Pine Drive.
2. Ask the N. C. Department of Transportation to shorten the cycle length of the signal at White Pine Drive.
3. Extend right-turn lane through intersection of White Pine Drive.
4. Vigorous enforcement by Police Department of traffic blocking intersection.

Upon inquiry of Councilman Price, Mr. Danie Johnson said the old driveway that leads onto White Pine Drive will be closed and a 50-foot fence installed and trees planted.

Councilman Price moved to approve the site plan of the proposed Mall Extension subject to the nine (9) conditions recommended by the Planning and Zoning Commission, and also contingent upon staff approval of the landscaping and lighting plans; that the Mall construct a "T" intersection from Brackettown Road onto White Pine Drive according to city standards and approved by city staff. Further, that White Pine Drive be widened from Brackettown Road to the International House of Pancakes, Inc. (IHOP), that the City make additional recommendations regarding Mrs. Willard's drainage problem, and that the City pursue the request to the N. C. Department of Transportation for a leading left-turn signal from Tunnel Road onto White Pine Drive and to study the synchronization of the traffic lighting in the area. This motion was seconded by

Councilman Frank and carried unanimously.

IV. NEW BUSINESS

A. RESOLUTION NO. 87-218 - RESOLUTION ADOPTING FEES AND CHARGES

MANUAL

Mayor Bisette said a fees and charges manual has been prepared which includes a brief description of the revenue, a fee schedule, and a cost recovery principal for each fee and charge so made by the City. The manual is scheduled for an annual review and update. In order to clarify a printing error in the Manual, Mayor Bisette said the effective date in the manual should read January 1-June 30, 1988.

Mayor Bisette said a copy of the resolution had been previously distributed to Members of Council and that the resolution would not be read unless there was a specific request to do so.

Upon motion of Councilman Boland, seconded by Councilman Price, Resolution No. 87-218 was unanimously adopted.

Complete text of **Resolution No. 87-218** will be found in

Resolution Book 17, Page 51.

B. RESOLUTION NO. 87-219 - RESOLUTION AUTHORIZING THE MAYOR TO

EXECUTE AN AGREEMENT WITH JOHN L. LANTZIUS AND ANNETTE LOUISE LANTZIUS MODIFYING THE TERMS OF AN URBAN DEVELOPMENT

ACTION GRANT AGREEMENT DATED OCTOBER 29, 1979

Mayor Bisette said this agreement will provide that the property known as 39 Broadway be released from the Deed of

Trust upon payment to the City of Asheville by John L. Lantzius and wife Annette Louise Lantzius of the sum of \$45,000 to be applied toward the principal owed upon the

note.

Mayor Bisette requested that he be excused from the discussion and vote on this issue since his law firm represents Mr. and Mrs. Lantzius.

Councilman Price moved to excuse Mayor Bisette. This motion was seconded by Vice Mayor Michalove and carried unanimously.

Mayor Bisette turned over the chair to Vice Mayor

Michalove.

Vice Mayor Michalove said a copy of the resolution had been previously distributed to Members of Council and that the resolution would not be read unless there was a specific request

to do so.

Councilman Frank moved to adopt Resolution No. 87-219 and to amend the resolution to provide for execution by the Vice Mayor. This motion was seconded by Councilman Price and carried unanimously.

Complete text of **Resolution No. 87-219** will be found in

Resolution Book 17, Page 52 and 53.

Vice Mayor Michalove turned the chair back over to Mayor

Bisette.

V. CONSENT

A. RESOLUTION NO. 87-220 - RESOLUTION AUTHORIZING THE CITY

MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF ASHEVILLE AND DELTA DENTAL PLAN OF NORTH CAROLINA, INC., FOR THE PURPOSE OF CONTINUING DENTAL BENEFITS TO THE CITY OF ASHEVILLE EMPLOYEES, FAMILIES, AND THE STAFF OF THE ASHEVILLE-BUNCOMBE COUNTY COMMUNITY RELATIONS

COUNCIL

SUMMARY This resolution will authorize the City Manager to execute an agreement to continue dental benefits to the City of Asheville employees, families, and the staff of the Asheville-Buncombe County Community Relations Council during calendar year 1988.

Complete text of **Resolution No. 87-220** will be found in **Resolution Book 17, Page 54.**

B. APPROVAL OF BIDS FOR FOUR (4) INCH DIAMETER FIRE HOSE

SUMMARY Recommendation for award of Bid Request No. 311-88 to Slagle Fire Equipment and Supply Company for 40 lengths of four (4) inch diameter fire hose for the Fire Department in the

amount of \$14,280.00.

C. RESOLUTION NO. 87-221 - RESOLUTION OF INTENT TO CLOSE AN

UNNAMED ALLEY PARALLEL TO LEXINGTON AVENUE AND BILTMORE

AVENUE AND CALLING A PUBLIC HEARING FOR JANUARY 26, 1988

SUMMARY A petition was received from the property owners along the unnamed alley - as shown on attached map. The petition requested that an unnamed alley be closed as a public alley.

Complete text of **Resolution No. 87-221** will be found in

Resolution Book 17, Pages 55 and 56.

D. RESOLUTION NO. 87-222 - RESOLUTION AUTHORIZING THE CITY

MANAGER TO EXECUTE AN AGREEMENT WITH HOBSON CONSTRUCTION COMPANY FOR THE CONSTRUCTION OF THE CHAMPION SIPHON/SEWER

IMPROVEMENTS

SUMMARY This project involves the installation of approximately 370 linear feet of siphon under the French Broad River and approximately 2300 linear feet of sanitary sewer on Pearson Bridge Road. Bids were opened for this project on December 10, 1987 and the lowest responsible bidder was Hobson Construction Company, Inc., in the amount of \$239,152.00. It is recommended that the City Manager is authorized to execute an agreement with Hobson Construction Company, Inc., for this project.

Complete text of **Resolution No. 87-222** will be found in

Resolution Book 17, Page 57.

Upon motion of Vice Mayor Michalove, seconded by Councilman

Boland, the consent agenda was unanimously adopted.

CLAIMS - KAREN HARRIS (WATER), LILLIE HUMPHRIES (WATER), OPAL

MANN (SEWER)

The City Manager presented claims received from Karen Harris (Water), Lillie Humphries (Water), Opal Mann (Sewer).

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

LAWSUIT - HARRY BRUMMER V. VERL EMRICK; HARRY BRUMMER V. WILLIAM F. SLAWTER (ALLEGED MISREPRESENTATION AND ABUSE OF POWER)

The City Manager said lawsuits filed by Harry Brummer against Verl Emrick and William F. Slawter involving alleged misrepresentation and abuse of power were served which may affect the city.

Mayor Bissette referred the lawsuits to the City Attorney

for investigation and recommendation.

ADJOURNMENT

Upon motion of Councilman Boland, seconded by Councilman Frank, the meeting adjourned at 630 P.M.

MAYOR CITY CLERK
