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Tuesday - June 28, 1988 - 4:00 P.M.

Regular Meeting

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

M. Michalove; Councilmen Norma T. Price, Wilhelmina Bratton, Acting Corporation Counsel Patsy Brison; Assistant City Manager Charles Penny; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilmen Mary Lloyd Frank, Russell Martin and Walter

Boland, City Manager Douglas O. Bean, and Corporation

Counsel William F. Slawter.

### **INVOCATION**

The invocation was given by Councilman Price.

### **APPROVAL OF MINUTES - JUNE 21, 1988 MEETING**

Mayor Bisette announced the approval of the minutes of June 21, 1988 meeting as submitted.

### **DISCUSSION RELATIVE TO WATER BUDGET - FY 88-89**

Councilman Price said she would have to leave the meeting very shortly due to a scheduled flight. She said she would leave the meeting unexcused in order for her votes to be counted in the affirmative.

J. Donald Williams, Chairman of the Water Authority's budget committee, reported that the Water Authority has reaffirmed its original recommendation to support a 15 percent increase in water rates in order to fund major water improvements. He also reported that the County Commissioners voted for a 10 percent rate hike rather than the 5 percent increase they proposed on June 21, with a stipulation that a cap on water revenues received by the two boards as their in lieu of tax payments be implemented July 1, 1989, rather than July 1 of this year.

A discussion was held relative to major projects that would have to be delayed if the rate increase is not 15 percent. They also discussed the financial risks involved in reducing the rate increase. It was noted that if the water projects are funded with a 10 percent increase this could leave an \$800,000 deficit in the water fund balance that the City could end up paying. It was also noted that bond rating agencies would look unfavorably on the city's financial stability, which could jeopardize approval of a major bond referendum, if an agreement can not be reached and an interim water budget is adopted for the second year in a row.

After discussion, Vice-Mayor Michalove moved that Council's action of June 14 be reaffirmed approving the Water Budget for 1988-89 as submitted and recommended by the Asheville-Buncombe Water Authority which included a 15% increase without a cap on water revenues received by the City and the County. This motion was seconded by Councilman Bratton and carried unanimously.

### **I. PROCLAMATIONS:**

#### **A. Proclamation - July, 1988 - "Recreation and Park Month"**

Mayor Bisette proclaimed the month of July, 1988 as

"Recreation and Park Month", which was requested by the Parks, Recreation, and Public Facilities Department in order

to urge all citizens to participate in the many recreation programs offered by the City of Asheville.

Mayor Bissette presented the proclamation to Ray Kisiah,

Director of Parks, Recreation, and Public Facilities.

## **II. PUBLIC HEARINGS:**

### **A. Public hearing relative to amending Section 30-11-4 of the Zoning Ordinance, Procedures for Group Developments.**

#### **Ordinance No. 1699 - Ordinance amending Section 30-11-4**

#### **of the Code of Ordinances of the City of Asheville**

#### **(Group Development Procedure)**

Mayor Bissette said the Asheville Planning and

Zoning Commission on May 18, 1988, recommended approval of this amendment to City Council. It will facilitate the approval of group developments meeting certain criteria. Representatives of

homeowners associations, Coalition of Asheville Neighborhoods, Council of Independent Business Owners, Home Builders Association, and other professional groups provided input at public

hearings.

Mayor Bissette opened the public hearing at

4:48 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.

Julie Cogburn, Acting Planning Director, said this

amendment would streamline the procedures for group developments. She said many of the revisions include clarifications and outlines specific procedures. She said one of the major revisions proposed is that the Planning Director reports recommendations of the Planning and Zoning Commission to the Asheville City Council at the next meeting of Council after the Commission's meeting and the action of the Commission is final unless Council wants to have a hearing on the group development plan which must be held within three (3) weeks of the Commission's meeting. She said any action taken by the Commission is reported in a formal Council meeting and made a part of the minutes.

Mayor Bissette closed the public hearing at

4:50 p.m.

Mayor Bissette said members of Council were

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

Vice-Mayor Michalove moved for the adoption of

Ordinance No. 1699. This motion was seconded by Councilman Bratton.

On a roll call vote of 4-0, Ordinance No. 1699

passed on first reading.

**B. Public hearing relative to group development review of**

**"Asheville Terrace Apartments - Reconstruction" on**

**Tunnel Road.**

Mayor Bisette said the Asheville Planning and

Zoning Commission at a meeting on June 1, 1988, reviewed and approved the site plan of "Asheville Terrace Apartments - Reconstruction," subject to the following

contingencies:

1) Variance on number of parking spaces required

not to exceed ratio approved for existing project; and

2) Developer working with planning staff, prior to

submission to City Council, on buffering requirement.

Mayor Bisette opened the public hearing at 4:51 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.

Julie Cogburn, Acting Planning Director, said the

reconstruction project is a revamping of the previous apartments at 200 Tunnel Road which was destroyed by fire. She said the project would contain the same number of apartments. She said the Planning and Zoning Commission recommended a variance on the number of parking spaces required since it is for elderly apartments. She said the project's buffering plan meets the requirements of the buffering ordinance.

Jan Weigman, architect, outlined the details of the

project.

Mayor Bisette closed the public hearing at 4:56

p.m.

Councilman Bratton moved to approve the group

development plan for the Asheville Terrace Apartments - Reconstruction as recommended by the Planning and Zoning Commission. This motion was seconded by Vice-Mayor Michalove and carried unanimously.

**RECESS - MEET WITH COUNTY COMMISSIONERS RELATIVE TO WATER BUDGET**

Vice-Mayor Michalove moved that Council recess to

meet with the County Commissioners relative to the 1988-89 Water Budget. This motion was seconded by Councilman Bratton and carried unanimously.

### **III. OLD BUSINESS:**

#### **A. Ordinance No. 1697 - Third reading of an ordinance**

**amending Chapter 28, (Traffic) Article II, Section 28-51 of the Code of Ordinances of the City of Asheville prohibiting the parking of large trucks on City system**

**streets.**

Mayor Bissette said this ordinance will prohibit the

parking of certain large trucks and buses, not

occupied by a licensed operator, on City system

streets.

Vice-Mayor Michalove moved to amend Ordinance No.

1697 by including a section to read as follows: "The City Manager or his designee is hereby authorized to permit temporary parking of vehicles on City system streets as he may deem appropriate in connection with construction related activities." This motion was seconded by Councilman Bratton and carried

unanimously.

On a roll call vote of 4-0, Ordinance No. 1697, as

amended, passed on third and final reading.

**Ordinance Book No. 11 Page No. 289-290**

#### **B. Ordinance No. 1698 - Second reading of an ordinance**

**regulating smoke detectors in residential occupancies.**

Mayor Bissette said this ordinance amends the

Asheville Fire Code by requiring that: 1) Smoke detectors must be installed in any dwelling unit offered for rental or lease, including single-family homes; 2) In multi-dwelling buildings, smoke detectors must be installed in stairwells and common areas; 3) The owner of such units is responsible for installing, maintaining and repairing the smoke detectors; the tenant is responsible for reporting observed detector problems, and for preventing destruction and removal of the detector; 4) Smoke detectors must be installed in any dwelling unit offered for sale by the time sale closing or completion. The effective date of the ordinance -

and its requirements - would be August 1, 1988.

On a roll call vote of 4-0, Ordinance No. 1698

passed on second reading.

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

#### **A. Ordinance No. 1700 - Year-end budget ordinance**

**amendment.**

Mayor Bissette said this budget ordinance will

establish and revise capital project budgets for items previously budgeted in the capital reserve fund. All items and funding have been previously approved by Council in the CIP, and to revise operating budgets as of June 30 to reflect changes in operating needs for the fiscal year.

Councilman Bratton moved for the adoption of

Ordinance No. 1700. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 4-0, Ordinance No. 1700

passed on first and final reading.

**Ordinance Book No. 11 Page No. 297****B. Resolution No. 88-98 - Resolution authorizing the City****Manager to execute a contract with Haw Creek Volunteer****Fire Department.**

Mayor Bissette said in accordance with state law,

fire protection contracts have been successfully negotiated with three neighboring fire departments whose protection areas are affected by annexation-- Haw Creek, Riceville and Reynolds Volunteer Fire Departments. According to law, each of these departments had the option of negotiating on the basis of a five-year joint-protection contract or a one-time debt "buy-out" on the part of the City. All three departments opted for the five-year lost-

income-replacement contracts.

Upon motion of Vice-Mayor Michalove, seconded by

Councilman Bratton, Resolution No. 88-98 was unanimously adopted.

**Resolution Book No. 17 Page No. 181****C. Resolution No. 88-99 - Resolution authorizing the City****Manager to execute a contract with Reynolds Volunteer Fire Department.**

Mayor Bissette said in accordance with state law, fire

protection contracts have been successfully negotiated with three neighboring fire departments whose protection areas are affected by annexation-- Haw Creek, Riceville and Reynolds Volunteer Fire Departments. According to law, each of these departments had the option of negotiating on the basis of a five-year joint-protection contract or a one-time debt "buy-out" on the part of the City. All three departments opted for the five-year

lost-income-replacement contracts.

Upon motion of Vice-Mayor Michalove, seconded by

Councilman Bratton, Resolution No. 88-99 was unanimously adopted.

**Resolution Book No. 17 Page No. 182**

**D. Resolution No. 88-100 - Resolution authorizing the City**

**Manager to execute a contract with Riceville Volunteer Fire Department.**

Mayor Bisette said in accordance with state law, fire

protection contracts have been successfully negotiated with three neighboring fire departments whose protection areas are affected by annexation-- Haw Creek, Riceville and Reynolds Volunteer Fire Departments. According to law, each of these departments had the option of negotiating on the basis of a five-year joint-protection contract or a one-time debt "buy-out" on the part of the City. All three departments opted for the five-year

lost-income-replacement contracts.

Upon motion of Vice-Mayor Michalove, seconded by

Councilman Bratton, Resolution No. 88-100 was unanimously adopted.

**Resolution Book No. 17 Page No. 183**

**V. CONSENT:**

**A. Resolution No. 88-101 - Resolution authorizing the**

**filing of an application with the Department of Transportation, United States of America, for a grant under the Urban Mass Transportation Act of 1964, as**

**amended.**

SUMMARY: This is an annual operating assistance

grant application with additional capital items that the Transit System needs at this date.

**Resolution Book No. 17 Page No. 184-185**

**B. Resolution No. 88-102 - Resolution authorizing the**

**filing of an application with the North Carolina Department of Transportation for State funds in support of the Capital Improvements Project.**

SUMMARY: This is an annual operating assistance

grant application with additional capital items that the Transit System needs at this date.

**Resolution Book No. 17 Page No. 186**

**C. Approval of bids for one mobile concession cube for Parks, Recreation, and Public Facilities Department.**

SUMMARY: Recommendation to award the bid for one

mobile concession cube for the Parks,

Recreation and Public Facilities to Century Industries, Inc., Sellersbury, Indiana, in the amount of \$28,135 for a

Century Industries model CC814R/W mobile concession cube.

(Bid Summary on file in Office of City Clerk)

**D. Approval of bids for computer equipment for City of Asheville Police, Planning and Finance Departments.**

SUMMARY: Recommendation to low bidders meeting

specifications as follows: Computer Provisions Corporation, Solon, Ohio for bid items 3; 4; 5; 6 and 10 in the amount of \$23,215.00; Executive Productivity Systems, Norfolk, Virginia for bid items 7 and 9 in the amount of \$1,905.00 and Unisys Corporation, Charlotte, North Carolina for bid items 1; 2, and 8 in the amount of \$9,699.20.

(Bid Summary on file in Office of City Clerk)

**E. Resolution No. 88-103 - Resolution appointing member to the Asheville-Buncombe Historic Resources Commission.**

SUMMARY: This resolution will reappoint **Barbara**

**Malloy** as a member of the Asheville-Buncombe Historic Resources Commission.

**Resolution Book No. 17 Page No. 187**

**F. Resolution No. 88-104 - Resolution appointing member to the Airport Authority.**

SUMMARY: This resolution will reappoint **Steven**

**Woody** as a member of the Asheville

Regional Airport Authority.

**Resolution Book No. 17 Page No. 188**

**G. Resolution No. 88-105 - Resolution appointing member to the Asheville Tree Commission.**

SUMMARY: This resolution will reappoint **Peter**

**Gentling, Carlos Bickford, and Susan Roderick** as members of the Asheville Tree/Greenway Commission.

**Resolution Book No. 17 Page No. 189**

**H. Resolution No. 88-106 - Resolution appointing member to the Planning and Zoning Commission.**

SUMMARY: This resolution will reappoint **Augusta**

**Young** as a member of the Asheville

Planning and Zoning Commission.

**Resolution Book No. 17 Page No. 190**

Upon motion of Vice-Mayor Michalove, seconded by

Councilman Bratton, the consent agenda was

unanimously approved.

**VI. OTHER BUSINESS:**

**Pack Plaza and Pack Place Projects - Execution of Documents**

Staff Attorney Patsy Brison requested additional authority for execution of documents with regard to the Pack Plaza and Pack Place projects. These documents would be recorded in conjunction with the closing of the replacement financing for the Pack Plaza Project.

Vice-Mayor Michalove moved to authorize City Attorney William F. Slawter, as Trustee, to execute subordination agreements, subordinating the City/County Deed of Trust and the UDAG Deed of Trust to the Bank of Scotland Deed of Trust and subordinating the City/County Deed of Trust to the UDAG Deed of Trust. As a further part of the motion, Vice-Mayor Michalove moved to authorize the Mayor to execute on behalf of the City other documents, including agreements and conveyances, with regard to property agreements involving both the Pack Plaza and Pack Place projects. Councilman Bratton seconded the motion and which passed unanimously.

**Claims - L.M. Hansen (Water) - Barry Doyle (Streets) - Ernest Hightower (Streets) - Eyes for You (Streets) - Helen Van Rensselaer (Water) - Hubert McMahan (Sewer)**

The Assistant City Manager reported claims received from L.M. Hansen, Barry Doyle, Ernest Hightower, Eyes for You, Helen Van Rensselaer, and Hubert McMahan.

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

**Resolution No. 88-107 - Resolution authorizing the Mayor to make application for reallocated State Sewer Grant Funds for the City of Asheville Phase I Annexation - Sewer Improvement Project**

Mayor Bissette said the State of North Carolina has appropriated grant funds for eligible sewer projects to counties and municipalities. There is an available balance of reallocated funds for the City of Asheville which must be reapplied for by June 30, 1988. The recently adopted City of Asheville Phase I Annexation-Sewer Improvement Project is such an eligible project. This resolution will authorize the Mayor to apply for said funds.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Bratton, Resolution No. 88-107 was unanimously adopted.

**Resolution Book No. 17 Page No. 191**

**Resolution No. 88-108 - Resolution authorizing the Mayor to make application for reallocated State Water Grant Funds for the City of Asheville Phase I Annexation - Water Improvement Project**

Mayor Bissette said the State of North Carolina has appropriated grant funds for eligible water projects to counties and municipalities. There is an available balance of reallocated funds for the City of Asheville which must be reapplied for by June 30, 1988. The recently adopted Asheville-Buncombe Water Authority Phase I Annexation - Water Improvement Project is such an eligible project. This resolution will authorize the Mayor to apply for said funds.

Upon motion of Vice-Mayor Michalove, seconded by Councilman Bratton, Resolution No. 88-108 was unanimously

adopted.

**Resolution Book No. 17 Page No. 192**

**Motion to continue meeting - Thursday, June 30, 1988 - 2:30 p.m.**

Vice-Mayor Michalove moved to continue the meeting until Thursday, June 30, 1988 at 2:30 p.m. to further discuss the Water

Budget. This motion was seconded by Councilman Bratton.

**MEETING RECONVENED - JUNE 30, 1988 - 2:30 P.M. - WATER BUDGET**

The meeting was called to order at 2:30 p.m. in the Council Chambers. **Present were Mayor Bissette, Vice-Mayor Michalove, Councilman Price and Councilman Frank.** Thereafter a motion was made by Vice-Mayor Michalove and seconded by Councilman Price to recess from the formal meeting.

The meeting was thereafter reconvened at 3:30 p.m. in the meeting room of the Buncombe County Commissioners in the Buncombe County Courthouse. **(Present were the Mayor and all Councilmembers except Councilman Bratton.)** Thereafter a joint meeting took place with members of the City Council, members of the Buncombe County Commissioners and members of the Asheville-Buncombe Water Authority to discuss consideration and approval of the Water Authority's budget for Fiscal Year 88/89.

After discussion amongst members of the different governing bodies with regard to the Water Authority budget, each body conducted separate meetings.

It was moved by Councilman Frank and seconded by Councilman Martin that the City Council go into executive session to discuss a legal matter. The motion carried unanimously.

Thereafter the City Council returned from executive session. Councilman Martin moved to excuse Councilman Bratton from the meeting due to previously scheduled business responsibilities. A second was made by Councilman Price and the motion carried unanimously.

The separate governing boards then took separate actions on the Water Authority budget. The Water Authority voted to approve and recommend to the City and the County a 10% rate increase on water rates with the 88/89 budget reflecting those rates. The County Commissioners then approved that budget.

Councilman Price then reported that she voted for the 10% rate increase with the 88/89 budget reflecting that increase, as a member of the Water Authority, because there was sentiment on the Water Authority to raise rates thereafter and a 10% increase was better than no increase. If there were an increase in rates later in the upcoming fiscal year, the increase above that approved by the other governing bodies would go to unappropriated fund balance and could not be spent without an amendment to the budget approved by all three bodies. Those funds would be allocated for projects as needed.

Councilman Price then moved that the City approve the 10% water rate increase and the Water Authority budget which would incorporate that rate increase. Councilman Boland seconded the motion.

Vice-Mayor Michalove offered a substitute motion. Prior to making the motion he stated that he was concerned about the Water

Agreement. He felt that when the Water Agreement was negotiated last year that it was for a five year contract, but the Commissioners want to deal with other issues and it therefore does not appear to be a five year contract. He stated he was concerned about the City's loss of cash flow due to the change in the law enforcement formula by the County and other changes, resulting in an approximate \$750,000 loss over a three year period. He was also concerned about the possibility of a cap being installed on payments to the City on gross water revenues, resulting in a further loss of

money to the City. He felt that the sum total of all these losses would result in a 12 to 13 cent increase on ad valorem taxes.

Vice-Mayor Michalove then moved that the City approve the 10% rate increase for the Water Authority budget to avoid having to adopt an interim budget, but that the City and County by mutual agreement cancel the Water Agreement by July 1, 1989. The motion was seconded by Councilman Martin.

Thereafter a discussion was held on the substitute motion. Mayor Bisette stated that he could not support the substitute motion even though he shared the same frustrations as Vice-Mayor Michalove. He stated that he felt the spirit of the Water Agreement was no longer present and was willing to discuss termination of the Water Agreement if the Commissioners want to do so.

Councilman Boland stated that he was concerned with the picture as a whole and with the big bites being taken out of the Water Agreement. He could not, however, support the substitute motion.

Councilman Price stated that she could not support the substitute motion although she was concerned about the law enforcement formula and wants to see the audit information from the County's auditors. She is also concerned about the Water Agreement.

Councilman Frank stated that she could also not support the substitute motion.

Chairman Ratcliff of the County Commissioners asked to comment on the motion before the City Council. He stated that he supported the Water Agreement and that if the City Council would look at the language of the Water Agreement that the County was not changing the contract with regard to the law enforcement formula. He felt it was unfair to blame the County for an increase in City taxes. He referred to various sections of the Water Agreement with regard to the law enforcement formula and the ability of the City and County to conduct independent audits.

Mayor Bisette stated that when the City negotiated the Water Agreement last year it relied upon the figures that had been formerly used for the law enforcement formula and did so in

good faith. It appears that the City was too trusting since those figures have now been changed.

Chairman Ratcliff asked if the City would be willing for the auditors to discuss this issue and Mayor Bisette replied that the City would be willing to do so.

Thereafter Councilman Martin called for the question. A vote was taken on the substitute motion and it was defeated 2 to 4 with Vice-Mayor Michalove and Councilman Martin voting in favor of the motion.

Thereafter a vote was taken on the motion to adopt and approve the Water Authority budget reflecting a 10% water rate increase. It passed unanimously.

A motion to adjourn was made by Councilman Boland and seconded by Councilman Martin. It passed unanimously. The meeting was thereby adjourned at 6:10 p.m.

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**MAYOR CITY CLERK**

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