

//3//

Tuesday - July 26, 1988 - 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, and Russell Martin; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Deputy City Clerk Carol Hensley.

Absent: Councilman Walter Boland and Associate City

Manager/City Clerk William F. Wolcott, Jr.

INVOCATION

The invocation was given by Councilman Bratton.

APPROVAL OF MINUTES - JULY 19, 1988 MEETING

Mayor Bisette announced the approval of the minutes of the July 19, 1988 meeting as submitted.

I. PROCLAMATIONS:

A. Presentation by Housing Authority - Payment-in-lieu-of-taxes.

David Jones, Executive Director of the Housing Authority, and Mrs. Peggy Shook, Chairman of the Housing Authority, presented the Mayor with a check in the amount of \$45,620.02 as payment-in-lieu-of-taxes. Mrs. Shook said the Housing Authority is the only nonprofit organization that presents the City with a payment-in-lieu-of-taxes check to help the City provide the very essential services such as garbage pick up; police, and fire protection.

Mayor Bisette told Mr. Jones and Mrs. Shook that the Council is proceeding with the ideas generated from the residents of Hillcrest Apartments relative to drug problems in the area. He said Council hopes to present a proposal next week to deal

with this problem in which the Housing Authority will be an integral part.

Mr. Jones said the Housing Authority has also been working closely with the Hillcrest Apartment residents and is beginning many new programs to deal with this problem. He mentioned a Cadet Program for individuals to work in conjunction with law enforcement personnel. He said they would continue to work on this problem on a county-wide basis.

II. PUBLIC HEARINGS:

A. Public hearing relative to zoning property on Tunnel

Road to CH Commercial Highway District.

Ordinance No. 1703 - An Ordinance amending Ordinance No.

322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, petition of Attorney

Douglas Thigpen, property located on Tunnel Road.

Mayor Bissette said the Asheville Planning and

Zoning Commission on June 29, 1988, reviewed and recommended approval of zoning a 1.3 acre tract (previously NCDOT right-of-way) lying between I-240 and Lot 12, Sheet 21, Ward 8, to CH Commercial Highway District. The purpose of the request is to make the entire tract between US 74 and I-240 CH Commercial Highway District for the purpose of

constructing the Overlook Village Shopping Center.

Mayor Bissette opened the public hearing at

4:21 p.m.

The Deputy City Clerk presented the notice to the

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

Mayor Bissette requested that he be excused from

participation and vote on the zoning issue on Tunnel Road due to his law firm representing the developer.

Vice-Mayor Michalove moved to excuse Mayor Bissette

from participation and vote on the zoning issue. This motion was seconded by Councilman Price and carried unanimously.

Vice-Mayor Michalove chaired the meeting during the

Tunnel Road zoning issue.

Julia Cogburn, Acting Director of Planning, said

this property has never been zoned because it was

N. C. Department of Transportation right-of-way. She said this would be the initial zoning for this property in conjunction with the proposed Overlook Shopping Center project. She said the area proposed to be zoned Commercial Highway consists of 1.3 acres.

Upon inquiry of Councilman Price, Ms. Cogburn said

the property to be zoned in not in the flood plain area.

Vice-Mayor Michalove closed the public hearing at

4:25 p.m.

Vice-Mayor Michalove said members of Council were

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

Councilman Frank moved for the adoption of Ordinance

No. 1703. This motion was seconded by Councilman Martin.

On a roll call vote of 5-0, Ordinance No. 1703

passed on first reading.

III. OLD BUSINESS:

A. Ordinance No. 1699 - Third reading of an ordinance

amending Section 30-11-4 of the Zoning Ordinance,

Procedures for Group Developments.

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 homeowner's associations, Coalition of Asheville Neighborhoods, Council of Independent Business Owners, Home Builders Association, and other professional groups provided input at our hearings. This ordinance was read on first reading on June

28, 1988.

After discussion, Councilman Price moved to amend

Ordinance No. 1699 by changing Section 30-11-4 (f) to read as follows: "The Planning Director shall report the final recommendation of the Planning and Zoning Commission at the next scheduled regular meeting of the Asheville City Council. The action of the Planning and Zoning Commission shall then be final unless the City Council determines at that

meeting to schedule a public hearing on the matter at one of its regularly scheduled meetings, no later than three (3) weeks from that date, unless a different date is consented to by the parties." This motion was seconded by Councilman Frank and

carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1699, as

amended passed on third and final reading.

Ordinance Book No. 11 Page No. 293-296

B. Ordinance No. 1702 - Second reading of an Ordinance

amending Section 28-52 (b) of Chapter 28 of the Code of Ordinances of the City of Asheville relative to

prohibiting truck traffic on Beverly Road.

Mayor Bissette said this action will include Beverly

Road, between Tunnel Road and New Haw Creek Road, in the ordinance regulating truck traffic on certain residential streets.

Mayor Bissette noted that this would not prohibit

trucks doing business in the area, such as delivery trucks, from using the streets.

On a roll call vote of 6-0, Ordinance No. 1702

passed on second reading.

IV. NEW BUSINESS:

A. Sign permit request for off-premises advertising sign

to be located at I-240 at Fairview Road.

Mayor Bissette said Holland Outdoor Advertising

Company has requested approval of a sign permit for a 14' x 48' off-premises advertising sign to be located at I-240 and Fairview Road. This permit requires approval of Council since the sign will be situated closer than 600' from a limited access

highway.

Julia Cogburn, Acting Director of Planning, said

pursuant to Section 30-9-4 of the Zoning Ordinance any sign to be erected within 600' of a limited access highway must be approved by Council. She said Holland Outdoor Advertising originally requested approval of a 672 square foot per face off-premises advertising sign at I-240 and Fairview Road. She said they have amended that request to a 300 square foot per face off-premises advertising sign. She said the sign would be located 50' from

the railroad spur, 75' from I-240, and 25' from the

right-of-way line.

Gary Rowe, Attorney representing Holland Outdoor

Advertising Company, requested Council's approval of the sign permit stating that the sign would be a low impact, informational/directional sign in a highly commercial area. He said the sign would not be a large density advertising sign. He said the

sign would be lighted and 40' in height.

A resident of 3 Vineyard Place, spoke in opposition

to approval of the sign permit stating that the recently created Sign Commission would be submitting recommendations to Council in the near future and billboards on the interstate is not within the guidelines of their proposed

recommendations.

Linn Brown, 62 Macon Avenue, a member of the Sign

Commission, said the sign would be inappropriate and one of the proposed recommendations of the Sign Commission would be that no more billboards be allowed on the interstate. She said a moratorium on signs should be established until the Sign Commission gives their recommendations to Council.

Susan Roderick, a member of the Asheville

Tree/Greenway Commission, spoke in opposition to the sign permit. She said the Tree/Greenway Commission is currently working with the North Carolina Department of Transportation to have the area in question planted.

Randall Davis also spoke in opposition to

billboards on the interstate.

In rebuttal, Gary Rowe said his client is not

trying to rush into the Asheville area and put up signs before recommendations of the Sign Commission are presented to Council. He said the sign would comply with all current ordinances and would comply with Council's direction in erecting this sign. He said the only reason the sign permit request is before Council is that it will be situated closer than 600' from I-240. He said, otherwise, the sign meets all code requirements.

Upon inquiry of Councilman Bratton, the City

Attorney said Council has no specific responsibility at this time as far as the Sign Commission is concerned. He said no specific standards are included in the Zoning Ordinance for approval/disapproval by Council of signs to be situated within 600' of a limited access highway.

Councilman Price urged members of Council not to approve the request for the sign permit.

Councilman Martin suggested that Council postpone action on the sign permit request until the Sign Commission presents their recommendations.

Vice-Mayor Michalove and Councilman Bratton

suggested that since there is no moratorium on signs at this time that anytime there is a sign permit request on Council's agenda that all Sign Commission members be notified.

After discussion, Councilman Price moved that the

sign permit request from Holland Outdoor Advertising Company for an off-premises advertising sign at I-240/Fairview Road be **denied**. This motion was seconded by Councilman Frank and carried unanimously.

B. Resolution No. 88-122 - Resolution stating the intent

of the City of Asheville to consider the annexation of a portion of the area generally known as the Beaverdam Valley area, and fixing the date of a public hearing on the question of annexation.

Mayor Bissette said pursuant to Chapter 160A of the

North Carolina General Statutes the City of Asheville has examined certain areas to determine if they qualify for annexation. Certain statutory procedures are required for annexation. This resolution expresses Council's intent to annex the above mentioned property and schedules a public

hearing on the question for September 13, 1988.

City Manager Doug Bean said it is staff's

recommendation, after investigation, to delete the property known as "Beaverdam Run" from the annexation at this time. He said it has been determined that the area including Beaverdam Run Condominium Complex, which is now under construction, does not qualify because it includes too much vacant land and not enough people per acre. He said

it is also staff's recommendation to review the area known as Beaverdam Run in July, 1989 for annexation since the condominiums would then be contiguous to the newly annexed area and could be brought into the corporate limits as soon as 90 days after the effective date of the original annexation.

Patty Tallerday, from the Planning Staff, reviewed

the boundaries of the proposed annexation in the Beaverdam Valley area. She said the area presently includes a 22.3 acre tract, known as the Wolcott property. She said if Council decides to include the Wolcott property the property would qualify on a 69% basis. She said if the Wolcott property is deleted the property would still qualify on a 66.9% basis.

Vice-Mayor Michalove requested that the City

Manager furnish members of Council with a memorandum outlining staff's recommendation relative to Beaverdam Run Condominiums being deleted from the annexation proposal.

Upon inquiry of Council, the City Manager said it

would be his recommendation to include large undeveloped property during the annexation process if the area would still qualify for annexation to avoid insurmountable problems of annexing the property in the future.

The City Attorney noted that the boundary

description follows lot lines since the natural topographical features would not be practical in this particular annexation.

At the request of Council, Patty Tallerday

presented members of Council with a financial summary for the proposed annexation of the Beaverdam Valley area. She said the total population at this time for the Beaverdam Valley area is 1,102.

Councilman Price requested that the staff compare

the present zoning in the Beaverdam Valley area with zoning districts in the City. She also commented that perhaps a new zoning district could be created for property such as Beaverdam Valley to keep the rural residential atmosphere of that area. She said the area should be zoned as compatible as practical.

Ralph Bishop spoke in opposition to the annexation

stating that Council would be annexing property without the owner's consent.

Upon motion of Vice-Mayor Michalove, seconded by

Councilman Price, Resolution No. 88-122 was unanimously adopted.

Resolution Book No. 17 Page No. 210-211

C. Resolution No. 88-123 - Resolution stating the intent

of the City of Asheville to consider the annexation of a portion of the area generally known as the Hansel Avenue area, and fixing the date of a public hearing on

the question of annexation.

Mayor Bissette said pursuant to Chapter 160A of the

North Carolina General Statutes the City of Asheville has examined certain areas to determine if they qualify for annexation. Certain statutory procedures are required for annexation. This resolution expresses Council's intent to annex the above mentioned property and schedules a public

hearing on the question for September 13, 1988.

Patty Tallerday, with the Planning Staff, reviewed

the boundaries of the proposed annexation of the Hansel Avenue Area. She said this is basically a closure of the current corporate limits. She said the area includes 48 homes and qualifies for annexation on a population basis. She summarized the financial summary for the Hansel Avenue area annexation and presented members of Council with a copy of the summary.

Councilman Martin said he was not in favor of the

annexation of this property since the City would never recover their capital costs. He said in his opinion this is not an economical viable project. He said the residents are not asking to be annexed and this would not be in the best interest of the citizens of Asheville. He said this is not using tax dollars to the best advantage.

Mayor Bissette said he understood Councilman

Martin's feelings about this annexation, however, the annexation would benefit the residents of that area and the City should also consider that fact.

Councilman Price said she would favor the

annexation to close the current corporate limits. She said the financial summary is not an accurate account since the revenues do not include water and sewer revenues.

Vice-Mayor Michalove requested that the city staff

look at whether the new water and sewer lines proposed for the area would also benefit other areas currently in the corporate limits. He also requested that the city staff determine the water source for the proposed area.

Upon inquiry, the City Manager said the capital

costs for water and sewer are included in capital improvements in the Water and Sewer budgets. He

said the Water Authority has included in their budgets the city's three year annexation plans.

Councilman Bratton said in her opinion overall

annexations by the City would have a positive impact.

Upon motion of Councilman Price, seconded by

Councilman Bratton, Resolution No. 88-123 was adopted on a voice vote of 5-1, with Councilman Martin voting "no".

Resolution Book No. 17 Page No. 212-213

D. Resolution No. 88-124 - Resolution stating the intent

of the City of Asheville to consider the annexation of a portion of the area generally known as the Plemmons property, and fixing the date of a public hearing on

the question of annexation.

Mayor Bissette said pursuant to Chapter 160A of the

North Carolina General Statutes the City of Asheville has examined certain areas to determine if they qualify for annexation. Certain statutory procedures are required for annexation. This resolution expresses Council's intent to annex the above mentioned property and schedules a public hearing on the question for September 13, 1988.

Patty Tallerday, with the Planning Department, said

this proposed annexation is also a closure of current corporate limits. She said the area includes one commercial and one residential lot and would require no city services. She said 650' of water line is proposed for the area. She said no sewer line is proposed since it has been determined that it would be cost prohibitive. She said the area is completely surrounded by the current corporate limits.

Upon motion of Councilman Frank, seconded by

Councilman Michalove, Resolution No. 88-124 was unanimously adopted.

Resolution Book No. 17 Page No. 214-215

V. CONSENT:

A. Resolution No. 88-125 - Resolution authorizing the

Mayor to execute a Municipal Agreement with the North Carolina Department of Transportation for performing

right-of-way appraisals on Murdock Avenue, Thompson Street and Hazel Mill Road, Federal Aid Bridge Replacement Projects within the corporate limits of

Asheville.

SUMMARY: This agreement will allow the North

Carolina Department of Transportation , Right-of-Way Appraisal Office, to appraise right-of-way for Hazel Mill Road, Murdock Avenue, and Thompson Street Bridge projects. The City will reimburse N.C.D.O.T. for their cost in appraisals at 100%. The City will be reimbursed 80% of this cost back through the Federal Highway

Administration of System Bridge Project.

Resolution Book No. 17 Page No. 216

B. Scheduling of public hearing relative to Phase II,

Westgate Shopping Center for August 16, 1988.

SUMMARY: The Asheville Planning and Zoning

Commission on June 29, 1988, reviewed and approved the site plan for Phase II of Westgate Shopping Center, subject to the

following conditions:

1) Letter from N.C. Department of

Transportation approving entrance;

2) Signage package in compliance with

Zoning Ordinance; and

3) Closing of portions of Cliff Street.

C. Scheduling of public hearing relative to Overlook

Village Shopping Center for August 16, 1988.

SUMMARY: The Asheville Planning and Zoning

Commission on June 29, 1988, reviewed and approved the site plan subject to

the following conditions: 1) Letters of approval from NCDOT, FEMA, TVA, and Corp of Engineers prior to any grading on site; 2) Easements from Asheville Federal Savings & Loan and K-Mart; 3) Redesign of secondary entrance road to establish right turns only; 4) Outparcels to be reviewed separately by Asheville Planning and Zoning Commission; 5) Closing of Shawnee Trail by City Council; 6) Zoning of NCDOT right-of-way by City Council; 7) Resubmit landscape to AP&ZC for screening rear of buildings as much as possible from I-240; and 8) Sign contingencies as stated by staff (a.

variance need on 1:1 ratio based on store frontage for attached signs per tenant, b. variances needed on 4' projecting signs per tenant, c. freestanding sign within 600' of right-of-way approved by City Council, d. outparcel signage to be reviewed by AP&ZC when needed, and e. Identification signs for outparcel A.- no freestanding sign, outparcel B. - freestanding sign 8' high, 75 square foot per face, and outparcel C. - freestanding sign 25'

high, 100 square feet per face).

D. Scheduling of public hearing relative to Wal-Mart Store

on Tunnel Road for August 16, 1988.

SUMMARY: The Asheville Planning and Zoning

Commission on June 29, 1988, reviewed and approved the site plan subject to the

following conditions:

1) Compliance with Erosion Control

Ordinance; 2) Final approval from NCDOT on driveway location; 3) Encroachment agreement with NCDOT for stormwater drainage; 4) Signed easement agreements with Brenco, Inc., Arthur York and Sea-Nic Enterprises; 5) Variance granted for a 10' rear and 8' side setback - setback necessary for location of eastern corner of building and loading dock; and 6) Compliance with buffering ordinance by

adding three trees in parking lot.??

Upon motion of Councilman Frank, seconded by Councilman

Martin, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

INTERGOVERNMENTAL SERVICES COMMITTEE MEETING - AUGUST 2, 1988

Councilman Frank noted that the Intergovernmental Services Committee would be meeting at 12:30 p.m. on Tuesday,

August 2, 1988.

MEETINGS SCHEDULED IN NEWLY ANNEXED AREAS - SOUTH, HAW CREEK, AND EAST ASHEVILLE

The City Manager said in gearing up for the new annexation of the south area, Haw Creek, and property in East Asheville, the City staff would be sending out information packets on July 29, 1988 to include a newsletter, a city services brochure, a downtown parking brochure, and a recycling brochure to provide all the information possible to the new residents. He said newsletters to the residents would be going out July 29, August 29, September 16, and October 5, 1988. He said they would also have a "Mobile City Hall" with city staff available at T. C. Roberson High School Parking Lot on August 29 and September 12; Haw Creek Volunteer Fire Department on August 31 and September 14; and Poseidon Restaurant, Highway 70, on September 1 and September 15, 1988. He said there would also be one main telephone number in City Hall for the residents to call for information.

CLAIMS - KENNY REED (PARKS) - STEPHEN LANCASTER (STREETS) - WALTER L. KING (WATER) - MRS. MICHAEL HOBBS (WATER)

The City Manager presented claims received from Kenny Reed, Stephen Lancaster, Walter L. King, and Mrs. Michael Hobbs.

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

DISCUSSION - ASHEVILLE MALL CONSTRUCTION

The City Attorney said, at the request of the City Manager, he had reviewed the minutes of the Planning and Zoning Commission and the Asheville City Council relative to the approval of the site plan for the Asheville Mall Expansion Project to determine if there are any violations of the contingencies place upon the approval of the Project. In addition, he stated that he had discussed the matter with members of the Planning staff. Although the Planning staff had reported that as of Friday, July 22 there had been no disturbance of the twenty-foot buffer within the area in question, that even if there were a disturbance in that area, the buffering ordinance does not require that existing vegetation remain. He further stated that some areas of the site plan did specifically require that existing vegetation remain, but not in the area where grading and cutting of trees had taken place. Since the site plan did not include specific requirements at the area in question, he concluded that the requirements imposed upon the developer were as set forth in the buffering ordinance.

Councilman Price said she had visited the site and she continued to question whether the developer is violating any ordinances. She said it seems that the developer has graded within one foot of the residential property.

Mayor Bissette said there may not be a technical violation but for all intent and purposes there may be a non-technical violation because it was not Council's intent for the grading to be that close to the residential property or for the 20' existing buffer to be cut. He said the City would make sure the developer complies with all ordinances of the City including the buffering, zoning and erosion control ordinances.

Harold Payne, of 299 White Pine Drive, and Co-Chairman of the Kenilworth Forest Homeowner's Association, said the residents of this area have been continuously fighting the Asheville Mall developer over many suspected violations since the Mall was first constructed. He reviewed the background of the problems the residents have had with the developer.

Randall Davis said it should be City Council's responsibility to protect the residents in the area of the Asheville Mall.

Vice-Mayor Michalove noted that evidently there has been some misunderstanding in administrative procedures. He said he was under the impression that when Council approves a site plan and instructs that the Planning staff approve the landscaping plans that all aspects of buffering are evaluated. He said apparently the staff has only been evaluating landscaping around the project rather than the entire buffering and landscaping. He said perhaps City Council needs to

look at the ordinances or the manner in which site plans are approved to broaden the scope of evaluations of landscaping and buffering.

After discussion, Mayor Bisette said the City staff would do everything that needs to be done to assure that the developer abides by every letter of the law in the development.

Councilman Price requested that members of Council visit the area in question and view the site from the residential area.

RICHARD MATHEWS - PRESIDENT OF THE NEWLY ORGANIZED ALBEMARLE/MANOR GROUNDS NEIGHBORHOOD ASSOCIATION

Richard Mathews, Acting President of the newly organized Albemarle/Manor Grounds Neighborhood Association, appeared before Council to inform them of the new organization. He said the association is in the process of drafting a letter to the City to express their interest in working with the City, Quality Forward, and all other government agencies in addressing

some of the concerns of the residents in the area.

ADJOURNMENT:

Mayor Bisette adjourned the meeting at 7:00 p.m.

MAYOR CITY CLERK
