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Tuesday - November 29, 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 Associate City Manager/City Clerk

William F. Wolcott, Jr.

Absent:

INVOCATION

The invocation was given by Councilman Martin.

APPROVAL OF MINUTES - NOVEMBER 15, 1988 MEETING

Mayor Bisette announced the approval of the minutes of the November 15, 1988 meeting as submitted.

EMPLOYEES OF WATER AND SEWER DEPARTMENT - 1988 STATE CHAMPIONS IN TAPPING

The City Manager recognized employees of the Water and Sewer Department for becoming the 1988 State Champions in Tapping for the second year. He said the team beat the state and national record with a time of 1 minute 54.32 seconds. He said the team will be competing in the Nationals in Los Angeles in June, 1989.

PARKING VALIDATION STICKERS FOR LIBRARY PATRONS

The City Manager said due to a number of calls relative to repealing free parking in the Civic Center Parking Garage for residents of the City using the library facilities an interim solution has been decided upon. He said the City will issue to the Library validation stickers similar to the ones used by downtown merchants. He said the Library would have control of the parking stickers and this program would be monitored for several months to determine the usage of the Library and the cost involved and a determination can be made by Council whether to continue the program.

REGRETS EXTENDED TO FAMILY OF WARREN G. CABANISS

Mayor Bisette, on behalf of the Council, extended regrets to the family of Warren G. Cabaniss, former member of the Alcohol Beverage Control Board, upon his recent passing.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

III. OLD BUSINESS:

A. Resolution to close a portion of Cliff Street in the City of Asheville, North Carolina.

SUMMARY: A petition has been filed by Westgate

Shopping Center of Asheville, Inc. requesting that a portion of Cliff Street which has never been paved or otherwise utilized be permanently closed to the public use. This closing is in connection with the Westgate Shopping Center Expansion Project - Phase II. A public hearing was

held on September 27, 1988.

Mayor Bissette announced that this matter would be

postponed until December 20, 1988 meeting.

B. Third reading of Ordinance No. 1731 - amending Section

19A-1 and 19A-11 of the Code of Ordinances (Grievance

Procedure) of the City of Asheville.

SUMMARY: Section 19A-1 is being amended to clarify

procedures for hearing group grievances because meeting with large groups can make it almost impossible to meet time deadlines of the present ordinance. This amendment would allow a department head

the flexibility to meet with a group of employees if he/she so desires; however, it would clarify that it is not a requirement of the grievance procedure. Section 19A-11 will clarify who the department head must confer with prior to rendering a decision on a grievance as opposed to who must actually attend the grievance conference. Section 19A-11 also eliminates the time allotted for the City Manager to render his decision provided the conference is held within 10 days after the appeal is received by the City

Clerk.

Mayor Bissette announced that this matter would be

postponed until December 20, 1988 meeting.

C. Ordinance No. 1737 - Third reading of an ordinance

amending Chapter 25 (Streets and Sidewalks) of the Code

of Ordinance of the City of Asheville (Parade Permits)

Mayor Bissette said this ordinance will amend

Section 25-16 (C) (1-5) by deleting same and inserting new language. The new language would require that a written application for a permit is to be filed not less than 72 hours in advance of such parade. It would also require that the applicant for a permit pay an administrative filing fee, to be set by the Council and included in the

City's Fees and Charges Manual.

Mayor Bissette 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. 1737

passed on third and final reading.

Ordinance Book No. 11 Page No. 397-398

IV. NEW BUSINESS:

A. Resolution No. 88-167 - Resolution providing for the issuance of \$8,400,000 Public Improvement Bonds, Series 1988.

Mayor Bissette said this resolution will authorize the issuance of \$5.4 million in Street and Sidewalk bonds and \$3.0 million in Pack Place bonds.

Mayor Bissette said members of Council were previously furnished copies of the resolution and it would not be read in its entirety.

Upon motion of Councilman Martin, seconded by Councilman Frank, Resolution No. 88-167 was unanimously adopted.

Resolution Book No. 17 Page No. 260 - 293

B. Resolution authorizing the City Manager to execute an agreement with Land-of-Sky Regional Council to provide technical support concerning the proposed Stormwater Management Program.

SUMMARY: Proposed agreement between the City of

Asheville and the Land of Sky Regional Council to provide technical support to City staff in coordinating with the Citizen Advisory Committee and Public meetings concerning the proposed Stormwater

Management Program.

Mayor Bissette said this resolution would be postponed until the December 20, 1988 meeting.

C. Ordinance No. 1738 - Ordinance amending Ordinance Nos. 1650 and 1674 providing for a Disability Review Board for members of the Asheville Policemen's Pension and Disability Fund.

Mayor Bissette said the proposed amendment clarifies the entitlement to benefits for former firefighters.

The City Attorney said it has become necessary to

clarify the eligibility for benefits to former firefighters. He said the following sentence would be added to the ordinance: "No benefits shall be paid for any period of time prior to January 1, 1987, for former members of the Asheville Policemen's Pension and Disability Fund and for any period of time prior to January 1, 1988, for former members of the Asheville Firemen's Pension and Disability Fund."

Vice-Mayor Michalove moved for the adoption of Ordinance

No. 1738. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1738 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and proceed to the second reading of Ordinance No. 1738.

This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1738 passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and

proceed to the third reading of Ordinance No. 1738. This motion was seconded by Councilman Martin and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1738 passed on third and final reading.

Ordinance Book No. 11 Page No. 399-400

D. Ordinance No. 1739 - Ordinance directing the Director of Building Inspections to demolish and remove the dwelling known as 94 Houston Street, Asheville, North Carolina.

Mayor Bissette said this ordinance will direct the

demolition and removal of the remains of the dwelling at 94 Houston Street, due to an imminent threat to life, safety, and health.

The City Attorney said this ordinance is being

adopted due to an emergency situation and statements have been received from the Fire, Police, Building Inspections, and Health Departments outlining the status of 94 Houston Street.

Mayor Bissette and Councilman Price said there are

two (2) dwellings on Starnes Avenue that should fall under the emergency ordinance and should be demolished. They

indicated a desire to move faster on dwellings of this nature in order to eliminate such problems.

Vice-Mayor Michalove said he was under the

impression that there is a procedure to follow to move ahead quickly on dwellings that are a threat to life, safety, and health without waiting on the process of adopting an ordinance.

Councilman Frank moved for the adoption of Ordinance

No. 1739. This motion was seconded by Vice-Mayor Michalove.

On a roll call vote of 6-0, Ordinance No. 1739

passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and

proceed to the second reading of Ordinance No. 1739. This motion was seconded by Councilman Martin.

On a roll call vote of 6-0, Ordinance No. 1739

passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and

proceed to the third reading of Ordinance No. 1739. This motion was seconded by Councilman Martin.

On a roll call vote of 6-0, Ordinance No. 1739

passed on third reading.

Ordinance Book No. 11 Page No. 401

E. Resolution authorizing the transfer of a cable

television franchise from American Cable TV Investors to Daniels & Associates, Inc., and/or its affiliates which are controlled by United Artists Communications, Inc.

Mayor Bissette said this resolution will approve and

consent to the transfer and assignment of the franchise to Daniels & Associates, Inc. and/or its affiliates which are controlled by United Artists

Communications, Inc.

Mayor Bissette indicated that the City Manager and

the City Attorney needs additional information prior to Council taking action on the resolution.

Joe Haight, General Manager of Asheville

Cablevision, said this action is a continuation of a request sent to members of Council in June, 1988. He said United Artists Communication, Inc. purchased Daniels and Associates, Inc., a partnership which owned Asheville Cablevision. He said United Artists Communication, Inc. is buying out all the limited partnerships, closing out American Cable TV Investors, which is also a part of Daniels and Associates. He said there would be no effect on the

local franchise.

The City Manager said Council would take action on this resolution in the next few weeks.

V. CONSENT:

A. Resolution No. 88-168 - Resolution authorizing condemnation of Parcel 2 of property in the Thompson Street Bridge Replacement Project.

SUMMARY: This resolution authorizes the Asheville

Housing Authority to condemn Parcel No. 2, owned by Midwood Investment Company, in order to acquire the parcel for right-of-way required for the replacement of the Thompson Street Bridge. Numerous attempts have been made to locate and negotiate with Midwood Investment Company, (and it has been found that the company no longer legally exists).

Resolution Book No. 17 Page No. 294

B. Resolution No. 88-169 - Resolution accepting Rhododendron Place as a City system street.

SUMMARY: Property owners along Rhododendron Place,

in the newly annexed area of Haw Creek, have petitioned the City to accept Rhododendron Place as a City system street. The street qualifies as a City System street

Resolution Book No. 17 Page No. 295

C. Bids for a Communication Center for Fire Department consisting of two (2) status/control panels and ten (10) station transponders.

SUMMARY: Recommendation to award bid for a

communication center to the low bidder, Communication Service, Inc., Asheville, North Carolina.

D. Resolution No. 88-170 - Resolution appointing members to the Asheville Fair Housing Commission.

SUMMARY: The term of office of Dwight B. Mullen as

a member of the Asheville Fair Housing Commission expires December 31, 1988. This resolution will reappoint Dwight B. Mullen for a three (3) year term, term to expire December 31, 1991 or until his successor has been duly appointed and qualified.

Resolution Book No. 17 Page No. 296

E. Resolution No. 88-171 - Resolution appointing members to the Board of Directors of the Victoria of Asheville, Inc.

SUMMARY: The terms of Matthew Bacoate, Jr., Darlene Wilkins, Dr. John P. Holt, Dorothy C.

Maitland, and John F. Shuford have expired as a members of the Board of Directors of the Victoria of Asheville, Inc. It is necessary for Council to appoint someone to serve on the Victoria of Asheville Board of Directors. This resolution will reappoint Matthew Bacoate, Jr., Darlene Wilkins, Dr. John P. Holt, Dorothy C. Maitland, and John F. Shuford, terms expiring November 29, 1990, or until their successors have been duly appointed and qualified.

Resolution Book No. 17 Page No. 297

F. Resolution No. 88-172 - Resolution appointing members to the Asheville-Buncombe Community Relations Council.

SUMMARY: The terms of the Chief of Police and

Dwight B. Mullen ave expired as a members of the Asheville-Buncombe Community Relations Council. It is necessary for Council to appoint someone to serve on the Asheville-Buncombe Community Relations Council. This resolution will reappoint the Chief of Police and Dwight B. Mullen to a 3-year term, terms December 31, 1991, or until their successors have been duly appointed and qualified.

Resolution Book No. 17 Page No. 298

G. Resolution No. 88-173 - Resolution appointing member to the Asheville-Buncombe Water Authority.

SUMMARY: The term of the Richard A. Wood, Jr. has

expired as a member of the Asheville-Buncombe Water Authority. It is necessary for Council to appoint someone to serve on the Asheville-Buncombe Water Authority. This resolution will reappoint the Richard A. Wood, Jr., term expiring December 31, 1991, or until his successor has been duly appointed and qualified.

Resolution Book No. 17 Page No. 299

H. Resolution No. 88-174 - Resolution appointing member to the Asheville Transit Authority.

SUMMARY: The term of Tom Tomlin has expired as a

member of the Asheville Transit Authority. It is necessary for Council to appoint someone to serve on the Asheville Transit

Authority. This resolution will reappoint the Tom Tomlin, term expiring December 31, 1992, or until his successor has been duly appointed and qualified.

Resolution Book No. 17 Page No. 300

I. Resolution No. 88-175 - Resolution No. 88-176 -

Resolution appointing members to the Asheville Area

Civic Center Commission.

SUMMARY: Dianna Jackson and Joe Webster have

resigned as members of the Asheville Area Civic Center Commission. It is necessary for Council to appoint two individuals to serve on the Asheville Area Civic Center Commission. This resolution will appoint Mrs. H. C. McQueen to serve the unexpired term of Joe Webster, term expiring June 30, 1989, or until her successor has been duly appointed and qualified and Debi Decker to serve the unexpired term of Dianna Jackson, term expiring June 30, 1991, or until her successor has been duly appointed and qualified.

Resolution Book No. 17 Page No. 301

Resolution Book No. 17 Page No. 302

J. Scheduling of public hearing relative to the

implementation of zoning in the Montford area in accordance with the "Head of Montford Redevelopment Plan" for December 13, 1988.

SUMMARY: The Asheville Planning and Zoning Commission

on November 2, 1988, considered the following

recommendations from staff:

- 1) Amend the Asheville Zoning Ordinance by adding a new Section 30-5-16, NC Neighborhood Commercial District;
- 2) Rezoning certain lots in the Montford Area on Ward 3, Sheets 2, 10, 11, 13, and 16;

The Commission voted unanimously to recommend to

City Council that the Asheville Zoning Ordinance be amended by adding a new NC Neighborhood Commercial District and that the existing zoning

in Montford remain.

Upon motion of Councilman Bratton, seconded by

Councilman Price, the consent agenda was unanimously adopted.

VI. OTHER BUSINESS:

ORDINANCE NO. 1740 - BUDGET ORDINANCE - TONE ALERT SYSTEM FOR FIRE DEPARTMENT

At the request of the City Manager, Councilman Bratton moved for the adoption of a budget amendment in the amount of \$33,870 for a tone alert system in the Fire Department. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1740 passed on first and final reading.

Ordinance Book No. 11 Page No. 402

COMMENTS RELATIVE TO COUNCIL'S SELECTION OF NEW COUNCILMEMBER

W. Steve Wilborn, President of the Asheville Branch of the NAACP, read the following prepared statement:

November 28, 1988

The Asheville Branch of the NAACP would like to go on record to express our objection to the process that City Council used to appoint Mr. Robert York to fill the unexpired term of former council member Walt Boland. While it is understood that Council executed its duty in filling the vacancy, the nomination and appointment process was, in our opinion, done secretly and in a style reminiscent of back-room politics. Interested Asheville citizens should have been given an opportunity to comment, ask questions, and express their opinions about, 1) the process that would be used to nominate and appoint Mr. Boland's replacement, 2) the qualifications members of Council would be looking for in prospective candidates, in addition to the requirement that (s)he be a Democrat and, 3) when interviews would be held. As a result of your failure to fully disclose all the procedures surrounding this situation, there is and continues to be a great deal of discussion in the Greater Asheville community concerning the expeditious manner in which the appointment was made.

Those actions and inactions, coupled with your pro-business at the expense of neighborhood/city-wide problems have diminished our trust in your good-faith effort to represent all the people equally. Therefore, at this time, we formally request that you

agree to voluntarily establish a district representative form of government for City Council. We also request that you give us an answer within six weeks from this date. Thank you.

W. Steve Wilborn, President Marilyn Bass, Secretary

J. Walter Hills, from the Interdenominational Ministerial Alliance of Asheville and Vicinity, read the following prepared statement:

Dear Mayor and Council Members,

It is with profound disappointment that we, the Interdenominational Ministerial Alliance of Asheville and Vicinity, address you concerning the recent appointment to City Council.

Our concern is twofold:

1. The strategy which the council choose to make the appointment

secretive, without input or consideration of the community.

2. We feel that the appointment coupled with the ways & means

that the appointment was made shows insensitivity to the Black Community.

The community-The Black Community has always supported in a large way is responsible for having a democratic controlled council. It is our opinion that this council missed a golden opportunity to show its appreciation for the support you have been given. Your disregard for our voice shall be remembered during the next election. During the ensuing years and the upcoming elections, we urge you to remember this act of insensitivity.

Respectfully Submitted,

J. Walter Hills

Reverend James E. Roberts Reverend J. F. Wills

President Secretary

Reverend O. T. Tomes

Treasurer

Brita Larsen Clark, with North Carolina Sane/Freeze, read the following prepared statement:

November 29, 1988

Asheville City Council

City Hall

Asheville, North Carolina

On behalf of the Asheville chapter of SANE/FREEZE I would like to join in protest regarding how a replacement for Dr. Boland was chosen. The process of choosing a replacement must be an open one in which all sectors have a voice.

We are particularly concerned that the Asheville Black community's legitimate call for more equitable representation was met with evasion and equivocation until they were presented with a fait accompli.

We cannot have a government that is responsive to all the people unless all parties are involved in its development. Under-the-table negotiations deny important constituencies their voice in a process that should be conducted in an open and forthright manner.

A more public process will benefit the entire community by helping us to recognize each other's strengths and needs, and teaching us to work together constructively.

Sincerely,

Brita Laren Clark

Route 1, Box 738

Candler, N. C. 28715

Dorothy Krisbaum spoke in support of the NAACP's position on the replacement of the Council member. She said she felt the concerns from the Black Community were ignored.

Mary Kay Larer speaking in support of the NAACP's position on the replacement of the Council member said she felt Council's quick decision is a tragedy and Council was unfair to the Black Community.

Councilman Frank commented that this was the second time she had went through the process of selecting a Council member and in her opinion Council could not please everyone in their selection. She said it is a "no-win" situation for Council members.

COMMENTS BY BOB BROWN - ELECTION OF SCHOOL BOARD MEMBERS

Bob Brown, Chairman for the Citizens for a Vote in the Schools, read the following prepared statement:

Thank you for the opportunity to present this petition to you. It contains the signatures of eight hundred and fifty-six persons who request that the Council take the necessary steps to provide Asheville with an elected Board of Education.

This issue is not raised as a response to the performance of current or past Boards, but in the belief that the nature and importance of public education requires an elected Board.

An appointed Board by its character does not require or seek public involvement or approval. We find the Board, appointed in executive session, conducting the majority of its business in executive session. This kind of secrecy is more appropriate to foreign intrigue than to the education of children.

This Board should be elected by the public because the operation of the public schools is public business. It involves millions of tax dollars and our children's future.

Open government is good government. Thousands of men and women in Asheville join us in asking City Council for an elected Board of Education. We are not asking for unusual privileges. Of one hundred and forty school districts in North Carolina, only eleven fail to give the people a vote on their Board of Education. The people of Asheville can surely choose a Board wisely, and join residents of the great majority of school districts in North Carolina and the nation who see these elections as a simple instance of their rights as citizens.

Please consider this request. In the event that Council will not grant it, we ask that the Council members voice their objections publicly.

Thank you for your attention.

Bob Brown, Chairman, Citizens for a Vote in the Schools

79 Tacoma Circle

Asheville, N. C. 28801

phone: 253-6663

Upon inquiry of Councilman Bratton, Mr. Brown said it would be his preference that the election be by districts.

CLAIMS - THOMAS HUTCHISON (STREETS) - PAUL RENEAU (WATER) - DAVID HALL (WATER) - DIANE DEMARIA (SEWER) - SUSAN ROBINSON (WATER) - NORMAN WORLEY (PARKS) - RUTH E. BYRD (STREETS) - PETER FALCIGNO (SEWER) - C. RICHARD PARSONS (WATER)

The City Manager presented claims received from Thomas Hutchison, Paul Reneau, David Hall, Diane DeMaria, Susan Robinson, Norman Worley, Ruth E. Byrd, Peter Falcigno, and C. Richard Parsons.

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

LAWSUITS - JACK MCCRAKEN, JACK WOODHOUSE AND LAWRENCE TRABER (BEAVERDAM ANNEXATION) - RUSSELL A. MATHESON AND WIFE, ELAINE R. MATHESON AND KAY LEE WRIGHT (BEAVERDAM ANNEXATION)

The City Manager said the city was served with lawsuits during the week of November 18, 1988 involving Jack McCracken, Jack Woodhouse, and Lawrence Traber (challenge to annexation of Beaverdam area by people living outside the annexation area) and Russell A. Matheson and wife, Elaine R. Matheson and Kay Lee Wright (challenge to annexation of Beaverdam area by people living inside the annexation area).

Mayor Bisette referred the lawsuits to the Corporation Counsel for investigation and recommendation.

VII. ADJOURNMENT

Upon motion of Councilman Price, seconded by Vice-Mayor

Michalove, the meeting adjourned at 5:35 p.m.

MAYOR CITY CLERK
