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® Tuesday - March 21, 1989 - 4:00 P.M.

Regular Meeting

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

M. Michalove; Councilmen Mary Lloyd Frank, Norma T. Price, Wilhelmina Bratton, Russell Martin and A. Robert York; 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 Price.

APPROVAL OF MINUTES - MARCH 14, 1989 MEETING

Mayor Bissette announced the approval of the minutes of the March 14, 1989 meeting as submitted.

I. PROCLAMATIONS:

® **A. Proclamation - Post Anesthesia Nurses Day -**

March 27, 1989 - April 1, 1989

Mayor Bissette read the proclamation and presented copies to Kathy Wilborn, Recovery room Director, Memorial Mission Hospital; Mary Ann Epstein and Terry Scarborough from St. Joseph's Hospital.

® **B. Proclamation - "Community Development Week" -**

March 24 - 31, 1989

Mayor Bissette read the proclamation and presented a copy to Marvin Vierra, Community Development Director. Mr. Vierra highlighted the events taking place during "Community Development Week."

II. PUBLIC HEARINGS:

® **A. Public hearing relative to rezoning property located at**

218 East Chestnut Street for Mr. Chris Peterson.

Mayor Bissette said the Asheville Planning and Zoning

Commission on February 1, 1989, reviewed the request of Mr. Chris Peterson that Ward 2, Sheet 16, Lot 138, located at 218 East Chestnut Street, be rezoned from R-4 Residential District to CG Commercial General District. The Commission recommended denial of this petition and advised Mr. Peterson of his right to appeal to City Council.

Mayor Bissette opened the public hearing at 4:30 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.

Carol Albrice, from the Planning Department, reviewed

the report from the Planning and Zoning Commission and stated that the Planning and Zoning Commission recommended denial of the rezoning request. She said the Commission felt the rezoning would be an encroachment into residential property and further that the 2010 City Plan reveals that the north side of Chestnut Street be a low density area.

Mrs. Albrice said the Planning Department had received a

letter from Mr. Joel Antal, property owner adjacent to Mr. Peterson, opposing the requested rezoning. She said his objections were based on the rezoning would carve the residential district between Madison and Charlotte Street in two places; this would create a public traffic corridor in the middle of a residential neighborhood, creating congestion, noise, danger and pollution; this would also raise the question about the availability of zoning preferences for some, and would belie the very purpose for zoning to begin with; and it would further despoil the architectural and historic ambiance which Asheville must nurture to enhance its uniqueness and tourist appeal.

At the request of Council, Mrs. Albrice read the

allowable uses for the Commercial General District. She also reviewed the surrounding zoning and uses stating that the majority of the property in the area is used for office type development and residential.

Chris Peterson, petitioner, spoke in support of the

requested rezoning. He presented pictures of the surrounding properties. He said his property is adjacent to Fuddrucker's Restaurant. He said this area shows business and residential working together. He said he proposes to spend in excess of \$350,000 on this project which would create more jobs and more tax revenue.

Gene Ellison, Attorney for Chris Peterson, said the City

rezoned property for the Fuddrucker's Restaurant and should also consider doing the same for Mr. Peterson, a local creative businessman. He said Mr. Peterson has a sincere interest in growth for the City of Asheville. He said no major objections have been received relative to the requested rezoning. He said his client proposes to construct a restaurant on this property.

Margaret Bridget, a resident of East Chestnut Street,

said in her opinion Asheville's Zoning Ordinance needs to be rewritten. She said Commercial General has too broad of uses for this area. She said she would feel more secure if the owner of the property placed restricted uses for the property. She said she would be opposed to rezoning the property Commercial General.

June Grant, a local Realtor, speaking on behalf of Mr.

McElduff who resides at 212 East Chestnut, said the rezoning would encroach upon residential property. She said perhaps Mr. Peterson could utilize the Historic Overlay zone. She said if Council rezones this property to Commercial General Mr. McElduff would like for his property to be rezoned to Commercial General.

Upon inquiry of Council, the City Attorney said the property owner has the right to place any kind of restrictive covenants on his own property.

Councilman York said he was concerned about the encroachment into residential property, particularly on Broad Street. However, the general character of the property in the area has changed to a non-residential area. He said it would be unrealistic to think that the property would ever be used for a single family residence and the current structure is not designed for multi-family units. He said a multi-family unit would not be a justifiable investment.

Councilman Bratton said she has some questions about the rezoning but they were legal questions and probably should be discussed in an executive session.

After discussion, Vice-Mayor Michalove moved to continue the public hearing until March 28, 1989 without further advertisement giving Mr. Peterson an opportunity to consider other alternatives and to give members of Council an opportunity to discuss the matter in more depth. This motion was seconded by Councilman Martin and carried unanimously.

Councilman Price suggested that in considering alternatives that the petitioner consider the possibility of a residential buffer along Broad Street.

® B. Public hearing relative to an ordinance directing the

Director of Inspections to proceed with the demolition and removal of the dwelling known as 20 Dallas Street or otherwise comply with the provisions of the Housing Code of the City of Asheville.

® Ordinance No. 1756 - Ordinance directing the Director

of Building Inspections to demolish and remove the dwelling known as 20 Dallas Street, Asheville, North Carolina.

Mayor Bissette said this ordinance will direct the demolition of 20 Dallas Street which has been totally destroyed by fire.

Mayor Bissette opened the public hearing at 5:20 p.m.

The City Clerk presented the notice to the public setting the time and date for the public hearing and the affidavit of publication showing notification in the Asheville Times and the Sarasota Herald-Tribune in Tampa, Florida.

The City Attorney presented pictures of the dwelling known as 20 Dallas Street which was destroyed by fire in the latter part of 1988. He said all administrative hearings have been held and no steps have been taken by the owner to repair or demolish the dwelling.

Members of Council expressed that they would like to see

a process implemented to take care of such dwellings in a shorter time period.

Mayor Bisette closed the public hearing at 5:26 p.m.

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

Councilman Price moved for the adoption of Ordinance No.

1756. This motion was seconded by Councilman Martin.

On a roll call vote of 7-0, Ordinance No. 1756 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and

proceed to the second reading of Ordinance No. 1756. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1756 passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and

proceed to the third reading of Ordinance No. 1756. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1756 passed on third reading.

Ordinance Book No. 11 Page No. 430-431

III. OLD BUSINESS:

IV. NEW BUSINESS:

® A. Ordinance No. 1757 - Ordinance amending Section 28-52

(b) of Chapter 28 of the Code of Ordinances of the City of Asheville restricting truck traffic on Glendale Avenue between McArthur Lane and Fairview Road.

Mayor Bisette said this action will include a portion

of Glendale Avenue, between McArthur Lane and Fairview Road, in the ordinance regulating truck traffic on certain residential streets.

Vice-Mayor Michalove moved for the adoption of Ordinance

No. 1757. This motion was seconded by Councilman Frank.

On a roll call vote of 7-0, Ordinance No. 1757 passed on first reading.

Vice-Mayor Michalove moved to suspend the rules and

proceed to the second reading of Ordinance No. 1757. This motion was seconded by Councilman Frank and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1757 passed on second reading.

Vice-Mayor Michalove moved to suspend the rules and

proceed to the third reading of Ordinance No. 1757. This motion was seconded by Councilman Frank and carried on a voice vote of 6-1 with Mayor Bissette voting "no."

On a roll call vote of 7-0, Ordinance No. 1757 passed on third reading.

Ordinance Book No. 11 Page No. 432

® B. Resolution No. 89-41 - Resolution approving and

endorsing the Asheville-Buncombe Water Authority Water System Master Plan for water improvements.

Mayor Bissette said the Asheville-Buncombe Water

Authority was formed and charged with certain duties and responsibilities by an Agreement between the City of Asheville and the County of Buncombe on October 29, 1981 and supplemented on August 18, 1987. This agreement states that "the Authority shall be responsible for

developing a Master Plan for capital improvements and further states that "said plan shall be approved by the Authority acting as a body with one vote, the County Commissioners acting as a body with one vote, and the City Council acting as a body with one vote, each meeting in formal session and upon the affirmative vote of two of the three bodies."

Councilman Price noted that the Asheville-Buncombe Water

Authority passed a similar resolution at their meeting this morning.

Upon motion of Vice-Mayor Michalove, seconded by

Councilman Frank, Resolution No. 89-41 was unanimously adopted.

Resolution Book No. 17 Page No. 381- 382

® C. Bids for one (1) mobile stage for Parks, Recreation and

Public Facilities Department.

Mayor Bissette said staff has recommended the award to

the low bidder, Wenger Corporation, Owatonna, Minnesota, in the amount of \$44,834.00.

A copy of the bid summary is available in the City

Clerk's Office.

Councilman Price moved to accept the bid of Wenger

Corporation for one (1) mobile stage in the amount of \$44,834.00. This motion was seconded by Vice-Mayor

Michalove and carried unanimously.

V. CONSENT:

VI. OTHER BUSINESS:

®ASHEVILLE SCHOOL BOARD - NOTICE - INDIVIDUALS TO BE CONSIDERED FOR APPOINTMENT

Mayor Bissette said pursuant to N. C. Gen. Stat. sec.

143-318.11, notice is given that the following persons are under consideration by the City Council of the City of Asheville for appointment to the Asheville City

School Board:

Charlotte V. Carlisle - J. R. Downs - Lee Loy - Carol

Matthews - Dana Noblitt Sutton - J. Lyle West - John

Quigley - Eleanor H. Franklin - Harriett N. Haith

Mayor Bissette said Council would be considering these

appointments at next week's meeting.

®RESOLUTION NO. 89-42 - RESOLUTION OF INTENT TO CONSIDER AN ORDINANCE AMENDING THE CHARTER OF THE CITY OF ASHEVILLE TO PROVIDE FOR NONPARTISAN ELECTIONS WITH TWO OR FOUR YEAR STAGGERED TERMS AND CALLING FOR A PUBLIC HEARING THEREON

Mayor Bissette read the resolution which scheduled the

public hearing for 4:00 p.m. on Tuesday, April 4, 1989

in the Council Chambers.

Upon motion of Vice-Mayor Michalove, seconded by

Councilman York, Resolution No. 89-42 was unanimously adopted.

Resolution Book No. 17 Page No. 383 - 384

®CLAIMS - VIRGINIA JONES (WATER) - MICHELLE BROWN (PARKING) - ALLEN OWENS (WATER)

The City Manager presented claims received from

Virginia Jones, Michelle Brown, and Allen Owens.

Mayor Bissette referred the claims to the City Attorney

for investigation and recommendation.

®GROUP DEVELOPMENT - OVERLOOK VILLAGE SHOPPING CENTER AMENDMENT

Carol Albrice, from the Planning Department, said the

Asheville Planning and Zoning Commission at a special meeting on March 16, 1989 reviewed and recommended approval of an amendment to the site plan of Overlook Village Shopping Center on Tunnel Road. She said it is now Council's decision to accept the recommendation of the Planning and Zoning Commission or to schedule a public hearing relative to the amendment.

Mrs. Albrice reviewed the original motion to approve

the Overlook Village Shopping Center with a list of contingencies. She said all the contingencies have been met as far as possible. She reviewed the requested changes to the original plans for the shopping center indicating that the major revision is the redesign of the proposed shops. She said the revised plans show the building to be built over a 40' Haw Creek Sewer Line. She said the Water and Sewer Department has indicated that this would be acceptable with an agreement with the owner for the repair of the sewer line if the need arises.

After discussion Council decided not to take action on

the amendment indicating acceptance of Planning and Zoning's recommendation. However, Council did request that the Developer furnish the City of Asheville with a letter from the Engineers stating that the culvert would be inspected after the initial installation and that the culvert would be periodically monitored and that the inspection reports would be furnished to the City.

®RESOLUTION NO. 89-43 - RESOLUTION APPOINTING MEMBER TO THE DOWNTOWN COMMISSION

Councilman Price moved for the adoption of a resolution

appointing **Don Martell** as a member of the Asheville Downtown Commission to serve until June 30, 1990. This motion was seconded by Councilman Bratton and carried

unanimously.

Resolution Book No. 17 Page No. 385

®RALPH BISHOP - LOTTERY SALES IN THE CITY - SELECTION OF NEW POLICE CHIEF

Ralph Bishop spoke to members of Council relative to

the lottery sales in the City of Asheville and the

process for the selection of the new Police Chief.

®VII. ADJOURNMENT

Mayor Bissette adjourned the meeting at 6:25 p.m.

MAYOR CITY CLERK

