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Tuesday - July 18, 1989 - 4:00 P.M.

Regular Meeting

Present: Vice-Mayor Kenneth M. Michalove, Presiding; Councilmen

Mary Lloyd Frank, Wilhelmina Bratton, Russell Martin and A. Robert York; Staff Attorney Martha McGlohon; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Mayor W. Louis Bissette and Councilman Norma T. Price

and Corporation Counsel William F. Slawter;

INVOCATION

The invocation was given by Councilman Martin.

APPROVAL OF MINUTES

Vice-Mayor Michalove announced the approval of the minutes of the July 11, 1989 meeting as submitted.

I. PROCLAMATIONS:

A. Proclamation - Saturday, July 22, 1989 - "Railway

History Day"

Vice-Mayor Michalove read the proclamation and presented

a copy to Steve Bleyhut with the Railway Historical Society. Mr. Bleyhut received the proclamation on behalf of Mrs. Judy Calvert, Convention Chairman of the National Railway Historical Society.

B. Presentation of Certificate of Achievement for

Excellence in Financial Reporting.

Vice-Mayor Michalove recognized Larry Fisher, Director

of Finance; Charlotte Tell, City Accountant;, and Pat Lackey, Assistant City Accountant for receiving a Certificate of Achievement for Excellence in Financial Reporting, the highest form of recognition in governmental accounting and financial reporting. The award is given by the Government Finance Officers Association.

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Larry Fisher, Director of Finance, was also awarded an

Award of Financial Reporting Achievement. He said this is the ninth year that the City of Asheville has

qualified for this award.

II. PUBLIC HEARINGS:

A. Public hearing relative to rezoning property at 391-393

Hendersonville Road for Buncombe County Board of Education.

Ordinance No. 1774 - An ordinance amending the zoning of

property located on Hendersonville Road and identified as Ward 7, Sheet 4, Lot 52 of the Buncombe County Tax

Maps.

Vice-Mayor Michalove said the Asheville Planning and

Zoning Commission on June 7, 1989, reviewed and recommended approval of rezoning Lot 52, Sheet 4, Ward 7, from R-3 Residential District and CS Commercial Service District to CH Commercial Highway District excepting that portion of Lot 52 lying 150 feet from the centerline of Vanderbilt Road and that portion be rezoned from R-3 Residential District to

R-1 Residential District.

Vice-Mayor Michalove opened the public hearing at

4:14 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 Alberice, from the Planning Department, said

the property requested to be rezoned is located on Hendersonville Road and is owned by the Buncombe County Board of Education and consists of 12.9 acres. She said it is the site of the Old Biltmore School.

Mrs. Alberice reviewed the surrounding zoning and

uses of property stating that the area is surrounded by Commercial Highway, Commercial Service, and residential.

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Mrs. Alberice said residents of Biltmore Forest

opposed the rezoning. She said the Planning Department has received 17 letters in opposition and one letter in favor of the rezoning.

She said the Planning Staff had recommended that the

rezoning be denied. She said they felt the conditional uses allowed in the R-3 Residential District would allow extra office spaces. She said the comprehensive plan proposed the property to be Institutional as a land use projection. She said they also felt the character of the R-1 Residential District would be adversely affected if the property were rezoned.

She said the Planning and Zoning Commission

recommended approval of the rezoning with the exception of a portion of Lot 52 which shall be zoned R-1 Residential District to protect the residents of Biltmore Forest. She said a 20' buffer would also be required between the commercial property and the residential property.

Walter Currie, Attorney representing the Buncombe

County Board of Education, said the negative comments relative to the rezoning were received from another municipality and he questioned the legal ability of another municipality to object to zoning. He said the Planning and Zoning Commission's recommendation would protect the residents on Vanderbilt Road and any development of the property would have to come under a group development and receive approval from the Planning and Zoning Commission and the Asheville City Council. He said the School Board could live with the recommendation of the Planning and Zoning Commission. He said this property needs to get back on the tax books and the Board of Education offices would be moving to the Square D plant site. He requested that if Council agrees to rezone the property that the ordinance be read on three readings today.

Mr. Currie said he felt the rezoning to Commercial

Highway was the highest and best use of the property. He said the comprehensive plan eluded to probably felt the school system would always use this property.

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Robert Musselwhie, Zoning Administrator for the Town

of Biltmore Forest, thanked members of the Planning and Zoning Commission and the Asheville City Council for listening to the residents of Biltmore Forest. He said Biltmore Forest is a part of the Asheville community. He said the residents of Biltmore Forest feel that the compromise offered by the Planning and Zoning Commission would be reasonable.

Mike Moser, Chairman of the Planning and Zoning

Commission, said the Commission felt the compromise offered more flexibility for the property and also protected the residents of Biltmore Forest. He said the property in question is more commercial than residential. He said the Commission's recommendation carried on a vote of 6-1.

Vice-Mayor Michalove closed the public hearing at

4:24 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 Martin moved for the adoption of

Ordinance No. 1774, rezoning the property as recommended by the Planning and Zoning Commission. This motion was seconded by Councilman Bratton.

On a roll call vote of 5-0, Ordinance No. 1774

passed on first reading.

III. OLD BUSINESS:

IV. NEW BUSINESS:

V. CONSENT:

A. Scheduling public hearing relative to rezoning property

located at 614 Hendersonville Road, Robert Reeves,

petitioner, for August 1, 1989.

SUMMARY: The Asheville Planning and Zoning Commission

on July 5, 1989, reviewed and recommended approval of rezoning Ward 7, Sheet 5, Lot 17, from R-3 Residential District to CH Commercial Highway District.

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Upon motion of Councilman Frank, seconded by Councilman

Martin, the consent agenda was unanimously approved.

VI. OTHER BUSINESS:

A. Resolution No. 89-94 - Resolution appointing members to the Board of Adjustment under Ordinance No. 322, as amended.

Vice-Mayor Michalove read the resolution which appointed

Jeff Dave and Ellen Goldstein-Lyda as alternate members of the Board of Adjustment.

Upon motion of Councilman York, seconded by Councilman

Martin, Resolution No. 89-94 was unanimously adopted.

Resolution Book No. 17 Page No. 443

B. Resolution No. 89-95 - Resolution appointing members to the Asheville-Buncombe Historic Resources Commission

Vice-Mayor Michalove read a resolution appointing Lacy

Haith and Cathy Butler as members of the Asheville-Buncombe Historic Resources Commission.

Upon motion of Councilman Frank, seconded by Councilman

Martin, Resolution No. 89-95 was unanimously adopted.

Resolution Book No. 17 Page No. 444

C. Resolution No. 89-96 - Resolution appointing members to the Asheville Tree/Greenway Commission

Vice-Mayor Michalove read a resolution reappointing Dr.

J. Lowell Orbison and Claude B. Haynes as members of the Asheville Tree/Greenway Commission and appointing Sandra Byrd and Alison Arnold as members of the Asheville Tree/Greenway Commission and Susan Roderick and Karen Cragolin as voting ex-officio members.

Upon motion of Councilman Frank, seconded by Councilman

York, Resolution No. 89-96 was unanimously adopted.

Resolution Book No. 17 Page No. 445- 446

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"PEOPLE FOR JUSTICE" TASK FORCE - POLICE BRUTALITY - IMMORAL INDIFFERENCES

Attorney Larry Linney, speaking for the members of "People for Justice", said the members are issuing a challenge to the City Council members to end "immoral indifference" and "dehumanization of our society". He said the task force was formed to study police brutality and was organized after the death of Michael Andre Harris, who died last month while in police custody. Mr. Harris died about one and one-half hours after being arrested during a road block targeting drug suspects at the Mountainside Apartments public housing complex. He said the members allege that Harris was brutally beaten during the incident.

Mr. Linney asked the City Council members to join the group in City-County Plaza for a ceremony laying, large, black funeral wreaths at the stone of Samuel Ashe, stating that the wreaths are a symbol for the grief felt by the black community at the destruction of our community and our youth by violence, whether perpetrated by the police or ourselves.

Mr. Linney said the members recognize that the criminal investigation is not yet complete but they were calling attention to conditions in Asheville that allowed his death and the death of others in similar circumstances. He asked that Council pass a resolution pledging the resources and political leadership of the city to reach out and work together with all citizens to eradicate not merely unwarranted violence, drug addiction and poverty, for these conditions are symptoms. He said the group is requiring that the city improve the culture that gives rise to these social ills.

Mr. Benton, a member of the task force, also asked members of Council to join the group in front of the City-County Plaza for the placing of the wreaths.

Vice-Mayor Michalove and members of Council said they are committed to ending all forms of injustice and asked that any specific incidences of brutality or other abuse be reported immediately to the City Manager's Office and complaint forms are available for that use.

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Ralph Bishop commented on the corruptness of the Asheville Police Department.

Joe Webster, with the Asheville Chapter of the NAACP said police brutality has steadily increased in Asheville and in North Carolina. He asked that Council members take a stand on what has happened.

Liddy James, Chairperson for "People for Justice" invited members of Council to the next Task Force meeting on Monday, July 24, 1989 at 7:00 p.m. at Brown's Temple Church on Phifer Street.

CLAIMS - MARY AUSTIN (STREETS) - MARION BYERS (SEWER) - JD JACKSON ASSOCIATES (WATER) - FRAZIER JONES (SEWER) - CYNTHIA WHITESIDE (SEWER) - BURGER KING RESTAURANT (SEWER) - DORIS CRISP (POLICE)

The City Manager presented claims received from Mary Austin, Marion Byers, JD Jackson Associates, Frazier Jones, Cynthia Whiteside, Burger King Restaurant, and Doris Crisp.

Vice-Mayor Michalove referred the claims to the City Attorney for investigation and recommendation.

LAWSUIT - READER WATT V. CITY OF ASHEVILLE (REIMBURSEMENT FOR SEWER LINE EXPENSES) - MICHAEL BERRY V. CITY OF ASHEVILLE (APPEAL OF CIVIL SERVICE BOARD DECISION)

The City Manager said the City was served with lawsuits on July 11, 1989 involving Reader Watt v. City of Asheville (reimbursement for sewer line expenses) and Michael Berry v. City of Asheville (appeal of Civil Service Board decision).

Vice-Mayor Michalove referred the lawsuits to the City Attorney for investigation and recommendation.

EXECUTIVE SESSION - PERSONNEL ISSUE

Councilman Bratton moved that Council go into executive session to discuss a personnel matter. This motion was seconded by Councilman York and carried unanimously.

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FEDERAL BUILDING - REPORT

The City Manager said the House Appropriations Subcommittee has approved expenditures for site work and design for the federal building in downtown Asheville. He said the expenditure must now be approved by the full House Appropriations Committee and the project continues to move along successfully.

RALPH BISHOP - CITY MANAGER'S SALARY

Ralph Bishop spoke to members of Council relative to the recent increase in the City Manager's salary.

VII. ADJOURNMENT

Vice-Mayor Michalove adjourned the meeting at 5:07 p.m.

MAYOR CITY CLERK
