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Tuesday - November 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, and Russell Martin; Corporation Counsel William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott, Jr.

Absent: Councilman A. Robert York and Councilman Wilhelmina

Bratton

### **INVOCATION**

The invocation was given by Councilman Frank.

### **APPROVAL OF MINUTES**

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

### **I. PROCLAMATIONS:**

#### **A. Resolution No. 89-165 - Resolution of Appreciation to Retiring Employee, Barbara Williamson.**

Mayor Bissette read the resolution stating that

this resolution expresses appreciation for Barbara Williamson's years of service with the City of Asheville. Ms. Williamson retired effective

November 1, 1989.

Jim Ewing, Director of Public Works, introduced Ms.

Williamson and told Council that she was retiring from the City after 12 years of service in the Public Works Department.

Upon motion of Vice Mayor Michalove, seconded by Councilman Frank, Resolution No. 89-165 was unanimously adopted.

Mayor Bissette presented Barbara Williamson with the resolution.

**Resolution Book No. 18 Page No. 27**

## **II. PUBLIC HEARINGS:**

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

#### **A. Ordinance No. 1801 - Third reading on ordinance**

##### **amending Article 9. Sign Regulations of the Code of Ordinances of the City of Asheville.**

Mayor Bisette said the Asheville Planning and Zoning

Commission on September 27, 1989 moved to forward their recommendations to City Council in the form of an addendum along with the complete, unabridged text of the Asheville Sign Commission's "Draft Sign Ordinance" A public hearing was held on the proposed Sign Regulations on October 24, 1989. This ordinance was read on first reading on November 7, 1989 and on second

reading on November 14, 1989 with amendments.

Mayor Bisette announced that Council is still

working on the ordinance and will go back to their work session on the ordinance at the conclusion of today's meeting. He said Council is trying to finalize their work by next Tuesday and will expect to have the third reading of the ordinance at that time. Mayor Bisette said he knew some citizens had attended today's meeting with the intention of addressing the Sign Ordinance. Therefore, he said, the Council would hear their comments, but requested that their remarks be limited to new information.

Attorney Charles Worley read a letter from his client Wayne Kinser. The letter expressed Mr. Kinser's opposition to the proposed ordinance based on its failure to compensate sign owners for their property. He said it had long been a principal of our country that private property cannot be taken from its owner without just compensation. He said it would be wrong to require that all nonconforming signs be removed the day after the passage of the ordinance without paying a fair compensation to the sign owner. He said this would be the same thing as the City taking two-thirds of somebody's front yard to widen the road, but saying that since it would not be taken for eight years, the person would not be entitled to compensation for the loss of his yard. He suggested that the City amortize the cost of compensation over an 8-year period and pay that cost on an annual basis by issuing ad valorem tax credits to owners equal to one-eighth of the appraised value. Another alternative suggested in Mr. Kinser's letter was that the City issue tax credits at the end of the 8-year period for those signs still existing that must then be removed.

Attorney Albert Sneed, speaking on behalf of Summey Outdoor Advertising Company, urged Council to reconsider and not adopt the proposed Sign Ordinance.

Upon inquiry of Vice Mayor Michalove, City Attorney William F. Slawter said he was not aware of any provision that would permit the City to forgive taxes or issue tax credits.

Councilman Price moved to continue the third reading of Ordinance No. 1801 until the November 28th meeting. This motion was seconded by

Councilman Martin and carried unanimously.

#### **B. Ordinance No. 1762 - Third reading on ordinance**

##### **amending Article 13 of Chapter 30 of the Code of Ordinances of the City of Asheville to create the Albemarle Park Historic District.**

Mayor Bisette said the Asheville Planning and Zoning

Commission on September 27, 1989, again reviewed the request of the Albemarle Park-Manor Grounds Association,

through the Historic Resources Commission, that their area be designated a local historic district. The Commission again voted to recommend approval of the designation and to exclude the property on Charlotte Street south of the Gatehouse zoned CG Commercial General. A public hearing was held on this matter on October 31, 1989. The first and second readings of the ordinance have been held including Lots 71, 91, 70, and 99 in the Historic District and to exclude Lots 72 and 73.

Mayor Bissette said because of the protest petitions that have been filed, the reading of this ordinance will require a three-fourths vote - six of seven councilman and that only five members are present today. He said Councilman York is somewhere on the Atlantic Ocean on a trip that had been planned for over a year. He said Councilman Bratton had called in and could not be present. Therefore, he said, the Council could not proceed with the scheduled third reading.

Several persons expressed disappointment that Council could not proceed with the scheduled third reading and requested that every effort be made for all Council Members to be present at next week's meeting so action could be taken on the matter.

Councilman Frank moved to continue the third reading of the ordinance until the November 28th meeting. This motion was seconded by Councilman Martin and carried unanimously.

### **C. Ordinance No. 1802 - Second reading of Ordinance**

**amending Ordinance No. 322, known as "An Ordinance Providing for the Zoning of the City of Asheville," as amended, Kenneth and Jacksie Pitts, Petitioners,**

**property located at 95 Cherry Street**

Mayor Bissette said the Asheville Planning and

Zoning Commission on October 4, 1989, voted to recommend to City Council that Ward 3, Sheet 2, Lots 271 and 272, be rezoned from R-4 Residential District to CBD Central Business District. Petitioners had requested rezoning from R-4 Residential District to CH Commercial Highway District. This ordinance was read on first reading

on November 14, 1989.

Mayor Bissette said this ordinance was previously

read on first reading and would not be reread in

its entirety.

On a roll call vote of 5-0, Ordinance No. 1802

passed on second reading.

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

#### **A. Ordinance No. 1805 - Budget Amendment appropriating**

**funds received from Appalachian Regional Commission for Foreign Trade Zone Feasibility Study**

Mayor Bissette said this budget amendment will

appropriate \$4,960 received through the Appalachian Regional Commission for the Economic Development Task Force of the Asheville Area Chamber of Commerce to conduct a Foreign Trade Zone Feasibility Study.

Mayor Bissette said members of Council were previously

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

Councilman Price moved for adoption of Ordinance No.

1805. This motion was seconded by Vice Mayor Michalove.

On a roll call vote of 5-0, Ordinance No. 1805 passed on first and final reading.

**Ordinance Book No. 12 Page No. 47**

**B. Resolution No. 89-166 - Resolution authorizing the**

**Mayor to execute an easement in favor of Dennis J. Dewitt and Ann Dewitt Brooks (North Fork Watershed Reservoir Property).**

Mayor Bissette said this resolution will authorize the

Mayor to execute a right-of-way easement for a roadway over a portion of the North Fork Watershed Reservoir.

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. 89-166 was unanimously adopted.

**Resolution Book No. 18 Page No. 28**

**V. CONSENT:**

**A. Resolution No. 89-167 - Resolution appointing member to Asheville-Buncombe Crime Stoppers Committee.**

Mayor Bissette said this resolution will appoint Joe Haight as a member of the Asheville-Buncombe Crime Stoppers Committee for a term expiring June 30, 1990.

**Resolution Book No. 18 Page No. 29**

**B. Resolution No. 89-168 - Resolution appointing member to the Tourism Development Authority.**

Mayor Bissette said this resolution will reappoint Mrs. Barbara McEwan as a member of the Tourism Development Authority

**Resolution Book No. 18 Page No. 30**

Upon motion of Vice Mayor Michalove, seconded by Councilman Frank, the consent agenda was unanimously approved.

**VII. OTHER BUSINESS:**

**A. Ordinance No. 1806 - Ordinance amending Section 25-5 of the Code of Ordinances of the City of Asheville (Explosive Devices**

The City Manager presented an ordinance amending Section 25-5

of the Code of Ordinances of the City of Asheville to regulate the sale of merchandise upon public streets except by permit duly issued by the City Manager or his designee and prohibiting the sale of fireworks or other explosive devices and prohibiting the discharge of explosive devices in public areas.

Upon inquiry of Council, City Attorney William F. Slawter said the penalty for violation of the ordinance would be a \$50.00 or 30 days in jail, and that the ordinance would become effective upon its adoption.

Vice Mayor Michalove moved for the adoption of Ordinance No.

1806. This motion was seconded by Councilman Martin.

On a roll call vote of 5-0, Ordinance No. 1806 passed on first reading.

Vice Mayor Michalove moved to suspend the rules and proceed to the second reading of ordinance No. 1806. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1806 passed on second reading.

Vice Mayor Michalove moved to suspend the rules and proceed to the third and final reading of ordinance No. 1806. This motion was seconded by Councilman Price and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1806 passed on third reading.

**Ordinance Book No. 12 Page No. 48 - 49**

**B. Motion rescinding the resolution adopted on November 14, 1989**

**appointing Councilman Martin to the Alcoholic Beverage Control Board and to replace it by motion to appoint Councilman Martin to the ABC Board effective December 6, 1989**

Councilman Price moved to rescind the resolution of November 14th appointing Councilman Martin to the ABC Board and to replace it by motion to appoint Councilman Martin to the ABC Board effective December 6, 1989. This motion was seconded by Vice Mayor Michalove and carried unanimously.

**C. Indemnification Agreement - Light Up Your Holidays Festival -**

**Use of Biltmore Building for Santa Claus**

Councilman Martin moved to authorize the City Manager to

execute an indemnification agreement for the use of the Biltmore Building in downtown Asheville for the set up and landing of Santa Claus at the Children's Celebration of the Light Up Your Holidays Festival from 12:00 Noon to 8:00 p.m. on Saturday, December 2, 1989. This motion was seconded by Councilman Frank and carried unanimously.

**D. Claims - Donald Bleasdale (Water) - Jack Simonds (Water) -**

**John Carroll (Streets) - Carolyn Davies (Sewer) - Belinda Crooks (Sewer) - Jack Ferguson (Water) - Katherine Henry (Water) - Alice Bunn (Streets)**

The City Manager presented claims received from Donald

Bleasdale, Jack Simonds, John Carroll, Carolyn Davies, Belinda Crooks, Jack Ferguson, Katherine Henry, and Alice Bunn.

Mayor Bissette referred the claims to the City Attorney for investigation and recommendation.

**E. Lawsuit - Ronnie M. Riddle (Civil Service Board)**

The City Manager said the City was served with a lawsuit on

November 14, 1989 involving Ronnie Riddle regarding an appeal from Civil Service Board decision.

Mayor Bissette referred the lawsuit to the City Attorney for investigation and recommendation.

**F. Ralph Bishop - Lottery Sales**

Ralph Bishop inquired of Council whether or not there was a law exempting the City of Asheville from enforcing the lottery laws. City Attorney William F. Slawter said he was not aware of any legislation exempting enforcement of the lottery laws.

**VIII. ADJOURNMENT.**

Mayor Bissette adjourned the meeting at 4:55 p.m.

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**MAYOR CITY CLERK**

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