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Tuesday - November 28, 1989 - 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: Councilman A. Robert York

### **INVOCATION**

The invocation was given by Councilman Bratton.

### **APPROVAL OF MINUTES**

Mayor Bisette announced the approval of the minutes of the November 21, 1989 meeting as submitted.

### **Student Representative Program**

Assistant City Manager Charles Penny said several

months ago Councilman Martin made a proposal to implement a new Student Representative Program whereby two students from Asheville High School attended Pre-Council and Council meetings each week. He said the program has now been started and he introduced Kendal McDevitt, Vice-President of the Student Body and Termain Kyle, President of the Student Body in attendance at the meeting. He said the students are from the Leadership Class at Asheville High School and would attend four Council meetings then students would be rotated.

Councilman Martin said he felt the program would

promote participation and interest in local government on the high school level. He said he felt it would also get parents and relatives involved in local government and hoped the program would be beneficial

for the coming years.

### **I. PROCLAMATIONS:**

#### **A. Resolution No. 89-170 - Resolution of Appreciation to**

#### **Retiring Employee, Norma Reid.**

Mayor Bisette read a resolution expressing

appreciation to Norma Reid, retiring employee. Norma Reid has been a Secretary Senior since November, 1954 (35 years) and will be retiring December, 1989.

Upon motion of Vice-Mayor Michalove, seconded by

Councilman Price, Resolution No. 89-170 was unanimously adopted.

**Resolution Book No. 18 Page No. 32**

**B. Proclamation - "Toys for Tots Parade Day" -**

**December 2, 1989**

Mayor Bissette read the proclamation and presented it to Dana Stevens who explained the parade route and said they would be collecting toys for 2,000 children for Christmas.

**II. PUBLIC HEARINGS:**

**A. Public hearing - rezoning property located on**

**Springvale Avenue for Cleo and John Wilson and Loraine Hensley.**

**Ordinance No. 1807 - An Ordinance providing for the**

**zoning of the City of Asheville, as amended, rezoning property located on Springvale Avenue at the request of Cleo and John Wilson and Loraine Hensley.**

Mayor Bissette said the Asheville Planning and

Zoning Commission on November 1, 1989, reviewed and recommended approval of rezoning Lots 4, 101, 104, 114 and 125, Sheet 16, Ward 7, from R-3 Residential

District to LI Light Industrial District.

Mayor Bissette opened the public hearing at

4:34 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,

reviewed the rezoning request and the current zoning surrounding the property in question. She showed a video of the property requested to be rezoned.

Mayor Bissette closed the public hearing at

4:39 p.m.

Mayor Bissette said members of Council were

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

Vice-Mayor Michalove moved for the adoption of

Ordinance No. 1807. This motion was seconded by Councilman Frank.

On a roll call vote of 6-0, Ordinance No. 1807

passed on first reading.

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

#### **A. Ordinance No. 1802 - Third 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 and on second reading on

November 21, 1989.

Mayor Bissette said the 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. 1802

passed on third and final reading.

**Ordinance Book No. 12 Page No. 44**

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

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

Mayor Bissette 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 Bissette said members of Council are still in the

process of reviewing the ordinance and is trying to finalize the ordinance before the third reading. He said Council wants the document in final form for legal review as well as the public having an opportunity to review the ordinance. He said for those reasons the third reading of the ordinance is being deferred until Monday, December 4, 1989 at 4:00 p.m. He said copies of the final ordinance will be available in the Mayor's Office on Friday, December 1, 1989.

Patsy Brison, Staff Attorney, highlighted the main

provisions of the ordinance.

Wayne Kinser, 87 West Oakview Road, speaking in

opposition to the proposed sign ordinance, said the ordinance would adversely affect businesses and would be taking property without just compensation which is prohibited by the Constitution of the United States. He said an economic impact study of the ordinance should be conducted prior to adoption. He also questioned whether or not an individual would have a right to appeal a decision of the ordinance to the Board of Adjustment after adoption or whether they have to wait until after the five to seven year amortization period.

The City Attorney said in his opinion an individual could appeal a decision to the Board of Adjustment after adoption of the ordinance.

Ralph Bishop spoke in opposition to the proposed ordinance.

Paul Young, owner of several businesses, including two

Shoney's Restaurants, spoke in opposition to the ordinance. He said the ordinance would allow the City to take property without just compensation.

James Young also spoke in opposition to the ordinance stating that the ordinance would create a loss in sales tax and business growth.

Albert Sneed, Attorney representing Summey Sign

Company, said he felt an economic impact study is needed before the proposed ordinance is adopted. He also said the Council should have reviewed the "Baltimore Study" prior to adopting the ordinance.

Mike Summey, Summey Sign Company, spoke in opposition to the proposed ordinance, stating that in his opinion it is not right or legal.

Mr. Moutos, from The Mountaineer Inn on Tunnel Road, spoke in opposition to the ordinance.

Mayor Bissette informed Mr. Moutos that Council is making provisions in the ordinance for historic signs.

Dick King, businessman located in the Clyde Savings and

Loan Building, said the City should enforce the current sign ordinance and assess the current ordinance prior to adoption of a new ordinance.

Tony Kern, Manager of two Pizza Huts, questioned whether or not his signs would be in compliance with the proposed ordinance.

Kevin Tomlin, also a Manager of Pizza Hut, requested that some provision be made for "informational signs".

Jim Hughes spoke in opposition to the ordinance stating that it is not fair for Council to make provisions for historic signs and not other businesses.

Dennis Hudson, spoke in favor of the proposed

ordinance, stating that the intent of the ordinance is not to do away with signs but to bring them down to a sensible size.

Lennie Sitnick, 90 Getrude Place, said she felt an

economic impact study should be done to determine what effect the ordinance would have on business owners.

Phil Carson, Attorney, 72 Patton Avenue, said the

proposed ordinance is responsive to the needs of the community and has been reviewed and recommended by the Sign Commission and the Planning and Zoning Commission. He said both these commissions worked long and hard months on the proposed ordinance.

There being no further comments, Mayor Bisette said

the ordinance would be considered on third reading on Monday, December 4, 1989 at 4:00 p.m.

### **C. 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.

Vice-Mayor Michalove moved to go into executive

session to discuss a legal matter. This motion was seconded by Councilman Frank and carried unanimously.

Mayor Bisette said the County of Buncombe has not

changed their original protest petition; therefore, the ordinance before Council would require six affirmative votes for adoption.

Councilman Bratton said she had given this matter

extensive thought and study. She said she agreed that the Albemarle Park area is very historic and probably should be made an historic district; however, she has a problem forcing property owners to become a part of the historic district if they do not want to be included.

Lennie Sitnick suggested that the property owners

that did not want to be included provide some type of deed restriction to preserve the neighborhood.

Jane Matthews requested that all the properties be

included in the historic district including the six (6) lots facing on Charlotte Street.

Rick Matthews, President of Albemarle Park

Association, said he was dismayed at Councilman Bratton's decision. He also requested that all the properties be included in the Historic District.

Ann Cross, local Realtor, said Council should respect the business owners in our community.

Albert Sneed, Attorney representing Jim Daniels,

owner of lots facing on Charlotte Street, said his client does not want his property to be included in the historic district.

Ann Craig, resident of Murdock Avenue, spoke in favor of the historic district.

On a roll call vote of 5-1, Ordinance No. 1762

**failed** with Councilman Bratton voting "no".

Councilman Frank moved to reconsider Ordinance No.

1762 and to amend the ordinance to exclude Lots 99, 91, 72 and 73 and to include Lots 70 and 71 in the Albemarle Park Historic District. This motion was seconded by Councilman Martin and carried unanimously.

Mayor Bissette said with this motion the ordinance could be adopted with a simple majority vote.

On a roll call vote of 6-0, Ordinance No. 1762, as amended passed on third and final reading.

**Ordinance Book No. 11 Page No. 441 - 444**

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

##### **A. Ordinance No. 1808 - Budget Ordinance Amendment to establish grant appropriation for Project HAND.**

Mayor Bissette said Project HAND is a Police and

Housing Authority effort to reduce the criminal use and abuse of drugs in Asheville's Public Housing communities.

Councilman Martin moved for the adoption of Ordinance

No. 1808. This motion was seconded by Councilman Price.

On a roll call vote of 6-0, Ordinance No. 1808 passed on first and final reading.

**Ordinance Book No. 12 Page No. 51****B. Motion amending Fees and Charges Manual increasing taxi****cab rates.**

Charles Penny, Assistant City Manager, said

representatives from the cab companies have requested that the Asheville City Council consider a rate increase for taxi cab fares. Review of city ordinances indicates that the last rate increase occurred on March 27, 1980. The taxi cab owners would like to recommend that the rates be increased to \$1.50 for pickup and \$.15 for each additional 1/10 mile. The current charges are \$1.05 for pickup and \$.10 for each

additional 1/10 mile.

The justification for the rate increase is based upon

the fact that the City has not had an increase in the taxi cab fares in a period of eight (8) years; however, the cost of operating the taxis has certainly risen during that period of time. Taxi cab owners complained of very high liability insurance per car, and a check with the City's contract risk manager indicated that it would not be unusual for taxi cab owners to pay as much as \$2,000.00 per car for liability insurance. The taxi cab owners also stated that Asheville's economy does not provide for a year around balance of business. During the winter, their business drops to about a third of what it is during the rest of the year.

Listed below are a comparison of the rates charged in

other cities, and the cost of a 3 mile trip in those

cities.

**3 MILE TRIP**

Raleigh 1/6 = \$.75 + \$.20 for each additional 1/6 mile

.75 + \$3.40 = \$4.15

Greensboro 1/6 = \$1.15 + \$.20 for each additional 1/6 mile

1.15 + \$3.40 = \$4.55

Durham 1/6 = \$.95 + \$.10 for each additional 1/11 mile

.95 + \$3.00 = \$3.95

Winston-Salem 1/10 = \$1.20 + \$.20 for each additional 1/6 mile

1.20 + \$3.20 = \$4.40

High Point 1/6 = \$1.20 + \$.20 for each additional 1/6 mile

1.20 + 3.40 = \$4.60

Wilmington 1/6 = \$1.00 + \$.20 for each additional 1.6 miles

1.00 + \$.40 = \$1.40

Fayetteville 1.10 = \$1.10 + \$.12 for each additional 1/10 mile

\$1.10 + 2.28 = 3.38

Asheville 1/10 = \$1.05 + \$.10 for each additional 1/10 mile.

\$1.05 + \$2.90 = \$3.95

Greenville, SC 1/10 = \$1.25 + \$.10 for each additional 1/10 mile.

\$1.25 + \$2.90 = \$4.15

Charlotte, NC 1/10 = \$2.25 + \$.11 for each additional 1/10 mile.

\$2.25 + \$2.90 = \$5.15

Atlanta, GA 1/10 = \$1.50 + \$.15 for each additional 1/10 mile.

\$1.50 + \$4.35 = \$5.85

It is recommended that the new rate, if approved, become effective on January 1, 1990.

### Other Concerns

A) In another meeting with the taxi cab companies a number of other suggestions have been recommended as far as rates are

concerned; however, for the purpose of this Council meeting recommendations are not being submitted for any action but for future consideration. One recommendation was the implementation of a night surcharge. In some cities an additional charge is added to the fare for night pick-ups.

B) Due to the growth of the City as a result of annexation, it has been suggested that the City look at implementing zone charges. The zone charges would compensate taxi cab companies for going certain distances to pick up a fare. A prime example for the need for this change is as follows: A taxi cab is dispatched from the center of downtown to the Ingle's in Oteen. The person that is being serviced by the taxi cab company wants to go from the Ingle's over to LaMancha Apartments to take their groceries home, and the fare would amount to \$1.35 under the city's current charges.

Under the recommended increase, the taxi cab company would receive approximately \$1.65 for that pickup, therefore, the taxi cab companies owners do not feel they are recovering the costs of operations on the trip. The implementation of the zone chart would mean if you cross a certain number of zones you would be compensated \$.50 or \$1.00 for each zone you crossed.

C) Taxi cab owners continue to struggle with the ordinance requirement as it relates to physical exams for drivers. The owners stated that it is very difficult to have drivers because before a person can actually become a driver, he must spend \$75.00 for a physical exam before they have even had an opportunity to make any money as a taxi cab driver. This has reduced the number of drivers available to the companies. The taxi cab companies would like for us to check and see what other cities require in reference to physical exams for their taxi cab drivers, and at some point, the taxi cab owners may be asking City Council for a change in this part of the ordinance.

D) The taxi cab companies are also interested in seeing if other cities assist cab companies with the insurance crunch.

Councilman Price said she needed time to study this request and would like to consider all recommendations as a package.

Glenn Queen, Taxi cab owner, spoke in favor of the rate increase and the recommended changes to the ordinance. He



said it was very difficult to get taxi cab drivers when they have to pay \$75.00 for a physical before driving a taxi cab.

David Davis, Beaver Lake Cab Company, said the taxi cab operators have to have an increase in order to remain in operation. He requested that Council go ahead and grant the rate increase and deal with the other recommended changes at a later date.

Mike Plemmons, with the Council for Independent Business Owners, spoke in favor of the rate increase stating that taxi cab operators have not had an increase in nine (9) years and they are deserving of an increase.

Termain Kyle, student representative, said Council should also consider the type of individuals that have to ride a taxi. He said most of them can not afford that large of an increase.

Joe Penland, Blue Bird Taxi Cab Company, said this is an emergency situation. He said he could not remain in business without a rate increase.

Several Council members said they needed a work session on this issue before voting.

Vice-Mayor Michalove said the new Council would study this request in an effort to have some type of increase go into effect by January 15, 1990. He said members of Council would like to receive public input into this matter.

**C. Resolution No. 89-171 - Resolution authorizing**

**execution of a Community Development Agreement with Hospitality House of Asheville, Inc. for a transitional shelter for the Homeless.**

Mayor Bissette said the agreement will authorize

acquisition and rehabilitation of an existing structure to be used as a transitional shelter for the homeless. The project will be administered by Hospitality House of Asheville, Inc.

Upon motion of Councilman Bratton, seconded by

Councilman Price, Resolution No. 89-171 was unanimously adopted.

**Resolution Book No. 18 Page No. 33**

**V. CONSENT:**

**A. Resolution No. 89-172 - Resolution establishing the**

**name of the new park area located between South Charlotte Street and Martin Luther King, Jr. Drive as "Martin Luther King, Jr. Park"**

Mayor Bissette said a petition has been received with

over 200 signatures and a letter from the Martin Luther King, Jr. Birthday Activities Planning Committee requesting that the park area located on Martin Luther King, Jr., Drive and South Charlotte Street be named the "Martin Luther King, Jr. Park."

**Resolution Book No. 18 Page No. 34**

**B. Resolution No. 89-173 - Resolution authorizing**

**execution of a quit claim deed for an unnamed alley.**

Mayor Bissette said L. Burt Stanford, Sr., and wife,

Jean H. Stanford, own property on Broadway, at its northwestern intersection with Starnes Avenue. A 16 foot alley to the rear of the Stanford property extends for the entire length of the Stanford property. The only adjacent property owners, Byrl W. Young and wife, Nina Young, have executed a non-warranty deed, conveying all rights to the alleyway to the Stanfords. The Stanfords have requested that the City do the same. The City has no ownership interest in the property, other than by virtue of a plat recorded in 1920. The alley does not appear to have ever been opened or used by the public.

**Resolution Book No. 18 Page No. 35**

**C. Scheduling public hearing for minority business goals**

**for December 12, 1989.**

Mayor Bissette said this action will schedule the public hearing for December 12, 1989.

Upon motion of Councilman Bratton, seconded by Councilman Frank, the consent agenda was unanimously approved.

**VII. OTHER BUSINESS:**

**A. Claims - Pat Stines (Streets) - Harold Weaver (Streets) -**

**Esther Hardy (Sewer) - Larry Pope (Sewer)**

The City Manager presented claims received from Pat Stines, Harold Weaver, Esther Hardy, and Larry Pope.

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

**VIII. MEETING CONTINUED - December 4, 1989**

Vice-Mayor Michalove moved to continue the meeting until Monday, December 4, 1989 at 4:00 p.m. This motion was seconded by Councilman Frank and carried unanimously.

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**MAYOR CITY CLERK**

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