

Tuesday - August 8, 1995 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; Assistant City Attorney Patsy Meldum; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burlison

Absent: None

INVOCATION

Councilman Swicegood gave the invocation.

I. PROCLAMATIONS:

A. PRESENTATION OF CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING AWARD

City Manager Westbrook presented Finance Director Larry Ward with the Certificate of Achievement for Excellence in Financial Reporting Award. The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

He also presented R. Patricia Leckey, City Accountant, with the Award of Financial Reporting Achievement. Ms. Leckey was designated the individual primarily responsible for preparing the award-winning comprehensive annual financial report.

Mr. Joe Elkins and Ms. Dotty Lawing were recognized for their work in achieving the awards.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO REZONE 35, 37, 43 AND 51 ARLINGTON STREET, 295 CHESTNUT STREET, 289 AND 291 EAST CHESTNUT STREET AND A VACANT LOT ON EAST CHESTNUT STREET FROM R-4 RESIDENTIAL TO CH COMMERCIAL HIGHWAY AND 81 CHARLOTTE STREET FROM CG COMMERCIAL GENERAL TO CH COMMERCIAL HIGHWAY

Mayor Martin said that on August 3, 1995, a letter was received by Gordon S. Myers, Vice-President of Real Estate for Ingles Markets Inc., "withdrawing our request for rezoning those properties on Charlotte Street, adjacent to the site of the former Ingles store."

B. PUBLIC HEARING TO REZONE A ONE FOOT STRIP ON THE EAST SIDE OF 620 REED STREET AND A PORTION OF A LOT LOCATED AT 526B HENDERSONVILLE ROAD FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY

Mayor Martin opened the public hearing at 5:22 p.m.

City Clerk Burlison presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner, said that M. Realty and Phillip Poulos has petitioned to have rezoned a one foot strip on the east side of 620 Reed Street (M. Realty), and a portion of 526B Hendersonville -2-

Road (Phillip Poulos) be rezoned from R-3 Medium Density Residential to CH Commercial Highway. The one foot strip at 620 Reed Street was denied by City Council in October of 1993 in order to prevent more traffic coming onto Reed Street.

On July 5, 1995, the Planning & Zoning Commission ("Commission") held a public hearing on the rezoning request. Two neighboring property owners spoke in opposition to the proposed rezoning.

After the public hearing, the Commission recommended denial of the requested rezoning. Planning staff recommended that the Poulos property be rezoned with the exception of a one foot strip along Reed Street and that the one foot strip on the M. Realty property remain zoned R-3.

On July 12, 1994, the petitioners submitted a written appeal letter to the City Clerk appealing the Commission's decision to the City Council.

Mr. David Matney, attorney representing M. Realty and Mr. Poulos, said that the only possible use for this area in the back is for staff parking and they need the access onto Reed Street. He said that the M. Realty lot has no effective use as a separate commercial site since the public would not be able to find it. He said that they are requesting this one foot strip along Reed Street be rezoned to CH because since 1993, two other rezonings have come before Council and their properties were zoned right up to Reed Street, without the one foot strip.

In response to Councilwoman Field's question if the majority of the property were rezoned to CH, could it be used for residential, Mr. Matney responded that it could not be. He said that the M. Realty lot is not big enough to build a residence on it at this time. Councilwoman Sitnick said that according to the Planning and Zoning Commission minutes in 1993, the lot is less than the minimum lot size for R-3. Mr. Matney stated again that the lot has no use, at this point, other than staff parking.

When questioned by Councilwoman Field if there were any other uses for that piece of property beside parking, Mr. Benson responded that it could actually be used for residential, since the Commercial Highway district does permit residences. In fact the lot did have a single family residence on it.

Mr. George Morosani stated that the Hendersonville Road Widening Project reduced the parking spaces in the front of his business at 530 Hendersonville Road from 25 to 12 spaces. He then bought the lot behind his building with the thought that it could be used for staff parking. He said that he would deed restrict that land to parking only.

Upon inquiry of Councilwoman Field, Mr. Benson said that City Council rezoned the Leftwich property all the way to Reed Street because his lot didn't front on Hendersonville Road. The only access for his property was on Reed Street.

Ms. Lucille Frady, resident at corner of Reed and Center Streets, presented Council with an original petition from 1993 containing 50 signatures from the residents in the Reed Street area requesting "(1) make necessary repairs to Reed Street from Yorkshire to West Chapel; (2) install a larger drainage system to accommodate increased surface run-off and eliminate flooding; (3) eliminate raw sewage in surface drainage; and (4) install street lights in dark areas of Reed Street." She said that Reed Street cannot handle any more traffic. If a parking -3-

lot is built, it will be more water coming down the street with no where to go. She also presented a petition circulated in the last two days containing 32

signatures opposing this rezoning request.

Upon inquiry of Councilman McClure if the petition presented by Ms. Frady constituted a valid protest petition, Ms. Meldrum said that the petition has to be in two full working days prior to the public hearing and since the public hearing is at 5:00 p.m. on a Tuesday, it would have needed to be in at 5:00 p.m. on Friday. It was her understanding that nothing was filed as of 5:00 p.m. on Friday; therefore, only a majority vote would be required.

Mayor Martin closed the public hearing at 5:37 p.m.

Ms. Meldrum reminded the Council that whenever determining whether or not to rezone property, the Council needs to take into consideration all of the uses that are permitted within the proposed district, rather than the uses for which the property is intended to be used.

Councilman Watts moved to table this action until September 12, 1995, without further advertisement, in order to give City Council an opportunity to visit the site. This motion was seconded by Councilwoman Field and carried unanimously.

Councilwoman Sitnick had no problem with delaying the vote on this matter, but asked that Council keep in mind the prior UDO discussion about delays to property owners and liability to Council as a result of those delays.

III. UNFINISHED BUSINESS: None

IV. NEW BUSINESS: None

V. CONSENT:

Mr. Ralph Bishop felt that the City Council was bypassing Section 9 of the City Charter by having items on the Consent Agenda. He stated in particular Item E - the item setting a public hearing to consider an ordinance amending the charter and related laws of the City of Asheville to provide for four-year staggered terms for City Council.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 25, 1995, AND THE WORKSESSION HELD ON AUGUST 1, 1995

B. RESOLUTION NO. 95-117 - RESOLUTION ACCEPTING A REPORT ON THE DISPOSAL OF CITY-OWNED PERSONAL PROPERTY

Summary: Pursuant to procedures established on June 25, 1985, for disposing of personal property valued at less than \$500, this report identifies city-owned personal property disposal for the Risk Management and Water Resources Departments during the period of January 1, 1995 - June 30, 1995.

RESOLUTION BOOK NO. 22 - PAGE 341

C. RESOLUTION NO. 95-118 - RESOLUTION APPOINTING A MEMBER TO THE BOARD OF ELECTRICAL EXAMINERS

Summary: The term of Allen Holden as a member on the Board of Electrical Examiners expired on July 1, 1995. This resolution will -4-

appoint Eugene L. Presley as the electrical contractor to the Board of Electrical Examiners to serve a two year term. His term will expire July 1, 1997, or until his successor has been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 343

D. RESOLUTION NO. 95-119 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE TREE/GREENWAY COMMISSION

Summary: This resolution will reappoint Dennis Wilson and Henry Mitchell and appoint Scott Pierson to the Asheville Tree/Greenway Commission. Their terms will expire August 1, 1998, respectively, or until their successor have been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 344

E. RESOLUTION NO. 95-120 - RESOLUTION OF INTENT TO CONSIDER AN ORDINANCE AMENDING THE CHARTER AND RELATED LAWS OF THE CITY OF ASHEVILLE TO PROVIDE FOR FOUR-YEAR STAGGERED TERMS FOR CITY COUNCIL AND CALLING A PUBLIC HEARING ON AUGUST 22, 1995

RESOLUTION BOOK NO. 22 - PAGE 345

F. MOTION SETTING A PUBLIC HEARING ON AUGUST 22, 1995, REGARDING CITY PARTICIPATION IN EXPANSION PROJECT OF CARE-FREE WINDOWS, KINCO DIVISION

G. MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 12, 1995, TO REZONE 104 LOTS IN THE VIRGINIA AVENUE AREA FROM R-3 RESIDENTIAL DISTRICT TO R-1A RESIDENTIAL DISTRICT

H. MOTION SETTING A PUBLIC HEARING ON AUGUST 22, 1995, TO REZONE THE REMAINING PORTION OF A LOT ON AMBOY ROAD FROM R-3 RESIDENTIAL DISTRICT TO LI LIGHT INDUSTRIAL DISTRICT

I. MOTION SETTING A PUBLIC HEARING ON AUGUST 22, 1995, TO REZONE TWO PARCELS AT 720 HENDERSONVILLE ROAD FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

J. MOTION SETTING A PUBLIC HEARING ON AUGUST 22, 1995, RELATIVE TO VARIANCE REQUEST FROM BILTMORE AREA DEVELOPMENT COMPANY TO PERMIT A REDUCTION IN RIGHT-OF-WAY WIDTH FROM 50 FEET TO 40 FEET

Councilman Swicegood moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. COMMENTS BY H.K. EDGERTON

Mr. H. K. Edgerton asked if, in the UDO, the Head of Montford is considered a transitional area. Ms. Julia Cogburn, Planning and Development Director, said that at this point no area in the City has been designated a transitional area.

Mr. Edgerton also asked if there is a precedence for the City entering into economic venture projects with the public or the private commercial sector of the community. He asked if there is a way that the public could enter into a money-making venture with the City. Mayor -5-

Martin didn't think that would be possible; however, he asked the City Attorney to research that question and report back to Council in order that they can respond to Mr. Edgerton.

Councilwoman Sitnick said that the Chamber of Commerce will be sponsoring a

trip to the City of Chattanooga in the middle of September. In reading the brochures about that trip, there was mention about some of the development issues that have occurred in Chattanooga between public/private partnerships and she felt that might be what he is referring to. She said that she would be happy to meet with him and share the information she has.

Mr. Edgerton encouraged people to find creative ways to bring in the disadvantaged people into the economic development process.

Councilwoman Sitnick felt that when task force meetings are scheduled from 8:00 a.m. to 10:00 a.m. on a weekday morning, you are automatically undermining the participation of a major sector of our public - people who work. She felt that there were some inherent process problems with the visioning activity that pre-determined cutting off access to a majority of our citizens.

B. GROUP DEVELOPMENTS

City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. In accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Planning and Zoning Commission on August 2, 1995:

RIVER HILLS SHOPPING CENTER (FORMERLY SWANNANOA SHOPPING CENTER)

Ms. Julia Cogburn, Planning and Development Director, said that Collett and Associates, developers of River Hills Shopping Center, have submitted a revised plan for the proposed shopping center. The 39 acre commercial center is to be located at the intersection of Tunnel Road and Swannanoa River Road on a portion of the old Three Mountaineers site. The plan for the development was originally approved by City Council in June 1994. The revised plan proposes a second point of access onto Swannanoa River Road. The access will be right in, right out only, with no left turns permitted. The construction of the proposed access will require the construction of a bridge over the Swannanoa River. A no-rise certificate has been provided for the bridge construction and it has been approved by the Board of Adjustment. The access road design has been approved by the NC Department of Transportation and a driveway permit approved. The parking area and building locations have been adjusted to accommodate the revised traffic flow resulting from the second access road.

The proposed development was reviewed by the Asheville Planning and Zoning Commission at their August 2, 1995 meeting. Following their review of the site plans for the project, the Commission recommended approval with the following conditions: (1) Receipt of a letters approving water & sewer allocations and verifying adequate water pressure for fire protection; (2) Submittal of a revised landscape plan for the project; and (3) Comply with the requirements of the city's Flood Protection Ordinance.

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The Planning and Zoning Commission recommends approval of the revised plans for River Hills Shopping Center, showing the new access road which will provide right in, right out only access from Swannanoa River Road. Staff recommendation is for approval with the above conditions.

When Councilwoman Sitnick asked if there were any plans to improve Wood Avenue, Ms. Cogburn responded that she was not aware of any improvement plans.

In response to Councilwoman Sitnick regarding stormwater drainage, Ms. Cogburn said that the developer is working with the City's Engineering Department to try to meet the intent of the ordinance, even though they are not required to comply with our current stormwater regulations ordinance.

Council accepted the report of the Planning and Zoning Commission with the above conditions, thereby approving the project by taking no action.

C. UNIFIED DEVELOPMENT ORDINANCE

Councilman McClure moved to authorize City staff to proceed with the UDO mapping following the UDO that has been written with the recommendations made by the UDO Advisory Committee. This direction is with the understanding that there are going to have to be further review to make sure that legal terms are in place and that the City is in compliance with all existing laws. This motion was seconded by Councilwoman Sitnick.

Councilwoman Field stated that she would like as much public comment as possible so that we can fully evaluate the final document when the time comes. She asked for public comment continually along the entire process. City Manager Westbrook said that the Planning & Development Department intends to have neighborhood meetings, there are required public hearings and Council has recently discussed having worksessions. In addition, Ms. Cogburn said that the Planning staff will bring forward a proposal to City Council on how they plan to proceed in this process, particularly noting the scheduling of public meetings, etc.

Ms. Jane Gianvito Mathews felt that it would be good public policy to hold a public hearing on the recommendations of the UDO Advisory Committee prior to directing the Planning staff to begin mapping. She felt it might be good to have some comment on this body's work prior to actually implementing the districts. There may be some suggestions regarding districts that might refine it somewhat so that staff can do a good job at looking at what they're facing in the next 9-12 months in terms of mapping.

Mayor Martin felt that there would be ample opportunity for comments throughout the process.

Councilwoman Sitnick suggested making the UDO Advisory Committee's recommendations, received earlier today, available to the public. She suggested putting in CityWorks an ad to let people know that the recommendations are available, where they can pick up a copy and where written comments can be sent. She felt this would give people an opportunity to comment early on in the process.

City Manager Westbrook said that this process needs to be structured right so people won't get confused about what stage the -7-

process is in. As the mapping of the districts is started, the neighborhood meetings would begin. At those neighborhood meetings, not only will they review the mapping, but also review the text of the UDO so that literally all over the City people will get a chance to look at the text as well as the mapping. The Planning staff can bring back a consolidated report to the Council with all of that information compiled. Perhaps then Council could hold their worksessions, having that compiled input. Also, staff might have some additional recommendations or changes as a result of those neighborhood meetings. Then, Council could proceed with the public hearings at which time the text and the mapping would be adopted, after all considerations were taken into account.

Mayor Martin asked for a vote on the above motion. Said motion carried

unanimously.

D. SUGGESTIONS FOR UPCOMING CITY COUNCIL MEETINGS

Councilwoman Sitnick said that "as you all know I will not be seeking elected office this next go around and I'll enjoy watching those of you who are do it. I would like to ask the Council to consider some of the things that I have subjected you to the last year and a half, with Leni's lists. I'm just going to read these into the record, we're not going to discuss them or anything, I know you're thrilled about that. I would like Council to consider including in the agenda the following issues and items, either in a formal meeting or a worksession. We need a school summit; we've already scheduled a meeting to discuss the picketing ordinance with a number of members of the community who are involved with that; we need to discuss licensing tree trimmers; I'd like a joint meeting of City Council with the Asheville Housing Authority; we've already scheduled a discussion of the extraterritorial jurisdiction; like to have an information session on a City arborist and I've discussed with the Mayor a couple of people who need to be involved with that; I would like to ask that we be given information on impact fees in order to be fair to all of our taxpayers; I'd like to have some kind of a staff discussion on our history and current status and future possibilities involving an environmental impact statement and an economic impact statement as they pertain to development projects; I would like to have a discussion with City Council on boards and commissions apropos of the memo that I handed out a week ago, maybe last week or the week before; I would like to have Council give me a yea or a nay on having a City-wide Arnie contest - Councilman McClure has brought up on a number of occasions, as have others, that we have that system, we've spent the time and effort getting it in place, we might as well use it - I won't sing you my previous suggestions but I'll leave it to the wonderful, creative minds in this community; I think that apropos of Bill Slawter's memo to us of July 28 that, and I'll read this to you 'I have reviewed the concealed handgun bill (House Bill 90). As you pointed out, although it is unlawful to carry concealed handguns into federal and state buildings, the legislation does not contain that prohibition for city and county buildings.' And I'd like to have City Council discuss and perhaps decide on a House Bill 90 posting policy. And the last thing I'd like to include for City Council's consideration is a discussion on the current structure of our meetings on the formal meeting, worksession meeting, straw vote issue. And how that does or doesn't include the public. It's my feeling that holding a meeting does not necessary include the public. One must hold a meeting at a time when the public can attend and I have real concern that most people I know work and 2:00 p.m. is a very difficult and inopportune time to leave work to attend a worksession. At that worksession the public has no opportunity to hear presentations made to Council and a week later -8-

they comment on that issue without hearing the information that we've received which is in part what we base our decisions and our votes on. So I think just to make our process more cohesive, we ought to have a brief, but substantive discussion about how we conduct our meetings. Thank you."

Councilwoman Sitnick also asked that we allow Mr. Robert Griffin to come to a worksession to explain the Biltmore Village historic lights matter.

Vice-Mayor Peterson also reminded Council that a worksession is being set up on the Richmond Hills park matter.

E. RALPH BISHOP

Mr. Ralph Bishop spoke about the need for Council members to faithfully and dutifully carry out their oaths of office.

F. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville during the week of July 13-26, 1995: Deborah Settle (Water), Henri Boseman (Fire), Charles R. Lindsey (Public Works), Brenda Saye (Public Works), Tom Hickman (Water), Hubert Dyer (Streets), Ervin White (Streets), Lori Pate (Water), and Ann Eckerson (Streets).

He also said the following claims have been received from July 27 - August 2, 1995: Damian Keys (Inspections), Elizabeth Tate (Streets), and Martha and Amy Allison (Streets).

He said that these claims would be referred to Asheville Claims Corporation for investigation.

G. CLOSED SESSION

At 6:17 p.m., Councilman Swicegood moved to go into closed session for the purpose of planning, conducting or hearing reports concerning investigations of alleged criminal misconduct regarding Bele Chere. This motion was seconded by Councilwoman Sitnick and carried unanimously.

At 7:38 p.m., Councilman Swicegood moved to come out of closed session. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:38 p.m.

CITY CLERK MAYOR
