

Wednesday - November 5, 1997 - 3:00 p.m.

Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CONSENT:

Speed Limit Changes

Summary: The consideration of an ordinance to establish 15 mph on Lynmar Avenue; establish 20 mph on Swangar Road, Woodvale Avenue, Melrose Avenue, Manetta Road, Harrison Street, Starmount Drive, Covington Street, Sondley Drive, Sondley Drive North, Sondley Woods Place and South Sondley Drive; establish 25 mph on Sondley Parkway; reduce speed to 25 mph on Beaucatcher Road and Annadale Avenue; and reduce speed on King Street to 20 mph.

Mr. Doug Birch, representative of the Sondley Homeowners Association, asked that only one sign be posted for 25 mph at the entrance of the subdivision on Sondley Parkway. He said that they do not want different speeds posted on the different streets in the subdivision. Their primary request is that the speed be the same throughout the subdivision and their second request is that the speed be 25 mph.

Councilman Worley brought up the fact that each street must be posted with a speed limit for it to be enforced.

It was the consensus of City Council to remove the streets in the Sondley Subdivision from being considered at this time and instruct the Traffic Engineer to review the request.

Municipal Agreement for Bridge Inspections

Summary: The consideration of a municipal agreement with the N. C. Dept. of Transportation on a bi-annual basis for the re-inspection of bridges on the Municipal Street System.

Municipal Agreement for Maintenance of Street Lights along West Asheville/Riverlink Bridge

Summary: The consideration of an agreement with the N.C. Dept. of Transportation for the maintenance of nine street lights along Haywood Road at the West Asheville/Riverlink Bridge.

Budget Amendment re: Traffic Engineering Budget Transfer

Summary: The consideration of transferring the budget in the amount of \$115,909 for the Traffic Engineer from Public Works to Engineering Department.

Agreement with Norfolk Southern Railway re: West Annexation Area Sewer System Improvements Phase II

Summary: The consideration of a contract with Norfolk Southern Railway

Corporation for the City of Asheville to install an 8-inch -2-

pipeline beneath the railroad in connection with the West Annexation Area Sanitary Sewer System Improvements Phase II Project.

Withdrawal of Dedication of Overlook Drive

Summary: The consideration of finding the right-of-way known as Overlook Drive off Springdale Avenue not part of an adopted street plan.

Parks & Recreation Director Authority to Sign Contract Agreements

Summary: The consideration of a resolution authorizing the Director of Parks & Recreation to enter into co-sponsorship agreements and class instruction agreements for providing recreation services.

Railroad Crossing Signal on Bruce Road

Summary: The consideration of entering into an agreement with the N.C. Dept. of Transportation for a railroad crossing signal on Bruce Road.

West Asheville Reservoir & Water System Improvements Contract

Summary: The consideration of awarding construction contract to Cooper Construction Company for the West Asheville Reservoir and Water System Improvements Contract.

Mountaineer Inn Neon Signs at 155 Tunnel Road - Landmark Signs

Summary: The consideration of designating the large metal parapet signs atop the Mountaineer Inn at 155 Tunnel Road as landmark signs.

Lease of Portion of old Water Maintenance Building to Asheville City Schools

Summary: The consideration of a resolution directing the City Clerk to provide notice to the public of the intent of the City of Asheville to lease a portion of the Old Water Maintenance Building to the Asheville City Schools.

Agreement with Chamber of Commerce for Outside Agency Funding

Summary: The consideration of authorizing the City Manager to execute a contract with the Chamber of Commerce to receive the outside agency funding of \$100,000 for Fiscal Year 1997/98.

Amendments of Regional Water Authority Capital Project Ordinance (Fund 35)

Summary: The consideration of a budget amendment to the Water Major Capital Project Ordinance 82-25 (35 Fund) to reflect actual monetary commitments in that Fund.

Amendments of Regional Water Authority Capital Project Ordinance (Fund 29)

Summary: The consideration of a budget amendment to reprogram funds in the 29 Fund from the 19&23/West Buncombe Water Line and Pipeline Phase III to the Mills River Water Resources Project.

Mayor Martin asked that the record show that City Council has

received this information and instructs the City Manager to place these item on the next formal City Council agenda.

CONTRACT FOR PROPERTY MANAGEMENT SERVICES FOR COMMUNICATIONS FACILITIES AND WIRELESS TELECOMMUNICATIONS CONSULTING SERVICES

Mr. Gerald Green, Urban Planner, said that in September, the City distributed two Requests for Proposals (RFP) soliciting assistance in the development of a comprehensive ordinance establishing standards for the placement of wireless telecommunications facilities in the City's jurisdiction and for the management of the city's property for the location of communications facilities. In response to the RFP's, proposals were received from only one firm for the two (2) identified tasks.

Regarding the wireless telecommunications consulting services, he outlined that the City's existing ordinance which regulates telecommunication towers does not address (1) stealth technology; (2) areas that may not be able to be served due to restrictions imposed; (3) review fees; and (4) anticipate new technology. There is a need for a new ordinance incorporating standards to address those issues. After the City solicited proposals for revising the current telecommunications ordinance, the RFP identified minimum qualifications for a consultant, those being (1) knowledgeable about telecommunications technology and (2) knowledge of local zoning issues. An evaluation committee composed of City staff reviewed the proposals and identified the proposals best meeting the criteria set forth in the RFP's. The evaluation committee is recommending that the City enter into contracts with Jenkins, Reed, Madison and Associates ("JRM") for the ordinance development.

The proposal submitted by JRM identifies the following tasks: (1) orientation meetings; (2) review and critique existing ordinance; (3) wireless training session (4) meet with wireless providers; (5) consultations with Planning staff and drafting proposed ordinance; (6) public participation workshop; and (7) present ordinance to City Council. The cost of the 148 hours of consulting services, travel expenses and related costs for telephone, copying and miscellaneous services is \$21,790.

Development of a comprehensive wireless telecommunications ordinance which anticipates changes and new technology would put the City ahead of issues. The City would be better able to deal with issues related to telecommunications facilities, assuring that adequate service is provided while protecting those unique resources which make Asheville great.

Councilman Cloninger felt this comprehensive, cutting-edge ordinance will link Asheville to other cities for a regional approach to telecommunications towers.

Upon inquiry of Councilman Skalski, Mr. Green said that once the contract is approved, it would involve approximately 25 hours of Planning staff time.

It was the consensus of City Council to proceed with this contract and for City staff to continue to look for ways to reduce the cost.

Regarding the property management services for communications facilities, he said the City owns numerous properties which may be appropriate locations for communications facilities. The location of communications facilities on City property could generate revenue. Two obstacles to locating communications facilities on City property are (1) properties have not been evaluated for suitability; and (2) lack of staff to market and manage properties. The City has identified need for outside expertise to assist with this task. After the City solicited

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proposals from firms capable of undertaking this project, the RFP established

certain minimum requirements, those being (1) experience in property management, including marketing of property; (2) experience in locating communications facilities; and (3) knowledge of communications facilities market and demand. An evaluation committee composed of City staff reviewed the proposal and recommended that the City enter into contracts with Jenkins, Reed, Madison and Associates ("JRM") for the property management services.

The scope of services to be provided by JRM includes: (1) audit and evaluation of City property to determine capacity; (2) marketing and advertising of City property wireless service providers; (3) intermodulation studies to determine electronic compatibility of tenants; (4) lease/license negotiation services to optimize revenues; (5) review of plans for facilities to assure aesthetic compatibility; (6) site construction coordination; (7) billing and collection services for all communications facilities; and (8) review of plans to assure compliance with FCC and FAA regulations. The management fee for services is 30% of total collected services. The term of the agreement is a five year initial term with a renewal term of three years.

The marketing and management of the City's property for the location of communications facilities has the potential to generate a substantial amount of revenue for the City.

Contract negotiations will be necessary, as there are some outstanding issues to be addressed in each of the contracts as presented by the proposer. These issues have been identified by the evaluation committee. The contract negotiations should address those issues identified by the evaluation committee and these issues should be resolved to the satisfaction of the City prior to signing of the contracts.

By use of a slide, he showed a five year projected revenue model of the VA Medical Center which showed a cumulative gross revenue of \$221,612.

Mr. Green responded to questions from Councilman Hay regarding the management fee and what is involved in marketing.

Vice-Mayor Field suggested asking the consultants about their experiences with technology commissions, which are made up of citizens who advise the councils on technology.

Councilman Cloninger emphasized that the site management plan is not for the City to put towers on publicly owned property, but to maximize the use of stealth technology throughout the community. He stressed the City needs to regulate towers, not antennas that are approximately 10 feet tall. He explained that if we can use publicly-owned property, like existing building, water towers, etc., to put up antennas, then we can reduce the number of towers.

Councilman Cloninger pointed out that JRM is a minority owned business.

It was the consensus of City Council to proceed with this contract and for City staff to continue to look for ways to reduce the cost.

Mayor Martin asked that the record show that City Council has

received this information and instructs the City Manager to place these items on the next formal City Council agenda.

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COST OF SERVICES INCREASE FOR BASIC CABLE RATE

Assistant City Attorney Patsy Meldrum said that on March 1, 1997, InterMedia filed with the City of Asheville two FCC Forms, 1205 and 1240, both dated March 1, 1997, for the purpose of requesting an annual increase in its monthly rates and hourly service charges for its basic cable service tier. With the March 1, 1997, filing InterMedia proposed to increase the monthly rate for its basic cable service tier from \$10.46 to \$10.91, its expanded basic service tier from \$13.55 to \$14.09 and its hourly service charge from \$19.58 to \$36.72. By letter dated May 16, 1997, InterMedia filed FCC Form 1235 entitled "Abbreviated Cost of Service Filing for Cable Network". In its filing dated May 16, 1997, InterMedia proposed to increase its basic service rate by \$1.00 per month and its expanded basic service rate by \$3.00 per month, based on the cost of the rebuild of the cable system.

On June 10, 1997, the City Council adopted Resolution No. 97-90 which invoked additional time to review the requests of InterMedia, thereby giving the City until November 15, 1997, to review the requests. That resolution directed the City Manager to provide notice to InterMedia of that order extending the time for review of the requests. After receipt of that notice by InterMedia, InterMedia sent to the City Manager a letter dated July 30, 1997, stating that they were changing the monthly rate for the basic service back so that the \$1.00 per month rate increase would not be implemented at that time.

The City of Asheville contracted with Rice, Williams Associates to provide certain consulting services for the cable television franchise of InterMedia. Rice, Williams Associates reviewed the proposed rate increases and furnished the City of Asheville with a report analyzing those proposals and recommending denial of the proposed rate increases. She briefly reviewed their report.

The City Manager and the City Attorney's Office recommend approval of the resolution.

Intermedia has requested that the City of Asheville reconsider denying the request and allow them to supplement their filing and issue an accounting order.

Ms. Meldrum responded to questions from Councilman Hay regarding the rebuild of the system.

Upon inquiry of Councilman Cloninger, Ms. Meldrum said that the City only has the ability to review, but the review is limited by the formula developed by the FCC. As long as they comply with the formulas then we have no other choice but to not act on the rates and let them go into effect or take some affirmative action.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

STEPHENS-LEE CONSTRUCTION CONTRACT

Mr. Lyle Willis, Contract Administrator, said that this resolution is consideration of entering into a construction contract to renovate the Stephens-Lee Center.

In October, 1997, City Staff solicited bids from eleven contractors to renovate the Stephens-Lee Center. Sealed bids as both single prime and separate prime contractors were received on September -6-

18, 1997, at 3:00 p.m. based on design plans and specifications by Mathews and

Glazer Architects. An estimate for construction cost was prepared by Mathews and Glazer Architects in the amount of \$ 1,300,000.00 excluding site work and landscaping. The bid process resulted in the following three single prime bids:

Buncombe Construction Co., Inc. \$ 1,545,800.00

H&M Constructors, Inc. \$ 1,594,577.00

Donald C. Neal Construction Co., Inc. \$ 1,526,787.00

City staff has researched references given by the lowest bidder and concluded that they are a competent General Contractor. Sufficient funds are appropriated in the budget for this project.

The Parks and Recreation Department requests City Council to direct the City Manager to enter into a contract for \$ 1,526,787.00 dollars with Donald C. Neal Construction Co., Inc.

Mayor Martin asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

SCHEDULE OF CITY COUNCIL MEETINGS FOR DECEMBER 1997

It was the consensus of City Council to modify the City Council meeting schedule for December 1997 as follows: December 2, 1997 - formal; December 9, 1997 - worksession; December 16, 1997 - formal; December 23, 1997 - cancel meeting; and December 30, 1997 - cancel meeting.

Mayor Martin asked that the record show that City Council has instructed the City Manager to place this item on the next formal City Council agenda.

BOARDS & COMMISSIONS

As an official duty of the Vice-Mayor to oversee the process of board and commission appointments and for her and the committee members to make recommendations to the entire Council, she recommended that if someone has served one term, is interested in reappointment and has met the attendance requirements, that that person be reappointed to serve a second term.

Subject to the City Clerk verifying the criteria above, the Committee recommended the following: reappoint Rose Rose and Allen Roderick as Alternates to the Board of Adjustment; reappoint Carol King, Beth Lazer and Tim Fierle to the Asheville Downtown Commission; reappoint Ron Lambe and Althea Goode to the Transit Authority; and reappoint Bill Schaefer and Doug Spell to Victoria of Asheville.

Vice-Mayor Field said that the City Business & Development Commission has asked that Carol King be appointed as the Asheville Downtown Commission representative. The representatives for AdvantageWest, Asheville Downtown Association and Asheville Merchants Association have not been recommended at this time.

It was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork for appointments as outlined above by Vice-Mayor Field.

It was the consensus of City Council to instruct the City Clerk to prepare the

property paperwork to appoint Councilman Charles R. Worley -7-

to fill the vacancy on the ABC Board; appoint Vice-Mayor Barbara Field to fill the vacancy on the Metropolitan Sewerage District Board; appoint Karen Tessier to fill the vacancy on the Asheville Downtown Commission; appoint Peter Gentling and Jerry Bailey to the Tree Commission; and appoint Lionel Williams to the A-B Community Relations Council.

It was the consensus of City Council to wait for a recommendation from Wachovia Bank to fill the vacancy on the Firemen's Relief Fund.

It was the consensus of City Council to wait until the new Budget Director was hired to fill the vacancy on the Victoria of Asheville Board.

City Council instructed the City Clerk to arrange an interview with Willie McDaniel for a vacancy on the Transit Authority.

RESOLUTION NO. 97-198 - RESOLUTION AUTHORIZING THE EXCHANGE OF CITY OWNED REAL PROPERTY LOCATED ON BARTLETT STREET FOR REAL PROPERTY LOCATED NEAR BARTLETT STREET (PART OF THE MURRAY HILL PARK PROPERTY) OWNED BY OVERLOOK APARTMENTS LIMITED PARTNERSHIP

City Attorney Oast explained that the City of Asheville owns real property on Bartlett Street and Overlook Apartments Limited Partnership ("Developer") has contracted with the City to purchase from the City real property located near Bartlett Street consisting of 2.9 acres, more or less. The properties are adjacent to one another, and the City wishes to develop a park on part of the property owned by the Developer, and the Developer wishes to use part of the City's property in connection with its proposed housing development. The City and Developer have determined that it is in their mutual best interest for the City to exchange part of its property for part of the Developer's property, and have further determined that said exchange represents full and fair consideration to both parties. This resolution will authorize the Mayor to enter into Exchange Agreement and authorize the City Clerk to cause the notice to be published in the paper of Council's intent to authorize the exchange.

Mr. Ed Vess, Field Services Coordinator, illustrated and explained the transaction.

Councilman Worley moved to waive the rules and take formal action at this meeting on this matter. This motion was seconded by Vice-Mayor Field and carried unanimously.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Councilman Worley moved to adopt Resolution No. 97-198. This motion was seconded by Vice-Mayor Field and carried unanimously.

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ADJOURNMENT:

Mayor Martin adjourned the meeting at 4:28 p.m.

CITY CLERK MAYOR
