

Wednesday-November 19, 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:

Establishing Price for 110 Morris Street

Summary: The consideration of establishing \$79,500 as the price for surplus real property at 110 Morris Street which has been recommended for sale by the Planning & Development Department.

Contract for Old Water Maintenance Building Renovations

Summary: The consideration of allowing the City Manager to enter into construction contracts to renovate the Old Water Maintenance Building as follows:

General Separate Prime Buncombe Construction Co., Inc. \$ 770,500

Plumbing Separate Prime Bolton, Inc. \$ 32,650

Electrical Separate Prime Bolton, Inc. \$ 82,920

Mechanical Separate Prime Pyatt Heating and Cooling, Inc. \$ 50,300

Total Project Cost: \$ 936,370

Contract for Renovation of Restrooms at Civic Center

Summary: The consideration of allowing the City Manager to enter into a construction contract to renovate the restrooms at the Asheville Civic Center as follows:

Single Prime Contractor James Michael Keys; Keko, Inc. DBA Keys Construction \$ 93,501.00

Alternate 1 \$ 30,646.40

Bid Total \$ 124,147.40

Budget Amendment re: Murray Hill Park

Summary: The Parks and Recreation Advisory Board and staff recommend approval of appropriation from the sale of a portion of property at Murray Hill for the development of a park.

The appraised value is \$136,000 and the commitment for park development, in addition to the appraised value, is \$50,000.

West Area Annexation Sewer Improvements Phase III, Contract B

Summary: The consideration of adopting a resolution awarding the contract to the lowest responsible bidder, Buckeye Construction Company Inc., in the amount of \$340,494.

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Speed Limit Changes - Sondley Subdivision

Summary: The consideration of establishing speed limits along Sondley Parkway, Sondley Drive, Sondley Drive North, Sondley Woods Place and South Sondley Drive at 25 mph.

Acceptance of Grant to Reduce Crime and Improve Public Safety and Appropriate Match

Summary: The consideration of a resolution authorizing the City Manager to accept grant funds under the U. S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, Local Law Enforcement Block Grant Program. This budget amendment will recognize as revenue the funds for the state grant and appropriate these funds.

Budget Amendment re: Fair Housing Assistance Program 11th Year

Summary: The consideration of a budget amendment, in the amount of \$15,300, to continue federal funding for the eleventh year of the Fair Housing Assistance Program.

Approval of Computer Hardware/Software Contract

Summary: Consideration of a resolution approving the award of a contract to H.T.E. Inc. provide computer hardware/software and associated training and technical support.

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.

CONTRACT FOR CITY BUILDING EXTERIOR RENOVATIONS

Mr. Lyle Willis, Contract Administrator, said that in August, 1997, City staff solicited bids from twelve contractors for the City Building Exterior Renovation work, which he explained. Three sealed bids from single prime contractors were received on October 8, 1997, at 3:00 p.m. based on design plans and specifications by Westcott & Harris Architects. An estimate for construction cost was prepared by Westcott & Harris Architects in the amount of \$1,081,022.00. The total time it will take to complete this project will be 300 consecutive calendar days. The City staff agreed that liquidated damages were not needed as an incentive to complete this project.

The bid process resulted in the following three single prime bids:

Midwest Maintenance, Inc. \$ 1,194,892.00

Western Waterproofing Company of America \$ 1,334,090.00

Service One, Inc. \$ 2,147,846.00

City staff has researched references given by the lowest bidder and concluded that they are a competent General Contractors. Sufficient funds are appropriated through the approved financing for this project.

The Parks and Recreation Department requests City Council to direct the City Manager to enter into a contract for \$1,194,892.00 with Midwest Maintenance Inc. and adopt a budget amendment to finance the contract.

Upon inquiry of Councilman Sellers, Mr. Willis said that Midwest Maintenance Inc. is located out of Michigan, Western Waterproofing -3-

Company of America is out of Knoxville, Tennessee, and Service One, Inc., is a local company.

Vice-Mayor Field praised the work of Service One Inc. and said that their bid was high because that they were going to have to hire people that type of experience to do the work.

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.

CONTRACT FOR MUNICIPAL BUILDING RENOVATIONS

Mr. Lyle Willis, Contract Administrator, explained how this process started and why it was determined that renovation of the Municipal Building was the most appropriate way to proceed. He then explained how the project would be done in two phases and where employees and equipment would be relocated during each phase, noting that some employees may be able to relocate to the 7th and 8th floors of the City Hall Building after some Building Code problems have been addressed.

He then explained that in September, 1997, City staff solicited bids from 41 contractors to renovate the Municipal Building, 21 of which were certified minority contractors. Fifteen sealed bids as both single prime and separate prime contractors were received on November 3, 1997, at 3:00 p.m. based on design plans and specifications by ENG\6A Architects. An estimate for construction cost was prepared by ENG\6A Architects in the amount of \$12,520,000.00 including site work and landscaping. The project specifications require the project to be completed with 26 months from the notice to proceed issued to the Contractor and the Contractor will be assessed \$500.00 per day everyday thereafter as liquidated damages. The formal bid process resulted in the following separate prime low bidders:

General Separate Prime

Rentenbach Constructor, Inc. \$ 5,316,500

Plumbing Separate Prime

ABL Plumbing and Heating Corp. \$ 749,495

Electrical Separate Prime

Hayes & Lunsford Electrical Contractors, Inc. \$ 1,150,600

Mechanical Separate Prime

Triangle Contractors, Inc. \$ 1,320,000 Total Project Cost: \$ 8,536,595

City staff and ENG/6A Architects have researched references given by the apparent lowest bidders and concluded that they are well qualified to compete this project. Sufficient funds are appropriated through the approved financing for this project.

The Parks and Recreation Department requests City Council to direct the City Manager to enter into multiple contracts for \$8,536,595.00 with the listed above contracts and adopt a budget amendment to finance the contracts.

Councilman Worley was pleased that the bids came in \$4 million under the estimate.

Upon inquiry of Councilman Cloninger about a possible conflict of interest because Hayes & Lunsford Electrical Contractors is a client of his law firm, City Attorney Oast said that he would investigate that concern and make a determination on it before formal action is taken. -4-

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.

ECONOMIC DEVELOPMENT INCENTIVE - LUSTAR DYEING & FINISHING

Mr. John Scaralia, City Development Director, said that he is requesting City Council set a public hearing to consider an economic development incentive for Lustar Dyeing and Finishing. He then explained that Lustar Dyeing and Finishing, located at 144 Caribou Road, is the first local existing business which has made an application for an economic development grant.

He went through the company profile by stating that they (1) are an international manufacturer of knit fabrics; (2) are a subsidiary of Ge-Ray Fabrics from New Jersey; (3) were established in 1972; (4) have been in Asheville for nine years; (5) have a current employment of 295 full-time employees; and (6) have an annual payroll of \$7.8 million.

He then explained their request of \$3,600,000 which includes a capital equipment expansion of 6 dye machines - \$1,989,000; dryer, compactor - \$1,107,000; and the expansion of their existing facility of a 6k sq. ft. addition - \$500,000.

He reviewed their current revenue of real property totaling \$1,632,200 (land - \$302,700 and buildings - \$1,329,500); personal property totaling \$5,362,270 for a total assessed valuation of \$6,972,950. The City tax is \$39,746.

He explained the following grant and projected revenue:

Assessment One Year Five Year

\$3.6 M x. 0057 \$20,520 \$102,600

Level 1 (75%) \$15,390 \$ 76,950

*Act. Tax Paid \$44,876 \$224,380

*Current taxes of \$39,746 plus after-grant tax of \$5,130

Combined Assessment (end of grant period)

\$10,572,950 (assessed valuation)

\$60,266 taxes (plus 51.6% change)

He outlined the additional benefits being job creation (direct new jobs - 20; direct and indirect - 32); wages \$500 (\$469.14 ESC); community earnings \$1,144,000; cost of job - \$3,847.50 and economic return per dollar grant - \$14,87.

Councilman Hay was pleased that the first grant application is from a local company expanding.

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.

CABLE TELEVISION FRANCHISE RENEWAL

RESOLUTION NO. 97-216 - RESOLUTION MODIFYING SCHEDULED CITY COUNCIL MEETING TIME ON DECEMBER 2, 1997

Ms. Patsy Meldrum, Assistant City Attorney, stated that after a year of negotiations with Intermedia, an agreement has been reached for -5-

cable franchise renewal. She explained some of the changes since the 1967 franchise agreement.

She then summarized the cable television franchise renewal by explaining that the franchise will serve local residents well as the information highway evolves. The cable television system is being rebuilt to a capacity of 550 MHz. This will allow up to 80 analog channels and potentially hundred more as digital technology becomes available. Of special significance in this area is the fiber-to-the-feeder system which will ensure excellent picture quality. Activation of the upstream capacity by the Company during the rebuild will allow the system to provide Internet access and a wide range of future services. The Franchise requires the Company to make state-of-the-art improvements as new technologies become available and are implemented.

Other top-notch features of the Franchise include:

- Substantial regulatory oversight, including bonds and insurance provisions, transfer approval, revocation procedures, right-of-way management, and customer service standards with corrective action to be taken if standards are not met.
- Four channels available for local programming over the term. Initial funds of \$200,000 for equipment and facilities access, and on-going support for access beginning in year 8 of about \$36,000 per year. A portion of such funds will be treated as external costs, pursuant to FCC rules and agreements.
- A state-of-the-art fiber optic institutional network for voice, data, and video transmission to multiple public buildings for City and Asheville City Board of Education use. The ability to extend the network to new sites. The cost of the institutional network will be treated as external costs, pursuant to FCC rules and agreements.
- A franchise fee settlement of \$150,000 plus approximately \$260,000 in additional franchise fees over what would have been the remaining term of the existing franchise, based upon a 5% franchise fee being paid on gross annual revenues throughout the franchise renewal term.

- A seventeen year term.

She requested City Council schedule on November 25, 1997, three items: (1) an ordinance regulating cable service providers with an opportunity for public comment; (2) an ordinance granting the franchise to Intermedia for the operation and maintenance of a cable system with an opportunity for public comment; and (3) a budget amendment for cable consultant services since we have done more than initially budgeted.

Mayor Martin thanked Ms. Meldrum, City Manager Westbrook and the consultants for the work associated with this franchise renewal. He also thanked Mr. Joe Haight, Intermedia General Manager, for his assistance in working with the City on this franchise agreement.

City Attorney Oast explained that ordinances granting franchises are required to be considered at two different scheduled meetings of City Council. He suggested City Council take action on the items noted by Ms. Meldrum at the November 25 meeting, and that Council reschedule the December 2 meeting to begin at 3:00 p.m. with the only order of -6-

business to be the second vote by the outgoing Council on the franchise ordinance.

Councilman Worley moved to waive the rules to take formal action at this meeting on the scheduling of the cable television items. This motion was seconded by Councilman Sellers and carried unanimously.

Vice-Mayor Field moved to schedule on the November 25, 1997, meeting the following: (1) an ordinance regulating cable service providers with an opportunity for public comment; (2) an ordinance granting the franchise to Intermedia for the operation and maintenance of a cable system with an opportunity for public comment; and (3) a budget amendment for cable consultant services, and related items. This motion was seconded by Councilman Worley and carried unanimously.

City Attorney Oast then read a resolution as follows: Whereas, the Asheville City Council has the authority pursuant to G.S. 160A-71 to fix the time and place of their regular meetings; and Whereas, unfinished business will require a change in the time set for the regular meeting of City Council on December 2, 1997. Now, therefore, be it resolved by the City Council of the City of Asheville that the time of the regular meeting on December 2, 1997, shall be set for 3:00 p.m. in the First Floor North Conference of the City Building, and the swearing-in ceremony scheduled for 4:00 p.m. and the formal session scheduled to begin at 5:00 p.m., both in the Second Floor Council Chamber in the City Building, shall remain so scheduled and the 3:00 p.m. meeting shall be adjourned or rescheduled, as appropriate, to those later sessions.

Councilman Worley moved for the adoption of Resolution No. 97-216. This motion was seconded by Vice-Mayor Field and carried unanimously.

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Councilman Hay noted that the City has been working on this franchise renewal for two years and felt adopting the agreement on December 2 was the most efficient way to finalize the negotiations.

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.

BOARDS & COMMISSIONS

It was the consensus of City Council to have the City Clerk prepare the proper paperwork for appointing William L. Schaefer Jr. to the Firemen's Relief Fund.

It was the consensus of City Council to wait until AdvantageWest, Asheville Downtown Association and Asheville Merchants Association appoint their members on the City Business & Development Commission.

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

OPPORTUNITY CORPORATION REQUEST

Mayor Martin said that he has received a proposal from the Opportunity Corporation of Madison-Buncombe Counties which requests the City of Asheville deed a small piece of property to the Corporation so that they may build a program service, customer intake and -7-

administrative building. The property is directly behind the Reid Center Annex playground and consists of approximately 1 and 1-1/2 acres. The Corporation requests the City deed this property for their service building as an "exchange" for the work that they are conducting on the Reid Center Annex. They plan to renovate that building to current

standards and use it, in partnership with other community organizations, to operate a full day, year-round Head Start Child Development facility.

City Manager Westbrook recommended City Council refer the request to City staff and let staff review the proposal and report back on the December 9 worksession with a recommendation.

Ms. Vicki Heidinger, Executive Director of the Opportunity Corporation, said that they would be happy to work with the City within that timeframe.

PENALTY ABATEMENT

City Council instructed the City Manager to review the ordinance which makes the City Council the only authority to abate a penalty regarding the lack of obtaining a building permit. They suggested he bring back an ordinance change directing that responsibility to perhaps a review board or some other individual on staff.

CLOSED SESSION

At 4:20 p.m. Councilman Worley moved to go into closed session (1) to discuss matters relating to the location or expansion of industries or other businesses within the area served by the City Council - statutory authority is G.S. 143-318.11 (a) (4); and (2) to establish or to instruct the City staff concerning the position to be taken by or on behalf of the City in negotiating the price and other material terms of a proposed contract for the acquisition of land by purchase or exchange - statutory authority is G.S. 143-318.11 (a) (5). This motion was seconded by Councilman Cloninger and carried unanimously.

Mayor Martin said that an announcement could be made after coming out of closed session.

At 4:55 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Vice-Mayor Field and carried unanimously.

OFFER TO PURCHASE THE PROPERTY OWNED BY THE CITY OF ASHEVILLE KNOWN AS MEMORIAL STADIUM AND ASSOCIATED PROPERTY

Mr. Irby Brinson, Parks & Recreation Director, said that the City of Asheville owns property known as Memorial Stadium and property adjacent thereto. The Parks and Recreation Department has been working for several months on the possibility of selling Memorial Stadium and using the revenue to further develop and enhance recreation facilities in the community.

The City of Asheville has received an offer from Robert Camille, Jr. to purchase Memorial Stadium and associated property in the amount of \$1,400,000. The sale of this property is authorized under N.C. General Statute sec. 160A-266 which authorizes cities to dispose of real property. The sale is subject to the upset bid process established by N.C. General Statute under sec. 160A-269. Recognizing that approximately \$20 million is necessary over the next 15 years in order to enhance recreation facilities in the community, the Parks and Recreation Department has been exploring alternative financing to meet -8-

these needs without a tax increase. The revenue generated from the sale of Memorial Stadium will be used to develop and renovate other recreation facilities within Asheville. These include development of a multi-field youth baseball complex at Richmond Hill for use by the North Asheville Little League. In addition, a youth football field would be constructed to be used by the West Asheville Youth Football and the Asheville Rugby Club. The sale of Memorial Stadium also includes the purchase of approximately 100 feet of right-of-way at the end of Richmond Hill Drive into the Richmond Hill property. Funds will also be used to renovate the existing Mountainside Park to include new playground equipment and play area.

He said that he has talked with all the users of Memorial Stadium and they are in support of this proposal.

Mayor Martin noted that the City will still be able to use the existing facility until they break ground and the City will not have to acquire the right-of-way at the end of Richmond Hill Drive - it will be deeded back to the City.

Councilman Skalski was concerned about the economy of scale

and referred to a chart based on the 1994-95 revenues and expenditures taken from "Fiscal Summary of North Carolina Municipalities for the fiscal year ended June 30, 1995." He explained that the chart indicates that any city over 50,000 in population has a dramatic increase in taxes and when you annex more land into the City - taxes go up. He also expressed concern over the comprehensive parks and recreation plan.

Vice-Mayor Field asked for a report regarding the increase in population and how it affects Asheville's taxes, in particular if the population goes up from 67,000 to 68,000.

Mr. Brinson responded to questions from Councilman Skalski as they related to other alternatives for the use of Memorial Stadium and the associated property.

It was the consensus of City Council to direct the City Manager to place a resolution authorizing the City Clerk to advertise an offer to purchase the property known as Memorial Stadium and associated property on the next formal City Council agenda.

BROAD STREET REZONING WORKSESSION

Mayor Martin said that City Council had received today an agreement signed by Mr. Dennie Martin, representing the Chestnut Hill Associates, and Arthur Davis, Vincent Ramsuer, Angela Scotchie and Colleen Watkins, representing the Chestnut Hill Neighborhood Association. Said agreement is dated November 17, 1997, and reads: "(1) The Association and Mr. Martin hereby jointly request a 30-day postponement of the public hearing scheduled for November 25, concerning the eight-lot section of Broad Street property. This rezoning request (RM-16 to Office) was petitioned by City Council, and involves two lots owned by Chestnut Partners. Postponement is requested in order to give the parties time to finalize negotiations for the purchase of said two Broad Street lots by Neighborhood Housing Services, for multi-family housing. (2) In consideration for these ongoing negotiations, the Broad Street neighbors will respect Mr. Martin's request that they also ask for postponement of the November 25 hearing regarding their own rezoning petition to change a 12-lot residential area from Office to RM-8 designation. (3) Mr. Martin, in return, agrees not to enter a Protest -9-

Petition regarding the 12-lot rezoning request, pending the closing of the sales transaction with Neighborhood Housing Service."

City Manager Westbrook said that since the City Council had scheduled a Broad Street rezoning worksession for 7:00 p.m. later that evening with the community being invited, he thought Council may wish to postpone the worksession in light of the agreement.

Mayor Martin agreed that the new City Council might benefit from a worksession after they take office and there would be no need for the present Council to review the rezoning issues.

Planning & Development Director Julia Cogburn said that after contacting the neighborhood representative, Angela Scotchie, to see if there would be any objection to City Council canceling the 7:00 p.m. worksession, Ms. Scotchie replied that she did not see any problem and would contact the rest of the neighborhood. Ms. Scotchie did request that City Council postpone the public hearings scheduled for November 25, according to the agreement between the parties. Ms. Cogburn said that a message would be given to Dennie Martin of the worksession cancellation.

Councilman Skalski moved to cancel the 7:00 p.m. Broad Street rezoning worksession scheduled for later that day. This motion was seconded by Councilman Worley and carried unanimously.

It was the consensus of City Council that on November 25, 1997, the two scheduled public hearings involving Broad Street rezoning would be continued until January 13, 1998.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:16 p.m.

CITY CLERK MAYOR
