

Monday - January 5, 1998- 3:00 p.m.

Worksession

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor Edward C. Hay Jr. Councilman M. Charles Cloninger; Councilman Earl Cobb; Councilman Barbara Field; Councilman Thomas G. Sellers; and Councilman O.T. Tomes; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CONSENT:

Emergency Mutual Aid Agreement

Summary: The North Carolina League of Municipalities has drafted the first multi-purpose, standardized, mutual aid agreement for providing and receiving assistance among governments that is more effective and efficient, and also provides faster reimbursement from FEMA, and also covers concerns related to insurance and liability issues.

Bids relative to a Street Sweeper

Summary: It is recommended that the bid be awarded to the low bidder, N. C. Equipment Company, Asheville, N. C., in the amount of \$110,368.00 for the purchase of a 1997 'Ford' CF-8000 cab and chassis with a 'Johnston' model 605 sweeper.

Bids relative to Motor Vehicles

Summary: Consideration of a resolution to award Bid Request No. 472-98 for the purchase of seventeen (17) assorted fleet vehicles. It is recommended that awards be made to the low bidder of each item as follows:

Bid items 1, 2, 3, 4, and 6 award to Matthews Ford, Asheville, N. C. in the amount of \$265,275.00 for the purchase of vehicles described in the bid summary for these items.

Bid item 5 award to Carolina Truck Center, Hickory, N. C. in the amount of \$37,593.00 for the purchase of the vehicle described in the bid summary for this item.

Grand total of all awards as recommended \$302,868.

Radio Maintenance Contract Award

Summary: The consideration of a resolution to renew the City's radio system maintenance agreement for one additional year with Motorola Communications and Electronics Inc. The renewal agreement includes a monthly increase of \$282.50, which covers additional equipment purchased by the City that has come out of warranty during the past year. The total monthly cost of this service during the renewal period will be \$11,619.15.

Bid award for Central Business District Waterlines - Phase I

Summary: The consideration of awarding a construction contract to Cooper Construction Company for the "Asheville Central Business District Waterlines-Phase I"

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Design Phase II for W.T. Weaver Boulevard Greenway

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Genesis Group Inc. for the development of the W.T. Weaver Boulevard Greenway - Phase II.

Mayor Sitnick 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.

REPORT FROM THE TASK FORCE ON THE FUTURE OF THE CIVIC CENTER

Vice-Mayor Hay, Chairman of the Task Force on the Future of the Civic Center, briefly reviewed with City Council the purpose of the Task Force and how Hunter Interests Inc. was selected as the consultant. He then reviewed the consultant's report on the market overview for the Asheville Civic Center expansion prepared by the consultant. He outlined the market area analysis, the competitive environment, the overview demand analysis, their recommendations, and the preliminary estimated utilization in a stabilized year of operation.

In summary, based on the market overview analysis, the recommended expansion should include a high quality 18,000- to 30,000-square foot ballroom that is divisible into four rooms, and 10,000 to 15,000 square feet of high quality meeting/breakout space which should include tiered seminar rooms. This facility should be supported by a private-sector-developed headquarters hotel of at least 250-guest rooms. It is imperative that the conference/convention component be developed in a first class manner and include sophisticated telecommunication capabilities and an integrated hotel to ensure that Asheville realizes its maximum return on this considerable investment.

Vice-Mayor Hay said that the Task Force supports these recommendations and asked City Council to approve proceeding to Phase II of the feasibility study which is a detailed market analysis. He noted that the amount is budgeted.

Vice-Mayor Hay then answered various questions from City Council relating to the size of the addition, the parking problems in downtown, the flow of traffic in the area, the anticipated completion date of Phase II, and Buncombe County's participation.

Mayor Sitnick 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.

MINORITY BUSINESS PLAN

Finance Director Bill Schaefer said that in 1993, the City contracted with Research and Evaluation Associates, Inc. for a "Minority Business Study to Support City of Asheville Minority Business Plan". The study's purpose was to determine whether there was sufficient evidence of discrimination in the award of contracts and procurement of supplies, materials and services during the past to justify continuance of the then-existing Minority Business Plan and, if so, to identify any modifications to the plan which would be required to place the plan on a legally defensible basis. The City's current Amended Minority Business Plan, dated December 6, 1994, incorporated revisions recommended by the disparity study. In July 1996 the City and County established a joint Minority Affairs Office. In November 1996, the Minority Business Commission held a retreat at the YMI Cultural Center to begin the process of developing a joint Minority Business Plan to provide policy and direction for a joint City/County minority business program. They used the City's existing 1994 plan as the baseline from which to develop the new joint plan. During the ensuing year, the Commission held a series of meetings with various constituencies, -3-

including representatives of minority businesses, the general public, and City and County staffs, to receive their comments and recommendations regarding the joint plan. The draft City of Asheville/County of Buncombe Minority Business Plan is recommended by the Minority Business Commission for adoption by the City and County.

Mr. Schaefer then reviewed the significant changes from the 1994 Plan as follows:

Inclusion of Buncombe County in all aspects of the Plan. Note: separate goals are

established for the City and County (Section VII.D.3; page 17 of draft). The City goals are at the same as adopted in the 1994 Plan.

Minority Business Commission Membership: Increases membership from 9 to 11 (Sec

IV.A.3; page 4 of draft).

Retains: Council of Independent Business Owners, Associated General Contractors of America, Women in Construction, Asheville Area Chamber of Commerce, Asheville-Buncombe Community Relations Council, and Asheville Business Development Center.

Deletes : Black Business and Professional League, YMI Cultural Center, and American Institute of Architects.

Adds: Minority Business Alliance, NAACP, and Three Certified Minority Business Owners (one each from the four categories for which goals have been established: construction, professional services, procurement, and other services). Note: Past suggestions to include representation by the NAACP have not been adopted.

Staff Evaluations: Requires as part of the evaluation of department heads, that good faith efforts towards goal attainment be a consideration in evaluations and that City and County Managers meet semi-annually, at the request of the Commission, to discuss specific concerns. (Sec IV.B.3; page 6 of draft). Note: Similar evaluation requirements were suggested for inclusion in previous editions of the Plan; however, they were not adopted.

Certification of Minority Business Firms: Changes responsibility for certification of

firms from the Minority Business Commission to the Minority Affairs Office and clarifies procedures and responsibilities for appeals of certification denial (Sec VII; pages 12 through 16).

Enforcement: Strengthens enforcement options: Bids containing no documentation of

good faith efforts shall be deemed non-responsive. Expands sanctions for failure to make or maintain good faith efforts to add provisions for removal of bidders from bid lists and/or debarment for a period of one year (Sec VI; pages 17 - 19)

Grievance Procedure: Clarifies the procedures and responsibilities. Provides that when a grievance has been submitted, the bid process shall be held and no award will be made until such time as the grievance is resolved or a final decision regarding the grievance is made by the City or County Manager (Sec IX; page 19).

Additionally, numerous changes have been made to improve clarity, to streamline procedures and to generally enhance the plans functionality in fulfilling its purposes of widening opportunities for participation, increasing competition, and ensuring the proper and diligent use of public funds.

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City staff recommends continuing to work with County staff to incorporate, in the Minority Business Commission-recommended draft of the Plan, mutually acceptable language regarding any issues for which Council suggests revisions to the Commission's draft.

Ms. Laura Todd, Chair of the Minority Business Commission, spoke in support of the Plan and answered questions from City Council.

There was some discussion about the Commission make-up. Councilwoman Field explained why the American Institute of Architects representative was originally included on the Commission. She also wondered whether the three certified minority business owners members on the Commission would have a conflict of interest and not be allowed to bid for either the City or County contracts during their term on the Commission.

Councilman Tomes felt that the commitment to this Plan should be mandated by the City Manager to City department heads and reviewed during their evaluations. City Manager Westbrook said that it is part of their evaluations, but not mandated. He feels that their commitment to the Plan is just as important as customer service, community sensitivity, etc., all of which are incorporated into their evaluations.

Mr. Schaefer then answered various questions from City Council relative to the Plan and stressed that the City of Asheville is committed to making improvements.

It was the consensus of City Council that the City staff continue to work with County staff to address City Council's concerns.

In addition, Mayor Sitnick established a Mayor's Committee consisting of Councilwoman Field and Councilmen Cobb and Tomes to review City Council's concerns with the Commission and the Minority Affairs Office and bring back to City Council additional recommendations.

CONSIDERATION OF PURCHASE OF REAL PROPERTY - FRENCH BROAD GOLF COURSE AND SETTING A PUBLIC HEARING TO BE HELD ON TUESDAY, JANUARY 13, 1998, AT 5:00 P.M. IN THE COUNCIL CHAMBER, SECOND FLOOR OF THE CITY HALL BUILDING

Mr. Irby Brinson, Parks & Recreation Director, said that the Parks and Recreation Department and the Parks and Recreation Advisory Board have been investigating alternative means of financing Parks and Recreation capital projects.

In 1996, City Council approved a long-range plan for Parks and Recreation. It was recognized in that plan that approximately \$20 million in capital improvement is necessary over the next 15 years to enhance and maintain the Parks and Recreation facilities and services for this community. The department is currently undertaking a comprehensive Master Plan which has already identified additional needs and services. These include the development of new and comprehensive recreation centers, greenway development, riverfront development, more athletic fields, additional passive park areas, development of district and regional parks, and enhancing cultural programs and facilities. Currently, the Parks and Recreation Department receives an average of about \$500,000 per year in capital improvement dollars through the annual budget process. The majority of these funds are used to maintain and repair existing facilities with little funding going to new projects. In reviewing possible funding sources, the likelihood of increasing taxes and increasing fees and charges is not a viable solution to this concern. The department, over the past few years, has looked at alternative means of financing which includes grants and foundation funding. The department has been successful in securing over the past year approximately \$300,000 in grants. In addition, the department has sold -5-

property which has very little recreation use and will use the revenue to further develop recreation facilities. However, the results of the above covers only a small percentage of the needs.

Recreation departments throughout the country recognize that the only facilities that generate a profit from their operations are golf courses. The City of Asheville has an opportunity to purchase the French Broad River Golf Course. The staff has, over the past several months, investigated the feasibility of the purchase of this golf course and solicited the services of the National Golf Foundation to complete a market analysis and feasibility study. The results of that review by the National Golf Foundation states that the purchase of the French Broad River Golf Course is very positive and represents a potentially successful financial investment. In addition, Parks and Recreation staff has physically reviewed the course's potential and recommends purchase as well. The current sale price for the facility is \$3.5 million. The initial investment of the course was \$5.2 million by the previous owner. The projected ten-year cash flow for the French Broad River Golf Course shows a potential of making revenue in the second year as well as paying off the debt service for the loan for the purchase.

The Parks and Recreation Department feels very comfortable with the cash flow analysis. It should be noted that the profit received from the golf course will be used to help fund the above mentioned needs. Selling of certificates of participation in the amount of \$1 million represents an annual payment of approximately \$90,000 per year. The cash flow analysis shows that the department could successfully borrow several million dollars in the future and allow the profit from the golf course to pay the debt service as well. The Parks and Recreation Department suggests that a public hearing be held on January 13, 1998, to allow the public an opportunity for input in regard to this issue.

The Parks and Recreation Department and Advisory Board recommends holding a public hearing to discuss the possible approval by City Council to proceed with financing for the purchase of the French Broad River Golf Course by the City of Asheville.

Mr. Brinson then went into detail of the National Golf Foundation's findings noting that the future success of the Golf Course is dependent upon making physical improvements to the golf course, upgrading the maintenance program, providing excellent customer service and maximizing revenues from the various profit centers.

Mr. Brinson then addressed the issue of flood problems at the Golf Course.

He recommended City Council to tour the Golf Course with him at 2:00 p.m. on Tuesday, January 13, 1998.

Mayor Sitnick praised the City Manager and Mr. Brinson for being creative and looking for alternative funding for parks and recreation, which is of great importance to City Council and the community. She noted that she has received several comments from the community, some being, but not limited to, the aroma from the farm land nearby; flooding concerns; if the private sector couldn't make the Golf Course successful, then how can the City; the cost for improvements recommended; will the capital improvements turnout the revenues anticipated in a timely manner; and since the course is in bankruptcy and has been for sale for a number of years, can the City wait and negotiate a better price?

Mr. Brinson responded to each of the comments outlined by Mayor Sitnick.

Mayor Sitnick noted that the prospect of the additional 9.5 acres was interesting. She said that she talked with Mayor Winston Heston of Sanford, N.C., who has a similar situation in Sanford. Mayor Heston felt that it was a good deal for the City of Sanford and felt the most -6-

important thing was to make sure that the City owns the golf course and not to let the ownership or control out of the City.

Fletcher Mayor Bob Parrish and Fletcher City Manager Craig Honeycutt noted that this property is located entirely in the Town of Fletcher which is located in Henderson County. They voiced concerns about matters such as police and fire protection. They noted that if the property is purchased by the City, it will become tax exempt and the Town of Fletcher will lose approximately \$11,000 in tax revenue. They hoped to be able to work out some type of agreement with the City to compensate the Town for the loss of revenues.

City Manager Westbrook said that he planned on contacting the Town of Fletcher after City Council has instructed him to proceed with the possible purchase.

It was the consensus of City Council to hold a public hearing on Tuesday, January 13, 1998, at 5:00 p.m. in the Council Chamber, Second Floor, City Hall Building, to receive comments on the proposed purchase of the French Broad River Golf Course by the City.

CABLE TELEVISION FRANCHISE REVIEW SCHEDULE

City Manager Westbrook said that City Council instructed him to develop a procedure for consideration by City Council for setting forth the dates and times for public input for the proposed ordinance regulating cable service providers, the proposed ordinance granting a cable television franchise to InterMedia, and the proposed franchise fee settlement agreement.

At the December 9, 1997, Council worksession, staff was given direction by Council to schedule a worksession, a public input meeting and a public hearing for consideration of the proposed ordinance regulating cable service providers, the proposed ordinance granting a cable television franchise to Brenmor Cable Partners, L.P. (d/b/a InterMedia), and the proposed franchise fee settlement agreement ("cable television documents"). The purpose of this report is to recommend the following meeting dates and times for the proposed public input:

A. January 20, 1998 - Council Worksession - 3:00 p.m. in the 1st Floor North Conference Room - City Hall Building. The purpose of this item on the Council worksession agenda will be to review the cable television documents with Council. This will be primarily for the benefit of new Council Members but will also be of benefit to the public in understanding the proposed cable television documents.

B. February 10, 1998 - Community Meeting - 7:00 p.m. in the William F. Wolcott Jr. Building - 161 S. Charlotte Street. The purpose of the community meeting will be to allow the community to meet with City staff, the City's consultant and the cable television company on an informal basis to discuss the cable television documents and to ask questions. It is my understanding from the previous worksession that Council wants to be part of the audience for this meeting.

C. February 24, 1998 - Public Hearing - 5:00 p.m. in the Council Chamber - 2nd Floor of the City Hall Building. This will be a regular public hearing held by City Council at a formal Council meeting to receive further input prior to making a decision on the cable television documents.

If this report reflects the direction of Council for public input on the cable television documents, City Manager Westbrook recommended Council formally approve this process at their next regular Council meeting.

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Mr. Wally Bowen, Citizens for Media Literacy, thanked City Council for the additional opportunities for input but hoped that the timetable outlined would not lock Council into a deadline for exploring all the issues. He passed out an article from the New York Times that reported "around the country, some small towns and cities are fed up with high cable TV rates and limited choices are building their own cable networks to compete with large, private cable companies."

When Mr. Mark Rosenstein inquired about the appropriate time for public comments, Mayor Sitnick said that worksessions are typically for staff to meet with Council with information they have gathered at Council's request in order that City Council can become educated and familiar with the issues.

After some discussion about public input, City Attorney Oast cautioned City Council on allowing public comment at worksessions when there is a public hearing scheduled. There might be a perceived unfair advantage for people to be allowed to comment substantially on an item at a worksession and then again at the public hearing, whereas some people may only come to the scheduled public hearing thinking that is the appropriate time for their comments to be heard.

Vice-Mayor Hay felt that it needs to be made clear to the public when public comments are acceptable.

Mayor Sitnick was committed to allowing flexibility for speakers at worksessions because if they have taken time out to come to a meeting, they should be allowed to be heard. She felt that Council should create a statement about public comments at worksessions, public hearings, public forums, community meetings etc. She felt that at the upcoming City Council Retreat this can be defined.

Ms. Nelda Holder thanked City Council for the opportunity for additional input from the public and felt Council needed to look at as much a broad spectrum as possible.

Mr. Scott Barber felt that access to communications media is vital to democracy.

Mayor Sitnick 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.

LEVEL III PUBLIC HEARING WORKSHOP

Since the January 13, 1998, would be the first Level III public hearing considered by City Council since the adoption of the Unified Development Ordinance, City Attorney Oast reviewed how City Council should proceed with the quasi-judicial hearing.

It was the consensus of City Council that after the hearing if the project was approved, that staff draft the Order and have the Mayor sign it. If the project is denied, staff will draft the Order and bring the Order back to the City Council for adoption. A second vote may be required in some instances.

MASSACRE IN MEXICAN STATE OF CHIAPAS

Mayor Sitnick said that there is a public effort to raise funds to help the people who have been massacred in Chiapas, which is close to Asheville's Sister City San Cristobal de Las Casas. It was the consensus of City Council to send a letter of sympathy to those families.

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MEETINGS

Councilman Tomes agreed to attend the N.C. Coalition for Public Transportation meeting in Raleigh, N.C., on January 21, 1998.

It was noted that a member of the Asheville Transit Authority Board might consider attending the forum on bus rapid transit on January 15, 1998.

NC LEAGUE OF MUNICIPALITIES

It was the consensus of City Council to have the Mayor write a letter on behalf of the City Council supporting Councilwoman Field's candidacy to fill out the term of former Councilman Charles Worley as a member of the North Carolina League of Municipalities Board of Directors.

BROWNFIELDS AGREEMENT APPLICATION

Through a request of Mr. Reese Lasher, Councilwoman Field showed a drawing of a proposed project located on Fairview Road and said that the State requires a letter of support from the City of Asheville. It was the consensus of City Council instruct the City Manager to write a letter in support of the Brownfields Agreement Application and to place this item on the next formal City Council agenda.

ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 6:10 p.m.

CITY CLERK MAYOR
