

Tuesday - March 3, 1998- 3:00 p.m.

Worksession

Present: Present: Mayor Leni Sitnick, Presiding; Vice-Mayor Edward C. Hay Jr.; Councilman M. Charles Cloninger; Councilman Earl Cobb; Councilwoman 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 Burlison

Absent: None

**CONSENT:**

**Approval of Festivals & Special Events for 1998**

Summary: The Parks and Recreation Department request City Council approval of the 1998 festival and special events schedule.

Councilman Sellers noted that the Citizens/Police Advisory Committee has concerns regarding the sale of alcohol at all festivals. They will have a recommendation forthcoming to City Council.

**Contract Award for Purchase and Installation of Two Traffic Signals for Transit Center**

Summary: The consideration of entering into an contract with Haynes Electric Utility Corporation in the amount of \$96,995 to install traffic signals for the New Asheville Transit Center at Aston Street and Coxe Avenue and at Aston Street and Asheland Avenue.

**Acceptance of Funds from the Governor's Highway Safety Program relative to a Police Impaired Driving Enforcement and Training Project**

Summary: The consideration of a budget amendment, in the amount of \$14,250, to fund a Police Impaired Driving Enforcement and Training Project and a resolution authorizing the City Manager to accept funding from the Governor's Highway Safety Program relative to this project.

**Employees Health Benefit Plan**

Summary: The consideration of a resolution authorizing the City Manager to execute appropriate Health Benefit Plan documents to allow the City to amend its benefit plan to 1) allow for the voluntary participation of Council Members, and 2) change the "plan year" as it is defined for purposes of keeping the plan qualified for tax exempt status with the IRS.

**City of Asheville 1998 Strategic Plan**

Summary: At the recent Council/Staff Retreat, City Council determined the ten goals listed below were to be City staff's top priority for the coming fiscal year. Staff has reworded some of the goals to try to better explain the intent of Council from the raw data we discussed at the retreat. As a part of the upcoming budget process, staff will add action steps under each of the goals for presentation as a part of the annual budget.

At the retreat, Council directed staff to bring the goals back to them for one final review. This report requires no action.

1. Encourage a City/County comprehensive transportation study designed to identify the most effective ways to provide transportation services.
2. Adopt a Parks and Recreation Master Plan which will identify active and passive recreation facility and programmatic needs and identify funding mechanisms to meet needs.
3. Adopt an Affordable Housing policy designed to ensure an adequate stock of quality affordable housing and to eliminate substandard housing and living conditions.
4. Emphasize continuing traffic management efforts to provide safe and efficient vehicular and pedestrian transportation.
5. Promote growth in Asheville's tax base through the establishment of a comprehensive economic development strategic plan.
6. Adopt and begin implementation of Civic Center Master Plan in order to maximize utilization and reduce funding requirements of the facility.
7. Establish a neighborhood/community outreach program designed to inform citizens of City issues and activities and provide a forum to seek citizen input into issues facing the community and planning and developing neighborhoods.
8. Develop and/or support activities and events which celebrate our cultural diversity.
9. Adopt and implement a comprehensive parking plan to address parking needs in the downtown, Biltmore and West Asheville business areas.
10. Review sign ordinance implementation and enforcement efforts.

City Manager Westbrook said that staff is still working on the entire list to add work steps and that list will be brought back to Council during the budget process.

City Council noted that the final list contained actually 20 goals and the other ten goals were of equal importance.

City Manager Westbrook said that staff will proceed working on the top ten goals with resources and will try to do as much as they can on the other 10 goals.

Mayor Sitnick suggested that as the projects were completed, the entire list could be revisited.

There was some discussion about the wording of goal #3 and Councilwoman Field stressed that City Council needs to adopt an affordable housing policy that is consistent with the goals of the Housing & Community Development Committee and the HOME Program.

Councilman Cobb suggested that all ten goals be measurable.

Upon inquiry of Mayor Sitnick, Urban Planner Carl Ownbey explained the different roles of the different boards regarding the multi-model transportation study, noting that they will work together.

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.

## **STATUS OF THE CITY'S DISEASE MANAGEMENT INITIATIVE**

Mr. John Miall, Director of Risk Management, and Mr. Dan Garrett, Director of Pharmacy for Mission-St. Joseph's Health Center, made a presentation to the Council on the status of the City's disease management initiative, particularly the 10 month result of the diabetes trial.

John Miall and Dan Garrett recently were the invited guests of the American Pharmaceutical Association in Washington, D.C., for the purpose of making this same presentation to Health Care Financing Administration for Social Security in hopes that the innovations of the "Asheville Program" will be adopted nationwide for all recipients of Medicare.

In April of 1997 at the recommendation of the hospital system, and with input from the School of Pharmacy at UNC-Chapel Hill, the City began an unprecedented program for management of diabetes patients under its health plan. The plan design involved area pharmacists undergoing extensive training without reimbursement to begin regular, and on-going counseling and intervention with diabetes patients. The program also included an in depth patient training component from the hospitals for high-risk patients.

It was anticipated that by actively managing the disease process, and bringing to the attention of physicians early and accurate information on patient health and behaviors that long-term costly medical expenses associated with the disease could be averted. After only 10 months of trials, the medical costs for the patients with diabetes under the City's self-funded program for health benefits were reduced by nearly \$30,000.00.

A companion program for Asthma patients has recently been launched with the active support of Dr. Spencer Atwater.

Councilman Cloninger was impressed the way the medical community, doctors, hospitals, etc. have worked together on this program.

Mayor Sitnick thanked Mr. Miall and Mr. Garrett for bringing the Council up-to-date on this very important and successful program.

## **EXCHANGE OF PROPERTY WITH THE OPPORTUNITY CORPORATION**

Mr. Irby Brinson, Director of Parks & Recreation, said that the Parks and Recreation Department and the Advisory Board have worked with the Opportunity Corporation of Buncombe and Madison County concerning a piece of property located behind Reid Center which would serve as a community services building along with administrative offices for their operations. The approximate size of this purchase would be approximately 1.3 acres. The Opportunity Corporation of Buncombe and Madison County would be making a financial contribution of \$20,000 to the Parks and Recreation Department to fund a mini park in the West End section of Asheville. In addition, the Opportunity Corporation would be donating materials and administrative costs up to \$16,000 to construct a bridge across the creek at the base of the property as well as providing an easement across their property for greenway development.

The Parks and Recreation Department recommends City Council direct the City Clerk to advertise the exchange of the property between the City of Asheville and the Opportunity Corporation of Buncombe and Madison County Center.

City Council expressed support for this exchange.

-4-

After some brief discussion, Councilman Cloninger asked if the Opportunity Corporation would consider

agreeing committing \$16,000 to construct the bridge across the creek, instead of "up to \$16,000".

Ms. Vicki Heidinger, Executive Director of the Opportunity Corporation of Madison-Buncombe Counties, spoke in support of the exchange and felt that her Board of Directors would have no problem with the language suggested by Councilman Cloninger.

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.

### **PROHIBITION OF DOGS AT RIVERSIDE CEMETERY**

Mr. Irby Brinson, Director of Parks & Recreation, said that based upon City Council's request from the worksession on February 17, 1998, the Parks and Recreation Department is proposing a revision to Code of Ordinances Section 3-27(3) regarding control of animals in Riverside Cemetery.

Asheville City Council, in July of 1997, adopted an ordinance revision dealing with animals in Riverside Cemetery. This revision required dogs to be leashed, remain on paved roads, be cleaned up after by their owners, and be prohibited from the facility during funeral services. Per City Council's direction, a six-month evaluation of the ordinance changes were required in order to evaluate the effectiveness of these revisions. Over this period of time, the Cemetery Manager and the Park Warden have been documenting occurrences of violations of the ordinance. This information was presented to City Council at a work session on February 17, 1998. Based upon a request by City Council the Parks and Recreation Department and Legal staff is proposing a revision to Section 3-27 (e) of the Code of Ordinances of the City of Asheville. This change represents prohibiting animals at Riverside Cemetery with the exception of allowing dogs or domestic animals which assist persons with sight disabilities. The Department has initiated a Dog Park Task Force which has been meeting since January of 1998. The purpose of this task force is to determine an appropriate location for development of a dog park within the City. This group is very active and is planning to present their report to City Council in the near future. The Parks and Recreation Department has been assisting this group in trying to address the provision of a dog park within the City.

The Parks and Recreation Department is recommending holding a public hearing on April 14, 1998, to solicit input on revising Section 3-27 (e) of the Code of Ordinances of the City of Asheville prohibiting animals in Riverside Cemetery.

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.

### **FORMING AN ASHEVILLE FILM COMMISSION**

Mayor Sitnick explained that Asheville is growing economically and one way Asheville is growing is by hosting more and more filming of major movies, commercials and still shot photo layouts for national magazines. Our area is becoming more and more popular in the film industry. While there is a State Commission and WNC Regional Film Commission, through Advantage West, it was her feeling that a local film commission, for a number of purposes, would be a benefit to Asheville. Those people could perhaps meet one or twice year, or when necessary, to be able to respond to the needs of the film community. So, when a film crew comes into Asheville, they can cooperate with the State Commission and the Regional Film Commission to act as a diplomatic group to welcome and let them know we appreciate their -5-

business. She suggested that City Council members act as ex officio members to the local film commission.

Vice-Mayor Hay noted that the local film commission should not compete with the State Commission or the Regional Film Commission, but should compliment them.

She also said that there is wonderful opportunity for our community to begin hosting a film festival. Gene and Jim D'Onofrio from Brevard are putting together this film festival at no cost to the City. She felt that the local film commission could be of benefit to the film festival as it grows and evolves.

It was the consensus of City Council to proceed and asked staff to bring back a report with pertinent information to Council at a worksession.

### **CABLE TV FRANCHISE REVIEW**

At 4:20 p.m., Councilman Cloninger moved to go into closed session for the following reasons: (1) to prevent the disclosure of information that is privileged or confidential pursuant to the laws of North Carolina or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that renders the information to be discussed confidential is G.S. 160A-208.1 - statutory authority is G.S. 143-318.11 (a) (1); and (2) to consult with an attorney employed by the City Council in order to preserve the attorney-client privilege between the attorney and the City Council. The parties to the lawsuit about which the Council expects to receive advice is Multimedia Publications of North Carolina, Inc., d/b/a Asheville Citizen-Times Publishing Company, and the City of Asheville - statutory authority is G.S. 143-318.11 (a) (3). This motion was seconded by Councilman Sellers and carried unanimously.

At 5:00 p.m., Councilman Sellers moved to come out of closed session. This motion was seconded by Councilwoman Field and carried unanimously.

Assistant City Attorney Patsy Meldrum said that City Council has three options at this time: (1) approve the proposed documents; (2) renegotiate certain issues; or (3) postpone the renewal until 1999-2002, noting that 1999 would be the beginning of the process. She then presented Council with a document with staff's perceptions of the issues which have come out of discussions with City Council during the worksessions and during the public hearing. The following is the list presented: (1) Term of franchise; (2) Public, Educational and/or Governmental Channels - (a) number of channels; (b) initial equipment (3) on-going support; (3) Institutional Network - (a) list of sites; (b) Internet access for schools and libraries; (4) state-of-the-art clause; (5) 550 MHz vs. 750 MHz system; (6) customer service standards; (7) senior citizen discounts; (8) franchise fee; and (9) time period for renegotiation. She asked for Council to add to the issue list, which list will be ranked, and suggested there be a time period for renegotiation. She suggested Council give staff instructions on how long that time period should be, noting that they request a shorter period rather than a longer period.

Upon inquiry of Councilwoman Field using the comparison chart of what was in the City's Request for Renewal Proposal and the proposed franchise, Ms. Meldrum and Mr. Joe Haight, General Manager of InterMedia, responded to questions and comments on why InterMedia did not agree to or partially agreed to the following: BTSC stereo pass-through for all stereo channels; status monitoring; one independent upstream channel shall be designated for the City for municipal and public sector use; the standard drop allowance for cable installation shall be 250 feet; cable service to new developments is required to be extended into new developments concurrently with electric and telephone lines; allocate five channels for access; access studio; video production equipment for Asheville City Schools; remote production van; modulation and demodulation video equipment for all required institutional network sites; origination capability -6-

from the City Building, Asheville High School and two additional sites; such drops shall be capable of supporting multiple reception points; and internal wiring to be provided at no cost.

Mayor Sitnick asked that the refund by request issue and the pass through to subscribers for the pay channels issue be added to the list. Councilman Cloninger requested that the issue of binding arbitration also be added.

Mr. Haight responded to various questions from Council as they related to the rebuilt and the difference between cable TV outlets and I-Net locations.

Councilwoman Field requested that Charter Schools have a cable outlet.

Mr. Haight responded to a questions from Ms. Mary Ellen Brown, Montford resident, on how many fiber optic cables are in the system and where are they located.

Ms. Lexie Ross stressed that public access really benefits the community.

Mr. Scott Barber felt that the City needed to ensure adequate funding and language for public access television production resources. He pointed out several weaknesses in the current agreement. He encouraged the City to talk to Mr. Andy Romanet, Attorney with the N.C. League of Municipalities, who might have additional information on the statute of limitations issue regarding franchise fees. He reiterated his comments from the February 24, 1998, public hearing in that the City should appoint a citizens task force and what the purpose of that task force should be. He felt Council should delay taking action on this contract which he believed was a better deal for the cable company than for the City of Asheville and its citizens. He encouraged council not to separate the public access deliberations from the franchise deliberations because the community will lose it's bargaining leverage.

Mayor Sitnick supported the idea of an advisory committee, especially one that is primarily focused on the PEG channels and working with the community to make sure that they are state of the art and that they provide the proper educational and public access opportunities. She asked that Council consider this as we move along in the process.

Upon inquiry of Mr. Bill Wald, Ms. Meldrum explained how the figures were arrived at regarding the franchise fees.

Vice-Mayor Hay said that the cable company doesn't agree that it owes the City any money and if we litigate, it is possible that we will recover nothing from them. This is a settlement of a true dispute between the parties, not a settlement of a bill.

Mr. Wally Bowen briefed Council with some background information on the 1967 franchise agreement. Mr. Bowen requested (1) that community centers have Internet access as well as schools and libraries and that it be written into the agreement; (2) the \$5 late fee is too high; (3) the performance penalty of \$100 a day is too low; and (4) a viable public access operation.

Councilman Cobb questioned what the budget would be to operate a public access channel.

Councilwoman Field noted that the Pack Place Forum was designed to be a television studio, but it is privately owned.

-7-

City Manager Westbrook said that sometime after this process is over with and we have a franchise, staff will come back with a process for Council to use to determine how they want to do access as well as oversight of those public access channels.

Upon inquiry of Mayor Sitnick about the process, City Attorney Oast said that this matter has been continued from meeting to meeting and if no action is taken, and he thought that Council had previously indicated they don't intend to take any action today, then it would have to be continued to some later time. As far as the process for going through this, it may be some items could be eliminated as items that don't need to be negotiated.

Mayor Sitnick said that she is absolutely opposed to taking any straw votes or votes of intent at worksessions and by adopting a list of priority items, Council is saying, in effect, that they are requesting a renegotiation of a franchise. That is a vote in her mind and that should be taken at a formal meeting and not a worksession.

City Manager Westbrook understood that Council gave staff direction months ago to negotiate the franchise and we are still in that process. From the staff's standpoint of the issues that Council has brought up, they are trying to determine which ones are the most important so if staff is to continue to negotiate then they would know that information.

City Attorney Oast said that however Council approaches a consensus on any one of these issues, it would not be a vote to approve or disapprove the franchise. It would only be giving staff direction on certain items of the franchise that Council felt they needed additional information.

Discussion took place on how the ranking process would best be accomplished.

Upon inquiry of Councilwoman Field on whether the cable company is willing to negotiate any further, City Manager Westbrook said that he has talked with Mr. Haight recently and asked if he was willing to continue negotiations and he said that they were but not knowing any specifics.

Mayor Sitnick said that she would bow to the wishes of Council, even though she was not comfortable with this process, and suggested each Council member rank the list of issues with "1" being the most crucial, "1" being fairly crucial and "3" being items they would like to have, but could live without. She asked Council put their names on the top of the paper when they through and she would ask each Council member to read out their ratings and then pass them to the City Attorney so he can make a chart accordingly.

Each Council member then read out their ratings for the 14 issues and the City Attorney said that he would have a chart of the ratings available for Council next week.

City Manager Westbrook suggested staff be allowed the limited time period of 8 weeks within which to bring a report back to Council on these items.

Councilman Cloninger moved to table this matter for 8 weeks pending a report from staff. This motion was seconded by Councilman Sellers and carried unanimously.

Mayor Sitnick said that in the future she would like to have a brief discussion and determination on whether or not City Council wants to appoint a Cable Task Force.

-8-

### **DISCUSSION OF COLLECTIVE DIRECTIONAL SIGNS**

Ms. Julia Cogburn, Planning & Development Director, said she has researched the request made by the Haw Creek Community in which they requested an ordinance be drafted which would allow larger church signs in the rights-of-way when such signs contain more than one church listing or directional. She said that she has recently learned that the N.C. Dept. of Transportation ("NC DOT") prohibits those signs in their rights-of-way. She said that she will explore NC DOT's prohibition and report back to Council.

Councilman Cloninger suggested Ms. Cogburn look into logo signs and what potential we have working with the NC DOT on this issue.

City Attorney Oast noted a problem the Board of Adjustment has run into with issuing sign variances for

businesses that are not located on the main streets. Perhaps the logo type sign at the intersections might help resolve some of their problems.

Councilwoman Field said that the City used to allow flag lots which allowed people to have a little strip of land which went down the main road and they could put your sign there. But in the Unified Development Ordinance we can no longer have flag lots but people were still allowed to have off-premise signs so they could get their signs on the road. Now, we don't allow off-premise signs and there is no way for someone who has a lot off the road to identify their business. She asked Ms. Cogburn to see if she could come up with some solution.

### **NEXT COMMUNITY MEETING AND APRIL 7, 1998, WORKSESSION**

Mayor Sitnick announced that because of the Chamber of Commerce retreat, the worksession scheduled for Tuesday, April 7, 1998, will need to be rescheduled until Wednesday, April 8, 1998, at 3:00 p.m. in the First Floor North Conference Room in the City Hall Building. It was the consensus of City Council to have the worksession rescheduled as outlined by Mayor Sitnick.

It was the consensus of City Council to host the next community meeting on March 31, 1998, at 7:00 p.m. in the William F. Wolcott Jr. Building (Public Works Building) located at 161 South Charlotte Street.

### **SIGNS ON POLES**

Mayor Sitnick stated that every Friday City staff goes out and pulls down the illegal advertising signs on the City's right-of-way structures and calls the people who placed the sign on the structures noting that it is illegal to do so. Every major thorough has illegal signs on them. They are a visual blight, they are unfair to people who pay for legal signs and erect them properly, they add to the litter and clearly it's illegal to post them. She wanted to make sure that the public knows that the City is going to be taking them down, calling the people and letting them know that if they are not taken down in a certain period of time they will be fined according to the ordinance. Asheville will not tolerate these illegal advertising signs on the City's right-of-way structures in our City anymore.

Mayor Sitnick said that we recognize the need to provide citizens a place to advertise yard sales, and those sorts of things, and perhaps we can come up with some suggestions, like neighborhood funded and maintained kiosks.

-9-

### **PLANNING & ZONING COMMISSION MEMBERSHIP**

Councilwoman Field Barbara said that the statutes require the City to have a certain percentage of representation from the extraterritorial jurisdiction ("ETJ"). She believed the representation is 10% for the Planning & Zoning Commission, which would be one person. Right now the Commission has two people from the ETJ. She certainly believes that we need ETJ representation but the amount of representation seems to be disproportionate.

It was the consensus of City Council to have staff bring back a recommendation regarding this issue to a worksession very soon.

### **CLOSED SESSION**

At 7:41 p.m., Councilman Cloninger moved to go into closed session for the following reason: to consult with an attorney employed by the City Council in order to preserve the attorney-client privilege between the attorney and the City Council. The parties to the lawsuit about which the Council expects to receive advice is



Morris Communications Corporation, d/b/a Fairway Outdoor Advertising, Outdoor Communications, Inc., and Maple Cove Inc., and the City of Asheville - statutory authority is G.S. 143-318.11 (a) (3). This motion was seconded by Councilman Sellers and carried unanimously.

At 7:55 p.m., Councilwoman Field moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

**ADJOURNMENT:**

Mayor Sitnick adjourned the meeting at 7:55 p.m.

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CITY CLERK MAYOR

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