

Tuesday - August 18, 1998- 3:00 p.m.

Worksession

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 Burleson

Absent: None

## **PROCLAMATION PROCLAIMING THE WEEK OF AUGUST 17-23, 1998, AS "KIDS CAFÉ' WEEK" IN THE CITY OF ASHEVILLE**

Mayor Sitnick read the proclamation proclaiming the week of August 17-23, 1998, as "Kids Café' Week" and presented the proclamation to Revs. Terry and Ann Threadwell who briefed Council on the program and discussed ways to move this effort forward.

### **CONSENT:**

#### **Agreement with Neighborhood Housing Services**

Summary: The consideration of a resolution to amend the sale contract with Neighborhood Housing Services of Asheville, Inc. for Disposal Parcels 6B & 6C of the Head of Montford Redevelopment Project.

On May 7, 1997, the City entered into a sale contract with Neighborhood Housing Services of Asheville, Inc. (NHS) for Disposal Parcels 6B & 6C of the Head of Montford Redevelopment Project for the amount of \$248,900.00. The sale contract called for conveyance of both parcels upon payment of the purchase price in cash. Due to the difficulties encountered in securing financing for the project, NHS has requested an amendment to the sale contract which would allow them to take title in two stages with one parcel being conveyed at each stage. Disposal Parcel 6B would be conveyed no later than October 1, 1998, for the amount of \$179,500.00 and Disposal Parcel 6C would be conveyed no later that October 1, 1999, for the amount of \$69,400.00. In addition NHS has requested financing by the City of part of the purchase price for Disposal Parcel 6B. The amount to be financed would be \$85,000.000 to be repaid over 240 months at 6.5% interest. The first payment would be due one year after closing with no interest due for the first 12 months after closing.

The question arose as to whether financing part of the purchase price would be allowed under N. C. Gen. Stat. sec. 159-30 pertaining to the Investment of Idle Cash. It is the opinion of Community Development staff, subject to confirmation by the City Attorney, that N. C. Gen. Stat. sec.159-30 does not pertain to this circumstance because the transaction does not constitute an investment of idle cash. Although cash and land are both assets they are not the same thing and are not treated the same under state law. The Sale and Disposition of property is covered by several other statutes. The Institute of Government's handbook *Local Government Property Transactions* by David Lawrence, 1987, states: "The several statutory procedures for disposing of property assume that the local government will establish various terms of sale, but procedures do not specify the kinds of terms contemplated or permitted. As with many matters, the specific terms associated with any sale will be a matter of discretion. Terms of sale commonly established by North Carolina local governments include: ..**Whether payment will**

**be by cash or on some other basis.** Only if terms of sale might be thought to restrict the number of buyers unreasonably or be thought to pursue goals extraneous to the property transactions involved, are they likely to be found an abuse of discretion."

It is the opinion of Community Development Staff that the proposed amendment will enable NHS to complete the purchase and redevelop the property in accordance with the Redevelopment Plan. Approval of the resolution will authorize the Mayor to execute the Amendment to the Sale Contract with Neighborhood Housing Services of Asheville, Inc.

Community Development staff recommends adoption of the resolution.

### **Budget Amendment re: Bridge Program**

Summary: The consideration of a budget amendment to the Bridge Program to provide necessary additional funding to complete the Glendale Avenue Bridge Project.

The Glendale Avenue Bridge Project is nearing completion. An additional appropriation of \$58,500 is necessary to cover actual construction costs. The N. C. Dept. of Transportation will still be covering 80% of the additional costs as per the Municipal Agreement.

The increased cost will be funded with \$49,500 in additional state grant revenue and a \$9,000 contribution from the Water Resources Department to cover their portion of the cost of this project.

The Public Works staff recommends adoption of the budget amendment to provide necessary additional funding to complete the Glendale Avenue Bridge Project.

### **Purchase of Mobile Computers and Related Equipment and Software for Police Department**

Summary: The consideration of a resolution to approve the purchase of 30 each in-car mobile computers, modems and software links from the Public Safety & Justice Mobile Data Network Contracts established by the N. C. Division of Purchase and Contracts, Raleigh, N. C.

The N. C. Dept. of Administration, Division of Purchase and Contracts has established contract No. 701953 with IBM Corporation for computers and contract No. 603569 with Motorola, Incorporated for modems and software links. These contracts were established to provide State Contract pricing to all governmental agencies throughout N. C.

Funds for the purchase of this equipment will come from the U. S. Department of Justice Local Law Enforcement Block Grant Program, Account No. 116-3501-421-7004 Project GP9705 and GP9802. Police Chief Will Annarino and Larry Bopp, Information Services Director, concur with the purchase of this equipment.

Council adopt a resolution which authorizes computer equipment, software and related equipment to be purchased from the N. C. State Contract vendors as follows:

IBM Corporation, Fayetteville, N. C. - Contract No. 701953

30 ea. IBM Ruggedized Laptop Computers, Model XC-6250 with vehicle

docking cradle, touch screen/pen adder and (3) external diskette drives

COST \$160,671.00 3-

Motorola Incorporated, Charlotte, N. C. - Contract No. 603569

30 ea. Motorola Modem Packages, Model No. VRM600 and (30) ea.

Wave Soft Link 100 software

COST \$80,970.00

TOTAL COST \$241,641.00

### **Use of Powell Bill Funds**

Summary: Each year the State provides street aid allocations to incorporated cities and towns "for the purpose of maintaining, repairing, constructing or widening of any street or public throughfare including bridges, drainage, curb and gutter..." (N.C.G.S. 136-41.3).

The Statutes require that a sum be allocated to the qualifying municipalities equal to the amount produced during the fiscal year by 1-3/4 cents on each taxed gallon of motor fuel. Of the total amount to be allocated, 75% is proportioned among the municipalities on the basis of relative population and 25% on City-maintained street mileage.

The tax was first implemented in 1951 at one-half cent per gallon, and remained at that rate until 1971. From 1972 through 1981 the rate was one-cent per gallon, from 1982 to 1986 it was increased to 1-3/8 cents per gallon.

The City of Asheville participates in this program, and in the last reimbursement year (FY 1996-97) the total allocation was \$2,206,397.96, which was allocated as follows:

Per Capita \$1,625,845.45 (68,339 population,\$28.78 per capita)

Per Mile \$ 581,352.48 (344.34 eligible miles (16' min. width), \$1688.31/mile)

(Note: Allocation rates Statewide (1995) were \$22.70 per capita, \$1,597.74 per road mile.)

Powell Bill Funds do not cover the total expenditures of the City of Asheville for maintenance activities. Disbursements are based upon the following detailed accounting:

#### Activity Powell Bill Reimbursement Total Expenditures

Right-of-way \$ 159,390.15 287,590.18

Engineering non-reported 0

Paving and Resurfacing \$ 196,801.36 355,092.30

Maintenance \$ 63,416.79 114,423.91

Snow and Ice Removal \$ 74,144.46 133,780.02

Drainage & Storm Sewer \$ 259,947.68 469,027.71

Curb & Gutter \$ 11,624.77 20,974.75

Bridge Const. & Repair \$ 1,269.29 2,290.20

Traffic Control \$ 252,845.42 456,213.00

New Equipment non-reported 0

New Construction non-reported 0

Bikeways non-reported 0

Debt Service Payment \$1,002,199.58 1,002,199.58

Sidewalks \$ 153,387.16 276,758.88

\$2,206,397.96 \$3,924,435.51

The difference in actual work and reimbursement are allocated from the General Fund. Examples of specific projects and departmental initiatives for which Powell Bill funds are used include the Elizabeth Street culvert replacement (\$73,875), Biltmore Avenue sidewalks -4-

(\$75,291), Caribou Road re-surfacing (\$54,384), Hilliard Avenue re-surfacing and sidewalks (\$99,919), Deaverview Road re-surfacing (\$22,665), Country Club Road re-surfacing (\$33,521), and Michigan-Montana Avenue drain collapse (\$15,1202).

Public Works staff is presenting this item for informational purposes only and Council action is not required.

### **Authority of Purchasing Director**

Summary: The consideration of a resolution authorizing the City's Purchasing Director to purchase apparatus, supplies, materials or equipment with trade-ins.

The 1997 General Assembly enacted Sessions Law 1997-174 entitled "An Act to Update and Revise the Laws Affecting Local Government Contracting". Prior to the passage of that Act, North Carolina local governments were required to treat as separate procurement actions the disposal of surplus personal property and the purchase of new property - thus, for instance, precluding the trade-in of "old" police vehicles which are being replaced in a single contract to purchase the "new" vehicles. Among other things, that Act now allows local governments to include in specifications for the purchase of apparatus, supplies, materials or equipment an opportunity for bidders to purchase as trade-in specified personal property owned by the local government.

The resolution expands the authority which is presently delegated to the City's Purchasing Director to develop specifications, advertise, secure bids, award contracts, etc. in order to permit the Purchasing Director to include trade-ins in future procurements of apparatus, supplies, materials or equipment.

City Council adopt a resolution which authorizes the City's Purchasing Director to purchase apparatus, supplies, materials or equipment with trade-ins.

### **Hawthorne of Asheville Homeowners Association Street Improvements**

Summary: The consideration of an agreement with the Hawthorne of Asheville Homeowners Association for improvements to the streets in Hawthorne Village Subdivision in the City of Asheville and acceptance of the streets for maintenance by the City.

Hawthorne of Asheville Homeowners Association requests that the City of Asheville Public Works Department make improvements to the infrastructure in Hawthorne Village. The Association agrees to pay

the estimated costs for materials and equipment rental of any non-City owned equipment with the City providing the labor and City-owned equipment for the performance of this work. The materials and equipment cost is estimated at \$99,960.00. This process has been used prior to this request, most recently in the Hills of Beaverdam.

The Association requests that the City take responsibility for ownership and maintenance of the roads as a result of this upgrade of the streets as a part of this project in Hawthorne Village. . All of the right-of-way needed for the City to accept the streets is common property belonging to the Association. The Association agrees to provide the right-of-way and to pay for a plat to be prepared and recorded to delineate this right-of-way. The streets included in this project are Elderberry Lane, Morning Glory Drive, Greenbriar Court, Windflower Way, Windflower Court, Foxglove Court, Trillium Court, Lakespur Court and Hedgerose Court.

The construction plans were prepared by the Engineering Department.

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Staff recommends the adoption of the resolution authorizing the City Manager to execute and agreement with the Hawthorne of Asheville Homeowners Association for street improvements.

### **Change Glendale Drive to Hickman Drive**

Summary: The consideration of a resolution to accept the new street name "Hickman Drive" and changing a duplicate street name from Glendale Drive to Hickman Drive.

John B. Hickman, owner of all lots located off of Sweeten Creek Drive,

has petitioned the City of Asheville to adopt the street name change from

Glendale Drive to Hickman Drive. Hickman Drive is located at Sweeten Creek Road and ends at the property line of W.P. Hickman Co.

Staff recommends adoption of the resolution.

Councilman Cloninger said that his firm does work for Mr. Hickman and his company and asked that this item not be placed on the next formal meetings Consent Agenda in case there is a conflict of interest.

### **Street Name Approval - Monty Street in Willow Lake Mobile Home Park**

Summary: The consideration of a resolution to accept the new proposed street name "Monty Street".

Happy Hill Inc., agent Jerry Bowers, for all lots in Willow Lake Mobile Home Park, has petitioned the City of Asheville to accept the street name Monty Street. Monty Street is located in Willow Lake Mobile Home Park extending from Sand Hill Road in an easterly direction to a dead end. Staff recommends adoption of the resolution.

### **Street Name Approval - Rosemont Court**

Summary: The consideration of a resolution to accept the new proposed street name "Rosemont Court".

Thomas Yurchenco, owner of all lots in Rosemont Subdivision, has petitioned the City of Asheville to accept the street name Rosemont Court. Rosemont Court would extend from Liberty Street to a dead end. Staff recommends adoption of the resolution.

### **Street Name Approval - Mill Stone Drive**

Summary: The consideration of a resolution to accept the new proposed street name "Mill Stone Drive".

Timothy Swann, owner of all lots in Mill Stone Subdivision, has petitioned the City of Asheville to accept the street name Mill Stone Drive . Mill Stone Drive is located at the corner of Round Top Road in a southeast direction and ends in a cul-de-sac. Staff recommends adoption of the resolution.

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.

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### **UPDATE ON HOUSING AUTHORITY ACTIVITIES**

Ms. Annette Coleman, Chairman of the Housing Authority, updated City Council on the Housing Authority Board activity for the past year.

### **SISTER CITIES PROGRAM**

Mr. Russ Martin said that the Sister City relationships provide an opportunity for pairs of cities around the world to further their international understanding. The Sister Cities Program unites communities with the goal of exchanging ideas and promoting cross-cultural awareness. He encouraged City Council for greater participation with the Sister Cities Program as it offers activities encompassing youth and education, technical and professional, cultural and economic and social relationships. He said that Asheville became affiliated with the Sister City Program in 1988 and we now maintain active relationships with four cities.

Each formal Sister City was described by a Sister City representative. The Sister Cities are: Vladikavkaz, Russia; Saumur, France; Karakol, Kyrgyzstan; and San Cristobal de Las Casas, Mexico.

Councilwoman Sitnick, who is the City Council liaison to the Sister City Program, said that Sister City members who visit our Sister Cities pay their own way. She noted the City only contributes \$2,000 annually to the Sister Cities Program.

### **URBAN TRAIL - APPALACHIAN DANCE SCULPTURE AT CIVIC CENTER**

Ms. Hojun Welker, Urban Trail Coordinator, said that this is the consideration of an agreement with Gary Alsum and the National Sculptor's Guild to create and install five bronze figures of Appalachian Dancers and Musicians in front of the Asheville Civic Center.

The Asheville Urban Trail was begun in 1991 by the City of Asheville as part of its ongoing program to improve the quality of life within the City through the display of public art. It is a "museum without walls" that illustrates and highlights the city's rich heritage through 30 interpretive "stations." The Trail was designed by volunteers and built entirely with donations from individuals, groups and organizations. By the end of the summer, 25 stations will be underway. The Urban Trail Committee continues to actively raise additional funds for each station.

Last year the Janirve Foundation donated \$5,000 to the City to assist in the selection of an artist to complete five bronze figures of Appalachian Dancers and Musicians. Mr. Gary Alsum, included as a party to this agreement, and the National Sculptor's Guild was selected from over 50 artists who submitted portfolios. Mr. Alsum has considerable experience in completing works of similar complexity and character for public installations. Announcement of the selection and a preview of the models took place at this years Mountain Folk Festival over the July 4<sup>th</sup> weekend. It is anticipated that installation of the figures will be ready for dedication before July 1, 1999, before the Mountain Folk Festival event.

The Urban Trail budget approved by City Council included \$160,000 for this station. The project includes bronze representations of two musicians, a fiddler and banjo player, a dancing young couple and a small child.

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The Public Works Department staff recommends adoption of the resolution authorizing the Mayor to execute a contract for \$160,000 with Gary Alsum and the National Sculptor's Guild for the creation and installation of five bronze figures of Appalachian Dancers and Musicians in front of the Asheville Civic Center.

Discussion surrounded the location of the figures due to the upcoming renovations at the Civic Center. Vice-Mayor Hay noted that since they will be installed next summer, the City should have a much better idea of where the figures will be located.

Mayor Sitnick noted that public art was one of Council's top 20 goals and felt this addition to the downtown was a perfect example of a positive enhancement.

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.

### **HAYWOOD ROAD CORRIDOR STUDY COMMITTEE**

Mr. Carl Ownbey, Urban Planner, said that this is consideration of forming an advisory committee to work with staff from the Planning and Development Department on the Haywood Road Corridor Study (small area plan).

The Staff from the Planning and Development Department has met several times to compile information and define the process to develop a plan for the Haywood Road Corridor. Staff has drafted a time schedule and compiled a list the information required. Staff recommends that this project have an advisory committee to provide input during the process. This committee should be comprised of interested individuals who have an interest in this area. This committee will be available to advise the Planning staff on several aspects with regards to the development of this plan. The committee should have liaisons from several key boards, representatives from the business community and the neighborhoods, and resource staff from city, county and state departments.

The suggested make-up of the Committee is as follows: Council Co-Liaisons - Tommy Sellers and Earl Cobb; Planning & Zoning Commission liaison - Jan Davis; Historic Resources Commission liaison - pending; and the Preservation Society liaison - Harry Weiss.

Four representatives from neighborhoods and four representatives from businesses. Out of the eight representatives, there will be the following: one representative from banks; one representative from churches; one representative from schools; one representative from the Spanish community and two members at large. The total advisory committee will be around 10-12 members.

Resource staff (city, county, state) - Lauren Malinoff (Div. Community Assistance); Ken Putman (NCDOT); Cathy Ball (Engineer); Suzanne Molloy (Public Works); Wayne Hamilton (Fire Marshal); Bob Vickery (Building Safety); Peter Gentling (Tree and Greenway Commission); Sharon Allen (Code Enforcement); and others as needed.

As one of the members at large, Anne Valentine, landscape architect, prepared a streetscape plan for Haywood Road in 1997 and has expressed an interest in being on the committee.

Councilman Cloninger stressed the need for representation from the small business owners on Haywood Road.

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It was the consensus of Council to endorse the composition of the advisory committee to assist the Planning staff in the development of the Haywood Road Corridor Plan with staff recruiting the members.

### **MALVERN HILLS WALKING TRAIL**

Mr. Irby Brinson, Director of Parks & Recreation, said that this is the consideration of a resolution authorizing the Public Works Department and the Parks and Recreation Department to proceed with the development of a walking trail at Malvern Hills Park.

In an effort to address a community need in the Malvern Hills area, the staff of the Parks and Recreation Department and the Public Works Department have met to work cooperatively in the development of a walking trail at Malvern Hills Park. This walking trail will be constructed using combined resources from both departments with the funding for materials coming from the Public Works budget. The largest trail loop will be approximately ½ mile long and will meander throughout the park area. It is anticipated that the actual construction for the trail could begin as early as December, 1998, with the paving of the trail occurring in early spring of 1999. In addition, the parking located below the tennis courts will be paved and marked as well. This project represents a cooperative effort between two departments to maximize resources to their full potential and to provide a level of service as efficiently as possible to the citizens. It will not be necessary for funds to be reallocated to this project since materials can be charged directly to the Public Works budget. It is estimated that the total cost of this project will total \$40,000.

The Public Works Department and the Parks and Recreation Department request City Council approval to proceed with the development of a walking trail in the Malvern Hills Park.

Councilman Cobb was very pleased with the development of this walking trail.

At the request of Councilman Cobb, 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 September 8, 1998, formal City Council agenda.

### **REPORTS FROM BOARDS AND COMMITTEES**

Vice-Mayor Hay briefed Council on the Future of the Civic Center Task Force and the report received from the consultant regarding an upgraded and expanded conference component of the Civic Center. After the Task Force completes their review, they will bring the matter to City Council for their recommendation. At the next meeting, the Task Force will discuss soliciting input from the public on this document.

Councilwoman Field reported on the Downtown Commission's plan for training in-house staff to complete the planning process for a comprehensive downtown plan.

### **TIME LIMITS ON OTHER BUSINESS**

Councilman Cloninger proposed that when a group of people come to a City Council meeting to speak during "Other Business" on a single issue, they be given two options. One, they could designate one person to speak on their behalf for ten minutes. Two, they could designate three people to speak for three minutes each. Council would not have to debate whether the particular issue the people want to speak about is related to City business - Council would simply give them those options and listen to what they have to say. This would give Council enough a flavor of what the group wants to communicate to Council that they can



decide whether they want to take any action, such as referring the matter to staff, placing the matter on -9- a worksession agenda, etc. He said that he is in no way seeking to limit the participation of speakers who come to speak on issues which are actually on the agenda, such as public hearings on rezonings, ordinance amendments, etc. His proposal pertains solely to matters raised during "other business" which are not on the agenda.

Councilman Sellers supported Councilman Cloninger's proposal.

Councilman Tomes supported the spirit of the policy and suggested one person be allowed to speak for ten minutes and then 5 people speak for 3 minutes each, on a single topic. This way he felt there would be a broader base of participation.

In response to Councilman Cobb's question if this applies to formal meetings as well as worksessions, City Attorney Oast read Sec. 9 from the City Charter which reads "All meetings of the Council shall be open to the public and the council, by rules, must provide for giving citizens reasonable opportunity to be heard at its meetings in regard to matters thereunder consideration."

Mayor Sitnick read from the City Council Rules of Procedure No. 7 (c) "At each 'regular' and each 'worksession' of the Council, at the conclusion of regularly scheduled business, any group or person wishing to address the Council on any matter may do so, subject to the time limits set forth hereinafter." She wondered if the City Council Rule No. 7 or if the City Charter should be amended so they would both be consistent.

Mayor Sitnick also noted that she receives several calls from different organizations asking for letters of support or letters of opposition from the Mayor's Office to bills or pieces of legislation that are coming up before the state legislature, house or senate in Washington. She imagined Council would need to decide how to handle those requests that come to Council through the Mayor's Office as well.

Councilman Cloninger said that he did not want to limit the topics at formal meetings and worksessions, only the number of speakers and the amount of time on a single topic. He said his proposal would require no change in the City Charter.

Vice-Mayor Hay supported the proposal noting that Council can always waive the rules.

City Attorney Oast said that Councilman Cloninger's would only require a change in the City Council's Rules of Procedure and he would be glad to draft some language and present it to Council at their September 1, 1998, worksession for further discussion.

Councilwoman Field felt it was appropriate to have rules for speaking under the "Other Business" section of the agenda.

Mayor Sitnick said that she received some advice from former Mayor Ken Michalove that if there is a personal grievance with a Council member, you talk to them about it and communicate one on one. She would appreciate in the future if members of Council have a problem with the way she is conducting a meeting or the subject matter of that meeting, that the Council member speak to her about it. She has an open door and open mind. She would appreciate if things were discussed professionally together rather than air it in the local news media.

Mayor Sitnick said that she believed that City Council has an obligation to listen to our citizens and one of the most beautiful parts of the democratic republic that we live is that people have an opportunity to address their government.

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It was suggested that a handout be available at the meetings or in the City Clerk's Office outlining the rules for public comment.

It was the consensus of Council to instruct the City Attorney to prepare an amendment to City Council's Rules of Procedure incorporating Councilman Cloninger's proposal and that it be brought back to City Council for their consideration.

Mr. Morrison thanked Council, in particular Mayor Sitnick, for the way the City Council meeting was conducted on August 11, 1998, relative to the request brought to City Council for the non-enforcement of laws criminalizing cannabis users.

At 5:26 p.m., Mayor Sitnick announced a short break.

### **CLOSED SESSION**

At 5:34, Councilwoman Field moved to go into closed session to establish or instruct the City's staff or negotiating agents concerning the price and other material terms for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in N. C. Gen. Stat. sec. 143-318.11 (a) (5). This motion was seconded by Councilman Cobb and carried unanimously.

At 5:58 p.m., Councilman Tomes moved to come out of closed session. This motion was seconded by Councilwoman Field and carried unanimously.

### **ADJOURNMENT:**

Mayor Sitnick adjourned the meeting at 5:58 p.m.

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CITY CLERK MAYOR

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