

Tuesday - September 8, 1998 - 5:00 p.m.

Regular Meeting

Present: Mayor Leni Sitnick, Presiding; 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: Vice-Mayor Edward C. Hay Jr.

INVOCATION

Councilman Sellers gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING THE MONTH OF SEPTEMBER, 1998, AS "LEAVE A LEGACY MONTH" IN THE CITY OF ASHEVILLE

Mayor Sitnick read the proclamation proclaiming the month of September, 1998, as "Leave a Legacy Month" in the City of Asheville. She presented it to Ms. Lee Mulligan, Mr. Ross Drown and Mr. Andy Strauss who briefed the Council on some activities that would be taking place during the month.

B. PRESENTATION OF CERTIFICATE OF APPRECIATION TO CITY OF ASHEVILLE FOR FIREFIGHTING ASSISTANCE IN FLORIDA

Mr. Charles Curtis, representing North Carolina Insurance Commissioner Jim Long, presented to City Council a Certificate of Appreciation for the assistance of Asheville firefighters in Florida this past July. The primary responding firefighters were Kevin Ponder and Paul Monroe; their "backups" were Darren Gillespie and Herb Roberson.

Mayor Sitnick thanked Mr. Curtis for the Certificate and also commended our firefighters for their work.

II. CONSENT:

At the request of City Manager Westbrook, Item E. was removed from the Consent Agenda.

A. RESOLUTION NO. 98-133 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH TENNOCA CONSTRUCTION COMPANY FOR INFRASTRUCTURE CONSTRUCTION OF TWIN SPRINGS SUBDIVISION

Summary: The consideration of a resolution authorizing the City Manager to accept the lowest responsible bid of Tennoca Construction Company for the infrastructure construction of Twin Springs Subdivision.

Mattern & Craig Consulting Engineers, on behalf of the Community Development Division, opened bids for the infrastructure construction of Twin Springs subdivision on August 12, 1998. Infrastructure construction will include, but not be limited to, water, sanitary sewer, storm drainage lines including appurtenances, street, sidewalk, curb and gutter, and minor -2-

landscaping. The lowest bid received for the project was in the amount of \$498,537.00 from Precision Contracting, Inc. However, Precision Contracting, Inc. is properly licensed in North Carolina to do construction work to a limit of \$500,000.00. Precision's total work would not be allowed to exceed its

licensing capabilities, which could effect performance on the contract should change orders be required. The amount of funds available for the project is \$544,512.00.

Community Development staff recommends rejecting the low bid from Precision Contracting, Inc. in accordance with N. C. General Statute Section 143-129 and awarding the contract to the next lowest responsible bidder, Tennoca Construction Company. Tennoca's bid was in the amount of \$511,153.50. Tennoca Construction Company, Inc. has an unlimited license in North Carolina. The City Attorney's office has concurred with the engineer's recommendation against accepting the bid from Precision Contracting, Inc. due to the bid amount compared to the limit of their contractor's license. Approval of the resolution will award the contract to Tennoca Construction Company for the infrastructure construction of Twin Springs subdivision.

The Community Development staff recommends adoption of the resolution authorizing the City Manager to accept the lowest responsible bid of Tennoca Construction Company for the infrastructure construction of Twin Springs Subdivision.

RESOLUTION BOOK NO. 25 - PAGE 1

B. RESOLUTION NO. 98-134 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH PARSONS, BRINCKERHOFF, QUADE & DOUGLAS INC. TO PROVIDE FOR PLANNING ASSISTANCE TO THE METROPOLITAN PLANNING ORGANIZATION FOR THE DEVELOPMENT AND IMPLEMENTATION OF A PUBLIC INVOLVEMENT PROCESS

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract for assistance in developing a public involvement process specific to transportation related planning efforts.

As the Lead Planning Agency (LPA), the City of Asheville plays an integral part in how the Asheville Urban Area Metropolitan Planning Organization (MPO) functions. Since the administrative functions of the MPO are conducted from the Planning and Development Department, it is essential that requests for professional services go through City Council for approval. The Federal Highway Administration (FHWA) and the N. C. Dept. of Transportation (NC DOT) will reimburse the City of Asheville 80% of the cost of the contract.

The public involvement process are the result of over two years of effort on the part of the Citizen's Transportation Advisory Committee (C-TAC) to place a higher emphasis on how we solicit and gather input from the public. It is the desire of the C-TAC that with such a process in place, the recommendations made to the NC DOT, the FHWA and other agencies will be more reflective of the needs, wants and desires of the public in our area.

The contract is to assist in development of the process and train local citizens, staff and public officials in the process. Should we desire to solicit help from consultants to actually conduct the process, then we would prepare a contract specific to that endeavor.

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The staff from the Planning and Development Department recommends adoption of the resolution authorizing the City Manager to enter into a contract with Parsons, Brinckerhoff, Quade & Douglas Inc. to provide for planning assistance to the MPO for the development and implementation of a public involvement program.

RESOLUTION BOOK NO. 25 - PAGE 2

C. RESOLUTION NO. 98-135 - RESOLUTION SETTING A PUBLIC HEARING FOR OCTOBER 13, 1998, TO CLOSE WILSON ALLEY LOCATED BETWEEN HENDERSONVILLE ROAD AND SUMMIT STREET

RESOLUTION BOOK NO. 25 - PAGE 3

D. RESOLUTION NO. 98-136 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF HEALTH & HUMAN RESOURCES TO FUND THE AFTER SCHOOL FOOD SERVICE PROGRAM

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the N. C. Dept. of Health and Human Services to provide food service in the After School Program.

The Parks and Recreation After School Program provides supervised licensed child care, recreation, enrichment activities, and food service to children ages 5 to 12 during after school hours, teacher work days, and holidays at six program sites. Sites are located at Claxton, Dickson, Hall Fletcher, Jones, and Vance Elementary Schools; and Reid Community Center. Sites are licensed by the State of North Carolina with a child/staff ratio of 1 to 25. Snacks are provided in the afternoon, and breakfast and lunch is provided on holidays and teacher work days. Activities include arts and crafts, games, sports, science, music, homework time, and special events. Fees are based on the number of children from each family and frequency of attendance. Parks and Recreation will contract with Asheville City Schools for food service at a rate of \$0.95 per breakfast, \$1.75 per lunch and \$0.65 per snack. The grant will reimburse Parks

and Recreation approximately one third of the cost of providing food service in the After School Program. The number of meals will vary based on the total meals actually served each month.

The Parks and Recreation Department recommends the City of Asheville to apply for the grant funds through the Child and Adult Care Food Program.

RESOLUTION BOOK NO. 25 - PAGE 4

E. RESOLUTION ADOPTING THE RECOMMENDATIONS OF THE REGIONAL WATER AUTHORITY TO AWARD THE BID FOR THE SPIVEY MOUNTAIN RESERVOIR PROJECT TO TAYLOR & MURPHY CONSTRUCTION COMPANY

This item was removed from the Consent Agenda.

F. RESOLUTION NO. 98-137 - RESOLUTION ALLOWING THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE GREAT SMOKIES CRAFT BREWERS INVITATIONAL ON SEPTEMBER 19, 1998

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Summary: The consideration of a resolution allowing the possession and consumption of malt beverages and/or unfortified wine at the Great Smokies Craft Brewers Invitational at the Martin Luther King Jr. Park on September 19, 1998.

The Great Smokies Craft Brewers Invitational is a unique celebration of the art of brewing beer in the spirit of Oktoberfest with a smokey mountain twist. The Asheville Downtown Association in conjunction with Barley's Tap Room, the Radisson Hotel, Asheville Parks and Recreation and other local businesses have developed this festival to highlight the quality beers of the region. Over 30 brewers have been invited to present their high quality beers in a festival atmosphere at the Martin Luther King, Jr. Park on September 19, 1998. Local entertainment and food will be available from 1:00 p.m. - 6:00 p.m.. Proceeds from the event will benefit the Asheville Urban Trail project. The Asheville Downtown Association has requested permission to allow possession and consumption of beer and wine during this event on City property.

The Asheville Parks and Recreation Department recommends adoption of the resolution.

RESOLUTION BOOK NO. 25 - PAGE 5

G. RESOLUTION NO. 98-138 - RESOLUTION CONFIRMING THE APPOINTMENT OF BONNIE N. LOVE AS THE MINORITY BUSINESS ALLIANCE REPRESENTATIVE ON THE MINORITY BUSINESS COMMISSION

RESOLUTION BOOK NO. 25 - PAGE 7

H. MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 22, 1998, TO REZONE 196 DEAVER STREET FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY TO COMMUNITY BUSINESS II

I. MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 22, 1998, TO REZONE FOUR LOTS ON LOUISIANA AVENUE FROM COMMUNITY BUSINESS I TO HIGHWAY BUSINESS

J. MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 22, 1998, TO REZONE 1720 AND 1724 OLD HAYWOOD ROAD FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY TO OFFICE

K. MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 22, 1998, TO CONSIDER A MODIFICATION TO THE SUBDIVISION STANDARDS FOR A NON-RESIDENTIAL SUBDIVISION IN ORDER TO PERMIT MORE THAN FIVE LOTS TO BE ACCESSED BY A PRIVATE DRIVE FOR CENTREPARK BUSINESS PARK (FORMERLY PARK TERRACE EAST) LOCATED ON PINEY MOUNTAIN ROAD

Mayor Sitnick said that members of Council have been previously furnished with copies of the resolutions on the Consent Agenda and they will not be read.

Councilman Sellers moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Field and carried unanimously.

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III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO REZONING A PORTION OF TOLULA LANE FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO OFFICE BUSINESS

Mayor Sitnick said that on August 28, 1998, she received a letter from Mr. Philip G. Carson, attorney representing Victoria Investment Company, in which he advised her that he will be out of town on September 8, 1998, and asked that the public hearing be continued until September 22, 1998.

Councilman Cloninger moved to continue the public hearing until September 22, 1998, without further advertisement. This motion was seconded by Councilwoman Field.

Mr. Gary Schwartz and Mr. George Young each felt that the continuance should not be granted.

Mayor Sitnick said that since this is the first time the petitioner has requested the public hearing be continued and since a statement was inserted on the notice sent to the property owners that a continuance was requested, she would support the request to continue.

The motion made by Councilman Cloninger and seconded by Councilman Sellers carried unanimously.

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. RESOLUTION NO. 98-139 - RESOLUTION AUTHORIZING THE PUBLIC WORKS DEPARTMENT AND THE PARKS & RECREATION DEPARTMENT TO PROCEED WITH THE DEVELOPMENT OF A WALKING TRAIL AT MALVERN HILLS PARK

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.

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Councilman Cobb said that he has been working on getting a walking trail at Malvern Hills Park for several years and was especially pleased to see that this will be developed.

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

Councilman Cobb moved for the adoption of Resolution No. 98-139. This motion was seconded by Councilman Tomes and carried unanimously.

RESOLUTION BOOK NO. 25 - PAGE 8

B. RESOLUTION AUTHORIZING THE CITY MANAGER TO AWARD A BID FOR THE CIVIC CENTER SOUND EQUIPMENT

At the request of the City Manager, this item was removed from Council's consideration.

VI. OTHER BUSINESS:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 28, 1998, AND THE WORKSESSION HELD ON SEPTEMBER 1, 1998

Councilman Tomes moved for the adoption of the minutes of the regular meeting held on August 28, 1998, and the worksession held on September 1, 1998. This motion was seconded by Councilwoman Field and carried unanimously.

B. CLAIMS

The following claims were received by the City of Asheville during the week of August 21-27, 1998: Charles O. Pine (Parks & Recreation) and Leslie Auger (Water).

The following claims were received during the week of August 28-September 3, 1998: Charles Stevens (Water), Lee Frank Peak (Water), Bertha N. Jones (Water), M.W. Curtis (Water) and Roger Garrett (Water).

These claims have been referred to Asheville Claims Corporation for investigation.

C. LAWSUITS

The following lawsuit was received by the City of Asheville on August 25, 1998: Richard R. Gilbert v. City of Asheville. The nature of the proceeding is negligence due to a defective water meter box near 3 Howland Road.

The following lawsuit was received by the City of Asheville on August 27, 1998: Jennifer Jacobs v. City of Asheville. The nature of the proceeding is appeal to Superior Court from Civil Service Board decision upholding disciplinary dismissal.

Both of these lawsuits will be handled in-house.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Mickey Mahafee invited City Council to attend a discussion that is held every Sunday at Trinity Episcopal Church on Church Street. The Church serves a meal at 3:00 p.m. -7-

every Sunday and then at 4:00 p.m. there is a roundtable discussion with the homeless to discuss some of the problems they are experiencing. Mr. Mahafee also asked how he could become more involved in the fight against litter. Mayor Sitnick responded that various departments and agencies are working on combating litter and she would be happy to talk with him about participating.

Ms. Jean Moore, District Administrator for the Guardian Ad Litem Program in the 20th Judicial District which encompasses all of Buncombe County, stated that it was brought to her attention that Mr. Dan Waterman, a speaker at a previous meeting who advocated the relaxation of marijuana laws, said that he was a guardian ad litem. After investigation through as far back as their records go, she has learned that at no time in the State of North Carolina, or in the surrounding areas, has Mr. Waterman been a volunteer for the program. She said that they work very hard to maintain their credibility in the community and in the Court system.

VIII. ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 5: 28 p.m.

CITY CLERK MAYOR
