

Wednesday - November 4, 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

CONSENT:

Bid Award re: Bulldozer for Public Works

Summary: The consideration of a resolution to award the bid for the purchase of a bulldozer to Van Lott Inc. in the amount of \$127,502.

Pursuant to N. C. Gen. Stat. sec. 143-129 and in compliance with the City's Minority Business Plan, sealed bids were invited to furnish a bulldozer for the Public Works Department, Street Division. Three (3) bids were received as shown as follows:

Van Lott Inc., Asheville, NC \$127,502

NC Equipment Co., Asheville, NC \$133,815

Carolina Tractor & Equipment, Asheville, NC \$140,919

Bids have been reviewed for technical compliance to specifications by the Public Works Department and the Fleet Management Division, and their concurrence received in the following recommendation.

Funds for this purchase are provided for in the budget.

City staff recommends City Council adopt the resolution which awards the bid to the lowest responsible bidder, Van Lott, Inc., Asheville, N. C., in the amount of \$127,502 for the purchase of a 1998 'Deere' model 750C bulldozer.

Financing Information re: Bulldozer for Public Works

Summary: The consideration of resolutions authorizing: (1) the installment financing of a bulldozer and (2) the reimbursement of the City from proceeds of the financing in the event the bulldozer is delivered prior to execution of the installment financing contract.

The Finance Department sought proposals from 30 firms to finance the purchase of a bulldozer for the Public Works Department. The amount to be financed is \$127,502, equaling the amount of the lowest bid, over a period of five years. Both fixed-rate and variable-rate proposals were solicited. Proposals were received from 11 firms, "no bid" responses were received from 3 and no response was received from the remaining 16 . The best proposal, 3.74% interest plus \$250.00 closing cost, was submitted by Wachovia Leasing Corporation.

The first proposed resolution authorizes the installment purchase contract between the City and Wachovia Leasing Corporation; designates that the obligations will be "qualified tax-exempt obligations" (meaning that

the City does not anticipate that we will issue more than \$10,000,000 of tax-exempt debt during calendar year 1998 and are therefore "bank qualified") and authorizes the City Manager to execute any and all documents necessary for the financing. -2-

The second proposed resolution allows reimbursement to the City from proceeds of the financing if it becomes necessary for the City to take delivery and pay for the bulldozer prior to execution of the financing contract. (We presently anticipate that the financing will be in place prior to delivery of the bulldozer.)

Staff recommends City Council adopt both resolutions.

Budget Amendment relative to Future Park Development

Summary: The consideration of a budget amendment, in the amount of \$20,000, to appropriate funding from the sale of property to the Opportunity Corporation of Madison-Buncombe Counties to construct a new office building for their staff.

City Council approved the sale of approximately 1.3 acres of property behind the Reid Community Center to the Opportunity Corporation of Madison-Buncombe Counties. In exchange for this property, the Opportunity Corporation agreed to pay \$20,000 to the City of Asheville for the City Parks and Recreation to use in funding needed parks in this particular area. The action required by City Council in regard to this staff report is to set up an appropriation to accept the money from this sale into the appropriate account.

The Parks and Recreation Department requests City Council approval of the attached budget amendment to appropriate \$20,000 into an account for future park development.

Blanket Easement to Carolina Power & Light Company for Twin Springs Subdivision

Summary: The consideration of a resolution authorizing the Mayor to convey to Carolina Power and Light Company (CP&L) a blanket easement for the installation and maintenance of electric facilities necessary to provide service to Twin Springs Subdivision.

Twin Springs Subdivision is located on Broadview Drive in Oakley. The City is scheduled to subdivide this property into 34 residential lots. The city will construct the infrastructure improvements and Habitat for Humanity will construct the housing units.

In order to install underground electric service to all 34 homes to be constructed in the subdivision, CP&L has requested a blanket easement. The proposed blanket easement will enable the facilities to be placed in "mutually suitable locations." The actual locations will be determined between the owner and CP&L at the time service facilities are installed.

Approval of the resolution will authorize conveyance of the easement to CP&L for the installation and maintenance of electric service facilities.

Community Development staff recommends adoption of the resolution.

Budget Amendment to Amend the Water Capital Project Ordinance (29 Fund)

Summary: The consideration of a budget amendment to provide funding for engineering services for the design of the Brevard Road/Sand Hill Bridge Projects and to reprogram funds for -3-

a change order to the Camp Dresser & McKee contract for engineering services for the Mills River Water Treatment Facilities.

The Brevard Road/Sand Hill Bridge Projects are high priority Water Distribution Master Plan projects that will greatly improve water service in the West Asheville/West Buncombe service area. Design of the Sand Hill Bridge Project is complete; however, design of the Brevard Road Project is needed and has been estimated not to exceed \$50,000. Adequate funding for these engineering services is available in the Distribution Master Plan Improvements due to the Biltmore Avenue Water Line Project coming in under budget. It is also expected that there will be enough contingency remaining from the Mills River Project to fund the construction of these projects. The Mills River Project is expected to be substantially complete in the Spring of 1999; and if there is adequate contingency remaining, staff will request approval to fund construction of the Brevard/Sand Hill Bridge Projects at that time.

There is currently adequate funding in the Mills River Project Contingency to fund a change order to the Camp Dresser & McKee contract for engineering services related to the Mills River Project. This increase in fees is due to an extension of the scheduled completion date of the Mills River Water Treatment Plant. The projected final completion date has been extended by the contractors from January 6, 1999, to approximately July 1, 1999, and could result in increased engineering fees of up to \$199,800. This includes assistance provided by Camp Dresser & McKee in preparing the funding application for the pesticide mixing stations on the Mills River Watershed.

Staff recommends adoption of the budget amendment to reprogram funds in the amount of \$50,000 from the Water Distribution Master Plan Downtown Project (Biltmore Avenue) to the Brevard Road/Sand Hill Road Bridge Project and to reprogram funds in the amount of \$199,800 from Mills River Contingency to Mills River Engineering Services.

Budget Amendment to Amend the Water Capital Project Ordinance (35 Fund)

Summary: The consideration of a budget amendment to the Water Major Capital Project Ordinance 82-25 (35 Fund - Water Major Capital Improvements Fund) to reflect the first payment to the N.C. Dept. of Transportation ("NC DOT") for the relocation of water lines on US 70/74 Tunnel Road/Haw Creek, the pesticide mixing stations, and the first project of the Fiscal Year 1998-99 Distribution System Improvements.

Funds in the amount of \$597,920 were approved to be transferred from the Operating Budget (30 Fund) to the Water Major Capital Improvements Fund (35 Fund) to fund capital improvements projects.

The following are three projects that the Regional Water Authority has previously committed to fund with Fiscal Year 1998-99 Contribution to Capital:

- Payment #1 of the US 70/74 Tunnel Road/Haw Creek NC DOT project in the amount of \$89,962;
- Relocation of the pesticide mixing stations on the Mills River Watershed in the amount of \$33,000; and
- The Affordable Housing 50% fee waiver in the amount of \$87,000.

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A Quality Improvement Task Team called the Critical Needs Assessment Team has been formed to identify and prioritize critical water distribution system needs. The team has identified three projects thus far to be prioritized along with other projects. These projects are as follows:

- Lee Street/Prospect Street Water Main Replacement (\$33,000) which is needed in order to provide adequate service to existing and future customers;
- Monroe Street Water Main Replacement (\$25,000) which is needed in order to provide adequate service to

existing and future customers; and

- Mine Hole Gap and Young's Cove Reservoir Improvements Project (\$40,000) which includes resurfacing these water distribution system reservoirs in order to protect water quality.

An update of the Critical Needs Assessment Team and a list of other potential projects will be presented in November.

On October 20, 1998, the Regional Water Authority adopted a resolution to fund water line replacements in Prospect Street and Monroe Street. Other priorities will be recommended after completion of the Task Team's work. Since the Authority has committed to funding the pesticide mixing stations and the first payment to the NC DOT for the relocation of water lines on US 70/74 Tunnel Road/Haw Creek, it is recommended that this budget amendment reflect appropriations for these projects as well.

Staff recommends adoption of the budget amendment which will reflect the addition of a portion of Contribution From Other Funds - Fiscal Year 1998-99 in the amount of \$180,962, to fund the following projects in the 35 Fund: Relocation of Pesticide Mixing Stations (\$33,000), Lee Street/Prospect Street Water Main Replacement (\$33,000), Monroe Street Water Main Replacement (\$25,000), and the first payment of the NC DOT US 70/74 Tunnel Road/Haw Creek water line relocation project (\$89,962).

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.

I-26 ASHEVILLE CONNECTOR ADVISORY COMMITTEE REPORT

At the request of City Council, Mrs. Norma Price, former Chair of the Asheville Connector Advisory Committee ("ACAC"), reviewed with City Council the work of the ACAC as it related to the I-26 Connector Corridor. She reviewed specific items throughout the April 1995 Phase I Environmental Analysis of the Asheville Urban Area Corridor Preservation Pilot Project. She reviewed the list of committee members which represented 30 organizations consisting of a cross section of business, environmental and neighborhood. She also reviewed the process that occurred to reach the September 9, 1993, vote to recommend to the Transportation Advisory Committee that the ACAC voted in favor of Alternative "A" by a vote of 6-3. Alternative "A" consisted of that portion of the new construction from I-240 to US 19-23 (between the Hilton and Westgate Shopping Center), the widening of I-240 to six lanes (from I-40 to Smokey Park Bridge), the widening of Smokey Park Bridge from 8 lanes to 12 lanes, and considerable alterations to Patton Avenue (from Louisiana Avenue to the Bridge). Furthermore, the ACAC requested the opportunity to review any design plans as they became available. A summary of the rationale upon which the recommendation was made is (1) Alternative "A" is the shortest, least disruptive route to residences; (2) Alternative "A" is the least expensive in regard to right-of-way and construction costs; (3) Alternative "A" will have the least adverse impact on -5-

environmental concerns; (4) Alternative "A" is the only route that is a true, direct "connector" to I-26 and US 19-23; and (5) Alternative "A" will do more to ease the traffic congestion on the Smokey Park Bridge.

She said the ACAC was unanimous in the following: (1) the selected alternative must address aesthetics and safety (drive confusion, weaving, etc.); (2) access to the river and riverfront businesses should remain an important consideration; and (3) the access to existing businesses should be strongly considered in the design phase of project.

Ms. Price said that the following are additional comments the ACAC expressed concerning the other alternatives: (1) The ACAC was unanimous in not recommending Alternative "K"; and (2) The ACAC was unanimous in not recommending Alternative "B" in its entirety. Both of these alternatives were deemed to be

too disruptive to residences, businesses, and the environment. They are likewise not true "connectors" and would contribute to urban sprawl.

She said that although there were serious concerns expressed by almost all of the ACAC members as to the design plans that were provided to them by the N.C. Dept. of Transportation, the general consensus was to recommend it with reservations. The three dissenting members: Pat Skalski (representing Coalition of Asheville Neighborhoods), Harry Weiss (representing the Preservation of Asheville & Buncombe County) and Rusty Sivils (representing the Western N.C. Alliance) were not opposed to the selection of "A" as the corridor of choice, but expressed opposition to segments of the proposed project and thus voted against the motion. In summary, their concerns were as follows: (1) Traffic volume projections contain errors and need to be re-examined; (2) the widening of I-240 will cause unnecessary disruption to the adjacent neighborhoods; (3) the additional lanes to Smokey Park Bridge will add to congestion and confusion; (4) there has not been adequate attention given to alternative transportation modes; and (5) making the area more "friendly" to automobiles does not address the real problem, such as sprawl and land use controls.

She then briefly explained why Alternative "K" and "B" were unanimously not recommended.

Mr. Harry Weiss, Mr. Rusty Sivils and Ms. Pat Skalski each went into greater detail regarding the concerns of their respective organizations.

Mr. John Hill, representing the French Broad River Foundation, explained in detail the tremendous amount of work and public input that went into the recommendation. He felt that even though only six lanes were mentioned to the ACAC at the time of their review, the N.C. Dept. of Transportation ("NC DOT") has professional engineers on staff to determine if six or eight lanes are necessary.

Discussion surrounded various issues, some being, but are not limited to, what type of environmental study was performed and why there has not been an updated analysis performed since 1995.

Councilman Cobb expressed concern of truck traffic, noise, pollution, smog and the large vehicles carrying hazardous materials. He strongly felt that Alternative "K" should be built because Alternative "A" will kill our downtown.

When Mayor Sitnick asked if the ACAC committee was given the opportunity to review any design plans, Ms. Price replied that she was not contacted by the NC DOT, however, there was information in the newspapers that said the design plans were available at the Armory.

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Mayor Sitnick also expressed many concerns regarding the project, some being that we should not build our roads and highways for peak hour traffic, air pollution, noise, social affordable housing, urban sprawl, the further alienation of the Hillcrest community, and the fact that eight lanes were never mentioned.

When Councilman Cobb said that he felt City Council should hold a public hearing on the route, Mayor Sitnick said that since Secretary Tolsen of the NC DOT said that they will no longer tell communities what to do but instead listen to what the communities want, the very least Asheville could do is to hold a public hearing, with the express understanding that changes may not be forthcoming or possible. The public hearing would be just to tell NC DOT what the 1998 Asheville community has to say about the project.

Vice-Mayor Hay's biggest concern was possibly raising the expectation that there is something the City Council can do to re-route the corridor, noting that City Council cannot make any decisions to bind the NC DOT.

After a brief discussion, it was the consensus of City Council to instruct the City Manager to contact the NC

DOT to see what their plans are concerning public hearings in the Asheville area, prior to any public hearing being scheduled by City Council.

On behalf of City Council, Mayor Sitnick thanked Ms. Price and other committee members present for reviewing their report for City Council.

REPORT FROM THE FUTURE OF THE CIVIC CENTER TASK FORCE

Vice-Mayor Hay, Chair of the Task Force on the Future of the Civic Center, reported that over two years ago City Council commissioned the Task Force on the Future of the Civic Center to study the need to make substantial renovations to the Asheville Civic Center. Among the issues to be reviewed were the necessity of making repairs, the impact of the anticipated opening of the Bi-Lo Center in Greenville and, most importantly, an assessment of the direction to be taken by the Civic Center for the foreseeable future. The Task Force has worked continuously and diligently since that time studying options, reviewing reports from consultants and soliciting public input through several series of public meetings and surveys. Interim reports were made to City Council in November 1996 and May 1998.

At the direction of City Council, the City engaged the services of Hunter Interests Inc. of Annapolis, Maryland, a nationally-recognized consulting firm, to assist in the study. After Phase I of its work (completed in May 1998), the consulting firm reported that our present multi-purpose Civic Center is well-suited in terms of location, size, and facilities to continue to meet the needs of our community, but that significant improvements are required to extend its useful life and to maximize its potential. The consultant also found that there is a significant market for conventions and conferences in Asheville, but that our Civic Center is unable in its present state to host them.

Phase II (completed this summer) considered the feasibility of expanding the Civic Center to attract those events. In its Phase II report, the consultant recommended that the Civic Center be expanded to attract new conventions and conferences by making the following improvements:

A. Upgrade the existing facilities throughout, including the Thomas Wolfe Auditorium, in order to provide a first-class convention and conference offering, particularly with regard to technological, audio-visual and acoustical amenities.

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B. Expand the current Civic Center to provide an additional 31,780 square feet of space, to include breakout rooms, conference rooms, and a new ballroom/exhibit room roughly the same size as the existing exhibit level.

C. Enhance food and beverage facilities to serve the conventions/conferences and meet the perceived need for additional service for local events.

D. Recruit a developer to construct a new hotel to be located adjacent to the Civic Center. The City would enter into a public-private relationship with the developer which would include sharing the cost of construction of the new convention/conference spaces. The consultant urges that no improvements be initiated until the developer is identified.

The Task Force has carefully studied the consultant's report and solicited public input about his recommendations. A representative group from the Task Force visited the Roanoke, Virginia, Conference Center to inspect that facility to learn more about the concept. After thoughtful review, the Task Force recommends to City Council that it adopt the proposal presented by the consultant, along with the following supplemental recommendations:

- A. The Thomas Wolfe Auditorium should be upgraded to make it a premier performing arts facility, including improvements in acoustics and backstage properties.
- B. In addition to the new facilities recommended by the consultant, further study should be done on expanding the "flat show" space available for trade shows, with an emphasis on continuous space.
- C. In making improvements to the Civic Center to accommodate conventions/ conferences, necessary improvements to the arena should be included.
- D. Assure that any expansions/improvements adequately address existing and potential parking concerns.
- E. An emphasis be made to involve local developers in the private portion of the project.

The Task Force believes that the success of a Civic Center Renovation Plan rests upon a balanced approach to economic development, local public use, and financial feasibility considerations. After careful review, it finds that each need is best met by a synthesis of the proposal by the consultant with the additional recommendations found by the Task Force. Specifically, the Task Force recommends to City Council that it engage Hunter Interests Inc. to move forward with the proposal it made regarding the Civic Center, building into their proposal the recommendations made by the Task Force. The Task Force also recommends that it be commissioned to continue its work in overseeing and reporting to City Council as the project develops.

At the request of Councilwoman Field, Vice-Mayor Hay said that the Task Force would contact the consultant and request that they interview local firms and open up the process for the schematic design work.

Vice-Mayor Hay responded to Mayor Sitnick's question about the facade of the Civic Center once the project is complete.

Mayor Sitnick wanted to make sure that Buncombe County continues to have input into this project with perhaps some funding cooperation as well.

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It was the consensus of City Council that the Task Force continue its work in overseeing and reporting to City Council as this project develops.

Mayor Sitnick asked that the record show that City Council has received this information and instructs the City Manager to place the appropriate items, including a budget amendment to proceed with Phase III, on the next formal City Council agenda.

At 5:00 p.m., Mayor Sitnick announced a short break.

PEG CHANNEL UPDATE

Ms. Robin Westbrook, Public and Community Information Coordinator, said that the Cable Franchise Agreement adopted by City Council designates three initial access channels to be used for public, educational and/or government programming.

She said that in August 1998, City Council adopted a Cable Franchise Agreement allowing InterMedia to provide cable service within the city limits of Asheville. As part of this agreement, InterMedia was required to provide three initial channels to be used for public, educational and/or government programming. A fourth access channel will be provided when certain programming thresholds are met on the other channels.

She said that the City may assign or delegate the administration and management of the PEG channels to a third party or to InterMedia. The agreement states also that the City and InterMedia may coordinate the administration and management of the channels. The City has the sole authority to designate the channels and the use of their capacity.

Ms. Westbrook said that regarding the Government Access Channel, the City will be responsible for management and programming of the government channel. This channel will be programmed with city information, City Council meetings and other forms of programming.

Councilman Cobb said that there are many educational entities in the City of Asheville and the educational access channel may be designated for the use of all of these organizations. Some of these entities have video programs and curriculums already established. This gives the educational community a head start in the programming of their channel.

He said that there are several ways that the educational access channel can be organized. Due to the expertise that exists in our educational community, we recommend that we go to them for the answers. By establishing an Educational Access Channel Commission to determine how to manage the channel, we allow these organizations to work together to chart their own course. He said that Ms. Robin Westbrook will explain the composition and expectations of this Commission.

Ms. Westbrook said that regarding the Educational Access Channel, it is proposed that the City form an Educational Access Channel Commission made up of members representing all of the educational entities in the City. This Commission will oversee the development and future programming of the educational access channel. It will work with the educational community in Asheville to achieve this task. She reviewed a draft ordinance which would establish the Commission. Following City Council's review of the ordinance, staff will meet with all representatives of these organizations to solicit input on the document.

Councilwoman Field suggested that the commission be broadened to include representatives from the Charter School, the Home Schooling program and the alternative teaching community.

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Mayor Sitnick suggested that that the people who participated in the cable franchise discussions be included in on the development stage of the Commission as well.

Councilman Cloninger also suggested that it might be good to have a couple of members from the general public on the Commission.

It was the consensus of City Council to ask that staff meet with the educational community to review the ordinance establishing an educational access channel commission to solicit their input on the document. After staff receives that input, then they will come back to City Council with a recommended ordinance.

Councilman Tomes said that during the meeting of the City Council to consider the cablevision franchise with InterMedia, a lot of interest was expressed about a public access channel. Now that the franchise has been granted, Council needs to address the administration and management of the public access channel.

He said there are many ways a public access channel can be managed. In considering how we do it in the City of Asheville, we need to look at the language of the franchise granted to InterMedia and to the comments expressed during the meetings of the City Council on the franchise. Under the terms of the franchise, the City may assign or delegate the administration and management of the governmental, educational and/or public access channels to InterMedia or to a third party. He said that Assistant City Attorney Patsy Meldrum will now explain various options we can consider in the administration and management of the public access channel.

Assistant City Attorney Patsy Meldrum first reviewed with Council the franchise requirements regarding the Public Access Channel: (1) InterMedia provides channel capacity for up to three initial channels that may be designated by the City for governmental, educational and/or public access ("PEG channels"); (2) The City shall have the sole authority to designate the channels and use of their capacity; (3) The City may assign or delegate the administration and management of the PEG channels to another party or to InterMedia; and (4) The City and InterMedia may coordinate the administration and management of the PEG channels. She said that several of the available options for the administration and management of the public access channel include:

1. The City assigns or delegates the administration and management of the public access channel to a third party.

- Establish a non-profit corporation and contract with the non-profit corporation to operate and manage the public access channel, incorporating guidelines for channel operation and management in the contract. (If desired, a commission could be appointed to oversee the contract).

OR

- Send out a request for proposal ("RFP") for a non-profit corporation to operate and manage the public access channel, incorporating guidelines for channel operation and management in the contract. (If desired, a commission could be appointed to oversee the contract).

OR

- Set up a commission and authorize the commission to contract with a non-profit corporation to operate and manage the public access channel, incorporating guidelines in the ordinance setting up the commission on operation and management of the public access channel.

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2. The City hires staff and operates and manages the public access channel.

3. The City authorizes InterMedia to operate and manage the public access channel.

A time and method for public comment on the administration and management of the public access channel should be determined. If a RFP is used, public comment on the request may be considered before the request is sent out for response.

Ms. Meldrum responded to several questions from Council, including, but not limited to, what was the advantage of having a non-profit corporation operate and manage the channel and how do other cities handle their public access channel.

After discussion, it was the consensus of City Council to direct staff to develop a RFP for a non-profit corporation to operate and manage the public access channel, incorporating guidelines for channel operation and management in the contract, along with language to appoint a commission to oversee the contract including the commission's authority. After the RFP has been drafted and the community has been given an opportunity to comment on it, staff will bring the RFP back to City Council for their approval at a formal meeting and ask for authority to send it out. After responses are received, the RFP's will be reviewed and staff will make a recommendation to award the contract and also present Council with a draft ordinance on the Public Access Commission. It was Council's consensus that they would select the non-profit corporation and appoint the commission, with Council retaining review authority on subsequent renewals or re-bids in

the future.

When Councilwoman Field suggested that Mark Rosenstein review the draft RFP, Ms. Meldrum responded that she would invite his comments, as well as several other individuals in the community.

Vice-Mayor Hay suggested that the Public Access Commission should be a small group.

SECOND READING OF ORDINANCE NO. 2521 - ORDINANCE AMENDING THE FRANCHISE FOR ASHEVILLE TROLLEY WORKS

City Attorney Oast said that the first reading of this ordinance was adopted on October 27, 1998, subject to further discussion on the name on the outside of the vehicles.

Mr. Bill Kelly, representative of the Grove Park Inn, said that the identification on the outside of the trolleys will read "Asheville Trolley Works". He also said that they will have a separate telephone line that will be answered "Asheville Trolley Works."

Upon inquiry of Vice-Mayor Hay, City Attorney Oast suggested that a new subsection (c) be included in Paragraph 6 to read as follows: "Identification/Advertising: Each trolley vehicle may display the name "Asheville Trolley Works" externally, and may have incidental signs providing route and fare information. Any other external signs shall be limited to one display face per side of the vehicle, and shall be subject to the size limitations to off-premise signs."

Councilman Tomes moved to suspend the rules in order to take official action at this meeting. This motion was seconded by Councilman Sellers and carried unanimously.

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

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Councilwoman Field moved to adopt Ordinance No. 2521 on its second and final reading, with the addition of subsection (c) in paragraph 6 as read by City Attorney Oast. This motion was seconded by Vice-Mayor Hay and carried unanimously.

ORDINANCE BOOK NO. 17 - PAGE 161

CARTER COVE SANITARY SEWER AND WATER IMPROVEMENTS BID AWARD

Ms. Cathy Ball, City Engineer, said that this is the consideration of adopting a resolution awarding the contract for the Beaverdam Annexation Area Carter Cove Sanitary Sewer and Water Improvements to the lowest responsible bidder, Cooper Construction Company Incorporated, in the amount of \$442,278.00.

Approximately \$540,000 is available in the budget for this project. The project consist of installing approximately 5,800 linear feet of sanitary sewer line and 550 linear feet of waterline.

Mattern & Craig Consulting Engineers and Surveyors prepared construction plans for the project. The engineer's estimate, also provided by Mattern and Craig, for this project is in the amount of \$440,446.00.

On Tuesday, September 23, 1998, at 2:00 p.m., the Engineering Department received the following three bids for the project:

Precision Contracting, Asheville, NC \$435,806.00

Cooper Construction Co., Hendersonville, NC \$442,278.00

Buckeye Construction Co., Canton, NC \$478,031.25

The lower bidder for this project was Precision Contracting with a bid of \$435,806; however, after checking references for similar types of jobs, they have been determined not to be responsible for performing this job.

Over ninety-three percent of the work on this project consists of installing sanitary sewer line. Precision Contracting has completed two sanitary sewer projects in the past. The first was for the Town of Spruce Pine and the second was for MSD at the Holiday Inn Sunspree Resort Golf Course. The cost of the project for Spruce Pine was approximately \$114,000. Staff talked to Robert Wiseman with the Town of Spruce Pine. He gave a favorable reference for the work they performed; however, he said that he had some problems with the way the crews interacted with the residents.

The second sanitary sewer project was with MSD at the Holiday Inn Sunspree. The total cost of this project was approximately \$250,000. MSD staff provided the documentation from the project indicating that they encountered several problems with the Contractor during the course of the project. Some of the problems included; (1) discharged sewer into the creek four times; (2) failed to provide adequately trained and skilled labor to perform the necessary work; (3) repeated instances of improperly installed silt fence and deliberate discharges of mud and soil into the creek; (4) placement of stored materials and trespassing ion areas outside the construction easement; and (5) damaged the irrigation system and cover up the line without repairing it. Additionally, MSD informed Precision's Bonding Company that they needed more sewer pipe laying experience.

The Director of the Golf Course at the time of the construction of this project provided staff with information supporting the information MSD provided.

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The factors leading to the determination that Precision Contracting was not a responsible bidder are; (1) they have never completed a sanitary sewer project of this size; (2) of the two sanitary sewer projects they have completed, they encountered major problems with the bigger one and some minor problems with the smaller one; (3) Precision's Insurance Company paid the Holiday Inn Sunspree approximately \$20,000 in damages following the sanitary sewer project at the Golf Course; and, (4) they discharged sewer into the creek at the Golf Course four times.

The second low bidder by \$6,472 was Cooper Construction. They have performed several projects of this nature for the City of Asheville in the past without any major problems. She also received some positive references for Cooper from outside companies.

The construction time for this project is identified as 150 calendar days in the contract documents. If Contractor shall neglect, fail or refuse to complete the work within the time herein specified, then the Contractor pays the sum of \$250 as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day that the Contractor shall be in default after the time stipulated in the contract.

Staff recommends that City Council accept a resolution awarding the bid for Beaverdam Annexation Area Carter Cove Sanitary Sewer and Water Improvements to Cooper Construction Company, the responsible low bidder, and authorize the City Manager to execute all necessary agreements and contracts.

Ms. Susan Lewis, attorney representing Precision Contracting, explained that her client is the lowest responsible bidder and responded to all the problems Ms. Ball alleged, noting that some of the problems she was not aware of and requested a copy of the information so that she could be prepared to respond at the

formal meeting.

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.

ANNUAL RETREAT TOPICS

City Manager Westbrook said that staff is seeking direction for the agenda items for the upcoming retreat.

He said that listed below are topics which have been suggested for the annual retreat to be held January 29, 30 and 31 of 1999. He asked that Council review the list and finalize their decision so that staff can begin preparation. There also may be topics not listed that Council may want to discuss. In previous retreats, Council has been able to deal effectively with anywhere from eight to ten issues including the brainstorming session. Based on prior history, Council may want to pare down the above list of subjects to a more reasonable size depending on the amount of time they may wish to spend on goal setting, as well as brainstorming.

1. Sewer Agreement - After reviewing the details of the sewer agreement at the September retreat, Council wanted to further discuss its options with regard to MSD not funding the extension of sewer lines for residential and commercial areas inside the City of Asheville for those who currently do not have sewer service, economic development projects, and annexation areas.

2. Review of Current Goals and the Setting of New Goals for the Upcoming Fiscal Year - Council normally does this as a part of the retreat process to give staff guidance for the upcoming budget.

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3. Water Agreement - Details of the water contracts were discussed at the September retreat, and Council wanted further discussion of the water agreement at the mid-year retreat.

4. Annexation - This might be an appropriate time to discuss where we are on the annexation study and what steps need to be taken to complete it.

5. User Fees - The Mayor and Council asked for a report on user fees in the City of Asheville and across the state.

6. Stormwater Requirements - The retreat may be a good time to discuss Phase II of the federal stormwater requirement regulations and its impact on the City.

7. Civic Center Financing - A key to transforming our Civic Center to a convention center lies in the financing. This may be an appropriate time for Council to discuss where the Task Force on the Future of the Civic Center is in their current study and financial options.

8. Minimum Housing Code - As you know we are approaching a Minimum Housing Code deadline in July of 1999. This may be a good opportunity to receive a report from Terry Summey.

9. Civil Service Law - Council Members have expressed an interest in discussing the Civil Service Law at the retreat.

10. Bele Chere - Council has expressed an interest in discussing Bele Chere from several viewpoints including alcohol, increasing revenues and the financial results of the most recent Bele Chere. Staff could be ready to report these issues to you at that time.

11. Community Facilitation Training - For some time certain City employees have been receiving training and development in the area of facilitation of public meetings. With our emphasis on Community Oriented Government and many public meetings which occur between staff and various organizations and communities throughout the City, we needed to improve our facilitation skills. This was a strategic alignment with our commitment to Community Oriented Government. We have sent some staff to Western Carolina University for training in dealing with public disputes and conflict. They have also had video training and teleconferences to interact with other municipalities on this type of training. We have also invited a professor from N.C. State University to provide a course and spend time in training and certifying our employees in community facilitation. Some time ago upon apprising Council of this initiative, you requested a review and perhaps a short session for the Council on this matter. The professor from N.C. State University would discuss how to keep meetings from turning sour, how to stay on track in high tension meetings, and how to bring about consensus at the end of the meeting. This would take approximately one hour. If you would like to have this briefing and training as a part of the retreat, staff would be glad to coordinate it for you.

12. Review of the City of Asheville Corporate University/Management 21 Employee Development Program - Over a period of time staff has been examining the organization to determine where gaps exist between where the organization is and where it strategically needs to go. Once that determination was made, we needed to make sure the skills, behaviors, and capabilities of staff were aligned with the organizations goals. This is a large undertaking and it is directed at developing employees to their fullest potential. They are creating training modules and a curricula designed around the gaps we have found to take us into the twenty-first century. Staff would like to brief Council on our concept of the City of Asheville Corporate University; it would take approximately thirty minutes.

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13. Reports From Departments - Council Members have indicated they like to hear reports from Department Directors on critical items that are in progress and issues that may arise in the coming year. This does not mean a report from each department, but only those that have topics that are both timely and could benefit Council in terms base knowledge or feedback to departments as a part of their planning and implementation process.

14. Council/Staff Brainstorming Issues - In the previous Council/staff retreat, Council indicated they very much liked to brainstorm solutions about specific issues. If there are issues Council would like to discuss, it would be helpful if they could be identified ahead of time so that staff can provide information or research if needed.

After discussion, (1) the Minimum Housing Code was removed from the retreat topics to be handled under Reports from Departments or at a worksession; (2) Civic Center Financing was removed from the retreat topics; (3) the Review of Current Goals should include the second set of ten goals; (4) Community Facilitation Training was removed from the retreat topics to be handled at a worksession; (5) User Fees to be removed from the retreat topics to be handled at a worksession; (6) Stormwater Regulations to be removed from the retreat topics to be handled under Reports from Departments; (7) Annexation to be removed from the retreat topics to be handled under Reports from Departments; and (8) Water Agreement to be removed from the retreat topics to be reviewed by a Council committee made up of Mayor Sitnick, Councilwoman Field and Councilman Cobb which will hold their first meeting after the retreat.

The following topics were agreed upon to be retreat topics: Sewer Agreement, Review of Current Goals (top ten along with second ten), Civil Service Law, Bele Chere, Review of the City of Asheville Corporate University/Management 21 Employee Development Program; Reports from Departments; Council/Staff Brainstorming Issues; and Economic Development/Job Creation.

REFINANCING CURRENTLY OUTSTANDING GENERAL OBLIGATION BONDS

Finance Director Bill Schaefer said that this is the consideration of resolutions authorizing: (1) application to the Local Government Commission for authorization to issue General Obligation Refunding Bonds and (2) making certain statements of fact concerning the proposed bond issue.

Due to the decrease in prevailing interest rates, it would be beneficial at this time for the City of Asheville to refinance portions of its currently outstanding debt. Specifically, the Finance Department proposes to refund the callable portions of four issues: \$2,600,000 of General Obligation Street and Sidewalk Bonds Series 1986; \$1,950,000 General Obligation Street and Sidewalk Bonds Series 1990; \$8,800,000 General Obligation Water Bonds Series 1992; and \$2,425,000 General Obligation Water Bonds Series 1994. Refunding of those issues will require the City to issue General Obligation Refunding Bonds in an amount not to exceed \$18,500,000. The sale of the Refunding Bonds is tentatively scheduled by the Local Government Commission (LGC) on January 19, 1999 with closing and funds delivery on February 9, 1999. Based on currently prevailing interest rates, estimated approximate savings from the refunding will be: Gross Savings of \$857,000; Net Present Value Savings of \$773,000; and Annual Savings throughout the life of the issue of \$55,000. Actual savings and specific outstanding bond series to be refunded will be dependent on the rates obtained on the date of sale of the bonds.

The City will require the services of a financial advisor and bond counsel to assist with the preparation of documentation for the Refunding Bonds. The Finance Department proposes the City retain Wachovia Capital Markets, Inc. as financial advisor (Fee of \$12,500 plus out-of-pocket expenses not to exceed \$750) and Parker, Poe, Adams & Bernstein L.L.P. as bond counsel. Retention of the financial advisor and bond counsel is subject to the approval of the LGC.

The first proposed resolution authorizes and directs the Finance Director to submit an application to the LGC to allow the City of Asheville to issue not to exceed \$18,500,000 General Obligation Refunding Bonds and allow the retention of Wachovia Capital Markets, Inc. as financial advisor and Parker, Poe, Adams & Bernstein L.L.P. as bond counsel for the issue.

The second proposed resolution provides "statements of fact concerning proposed bond issue" in regards to: (A) the necessity of the proposed financing; (B) the amount of the bonds proposed; (C) past debt management policies; (D) past budgetary and fiscal management policies; and (E) retirement of debt. These "statements of fact" are required in order for the LGC to make determinations necessary to approve the City's request to issue Refunding Bonds.

City staff recommends City Council adopt both attached resolutions.

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.

BOARDS & COMMISSIONS

It was the consensus of Council to instruct the City Clerk to prepare the proper paperwork to reappoint Eugene Ellison to the Alcoholic Beverage Control Board.

It was the consensus of Council to instruct the City Clerk to prepare the proper paperwork to reappoint Bernadette Thompson and Cassandra Ingram to the Asheville-Buncombe Community Relations Council.

At Councilman Tomes' request, at 6:34 p.m., Councilman Cloninger moved to excuse Councilman Tomes from the meeting. This motion was seconded by Councilwoman Field and carried unanimously.

It was the consensus of Council to instruct the City Clerk to arrange interviews with Sherry Wilson, Connie

Barnette and Richard Evans for a vacancy on the Americans with Disabilities Act Compliance Committee.

It was the consensus of Council to instruct the City Clerk to arrange interviews with Chris Goodwin, Michael Hootstein, Patricia Grant, Sondra Slosman and Lauren Malinoff for vacancies on the Board of Adjustment. It was also the consensus of Council to instruct the City Clerk to prepare the proper paperwork to reappoint Dennis Hodgson (Regular member) and Joseph Brady (Alternate member) to the Board of Adjustment.

It was the consensus of Council to instruct the City Clerk to arrange interviews with Bill Branyon, Steve Rice, Kim Moore and Leslie Hennessee for vacancies on the Asheville-Buncombe Fair Housing Commission.

It was the consensus of Council to instruct the City Clerk to arrange an interview with Lloyd Williams for a vacancy on the Firemen's Relief Fund.

It was the consensus of Council to instruct the City Clerk to arrange interviews with Thomas House, John Moyer, Jamie Deveney, Barbara Weinkle and Frank Fishburne for vacancies on the Recreation Board;

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It was the consensus of Council to instruct the City Clerk to prepare the proper paperwork to appoint Robert Camille to the River District Design Review Committee.

It was the consensus of Council to instruct the City Clerk to arrange interviews with Nick Koon and Robert Potter for a vacancy on the Transit Authority.

REPORTS FROM BOARDS & COMMITTEES

Councilman Cloninger said that the first meeting of the Asheville Film Board went very well.

ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 7:00 p.m.

CITY CLERK MAYOR
