

Tuesday - February 2, 1999 - 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:**

**Mowing Contracts**

Summary: The consideration of resolutions authorizing the City Manager to enter into service contracts to mow City right-of-ways, parks and other public areas.

In an effort to reduce costs, promote competitive bidding and improve the quality of work for mowing City right-of-ways, parks and other public areas, City staff has divided City grass areas into six separate bidding sections. City staff has solicited sealed bids from twelve (12) mowing contractors, five (5) of which were minority contractors, to mow City right-of-ways, parks and other public areas throughout the City. City staff reviewed all bids and have determined the qualified lowest bidders per section, based on bid specifications to be the following:

Bidder: Section: Bid Amount:

Donnie Appleseed's Central \$37,667.35

\*Professional Lawn Care Ser. East \$26,170.00

West \$38,999.00

Right-of-ways \$49,998.00

North \$31,025.00

\*Williams and Williams South \$ 7,175.00

Total Cost \$ 191,034.35

\*Professional Lawn Care Service and Williams & Williams have stated that all specified mowing equipment will be on hand at the time of contract signing. City staff has notified both mowing contractors that upon review of equipment at the time of contract signing, if all equipment required by the bid specifications are not on hand, then the mowing contract for their sections will be awarded to the next lowest qualified bidder.

Approved funding is available in the City mowing contract account to pay for mowing City right-of-ways, parks and other public areas. The recommended total cost for the award of the recommended contracts compares to the previous contract amount for the prior two (2) years is \$202,833.00.

The Parks and Recreation Department staff requests City Council to direct the City Manager to enter into service contracts with Donnie Appleseed's, \*Professional Lawn Care Service and \*Williams & Williams

respectively, \*or the next highest qualified bidder, if specified equipment is not on hand at the time the contract is ready for execution.

When Mayor Sitnick suggested that the mowers have bags attached to their equipment to catch what is mowed (in particular litter), Mr. Willis responded that it is hard to attach a bag to some commercial mowers. However, they will be coordinating the mowing with the Adopt-A-Street Program and will monitor the areas after they have been mowed. He also stated that -2-

there is a mechanism in the contracts to assess a monetary penalty in order to get the contractors to do a better job.

Upon inquiry of Councilman Cobb, Mr. Willis stated that he would review the contracts to see if the contractors will be required to maintain creek banks.

### **Offer to Purchase Vacant Lot on Park Place**

Summary: The consideration of a resolution authorizing the City Clerk to advertise an offer of purchase for upset bids for a vacant lot on Park Avenue.

A bid from David J. Heetderks, in the amount of \$8,700.00, has been received for the purchase of a vacant lot on Park Avenue. The bid is not less than the established minimum price of \$8,700.00.

The property is a commercial industrial zoned lot at the end of Park Avenue comprising 7,000± square feet of land. The property has an irregular shape and modest slope. It has approximately 78 feet of frontage along Park Avenue. There is no current or contemplated use for the property by the City. Mr. Heetderks is a resident of the West End community where the property is located.

Approval of the resolution will initiate the sale of the property through the upset bid process as provided in N. C. Gen. Stat. sec. 160A-269.

Planning staff recommends adoption of the resolution.

Upon inquiry of Vice-Mayor Hay about if the community is aware of this potential purchase of land, Mr. Vess said that even though he has not officially contacted the neighborhood organization, Mr. Heetderks, the potential purchaser, is very active in that community organization.

### **Set Public Hearing on February 23, 1999, for Urban Mass Transit Operating Grant Application**

Summary: The consideration of setting a public hearing in order to apply for Mass Transit Funding in the amount of \$470,631 for Fiscal 1998/99.

The Fiscal 1998/99 Annual Operating Budget included Asheville Transit Authority funding as follows:

Operating revenues \$675,000

Operating subsidy:

City of Asheville 813,485

State funding 182,165

Federal funding 470,631

Total funding \$2,141,281

In order to receive the Federal funding, the City Council must hold a public hearing at which time the service will be discussed, and certain environmental, land use planning and social impacts of the service will be outlined. Upon completion of the public hearing, a resolution authorizing the Mayor to file an application for the Grant and provide certain required assurances to the U.S. Department of Transportation should be considered.

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Staff recommends City Council schedule a public hearing to consider authorizing the Mayor to file an application for Mass Transit funding in the amount of \$470,631 for Fiscal Year 1998/99.

**List of Festivals & Special Events**

Summary: The consideration of a motion approving the 1999 Parks and Recreation Department's festival and special events schedule.

In March of 1995, the Asheville City Council adopted a festival's policy. A segment of that policy requires that City Council approve the list of festivals on an annual basis. These festivals and special events are co-sponsored by the City of Asheville. The Parks and Recreation Department is recommending the approval of the following festivals and special events:

EVENT	DATE
Sunday in the Park - Quality Forward	TBA
March of Dimes/Walk America	24-Apr
	7-May
Very Special Arts Festival	16-May
Asheville Youth Symphony Concert	
	4-Jun
Moonlight-Downtown	5-Jun
La Fiesta - Asheville Art Museum	22-Jun
Honda Hoot 22-26	25-Jun
Downtown After Five	25-June
Riverlink - Riverfest 25-27	3-Jul
Shin Dig on the Green	4-Jul
July 4th	9-Jul
Downtown After Five	10-Jul
High Country Art and Craft Show (10-11)	10-Jul
Shin Dig on the Green	17-Jul
Shin Dig on the Green	23-Jul
Bele Chere 23-25	31-Jul
Shin Dig on the Green	13-Aug
Downtown After Five	14-Aug
Shin Dig on the Green	21-Aug
Shin Dig on the Green	27-Aug
Goombay 27-29	28-Aug
Shin Dig on the Green	4-Sep
Shin Dig on the Green	10-Sep
Downtown After Five	18-Sep
Great Smokies Brewfest	1-Oct
Greek Festival 1-3	3-Oct
A Walk into History - Urban Trail	21-Nov

American Lung Association - Reindeer Romp Christmas Parade - Asheville Merchants Assoc. Light Up Holidays First Night	24-Nov 27-Nov 31-Dec
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The Parks and Recreation Department staff recommends approval of the above festivals and special events for 1999.

Upon inquiry of Mayor Sitnick, City Manager Westbrook explained that Honda Hoot is strictly a for-profit organization on this non-profit list. -4-

### **Shiloh Recreation Center HVAC Contract**

Summary: The consideration of a resolution authorizing the City Manager to enter into a Heating/Ventilating/Air-conditioning contract for the Shiloh Recreation Center.

In an effort to improve quality of service through the City of Asheville daycare and after school programs, City staff, through the capital improvement process, has designated the Shiloh Recreation Center to receive heating/ventilating/air-conditioning up-grades. City staff solicited sealed bids from eight (8) Heating and Air-Conditioning Contractors, three (3) of which were minority contractors, to supply and install heating/ventilating/air-conditioning up-grades at the Shiloh Recreation Center. City staff divided the bid package into three (3) base bids to allow for maximum flexibility in awarding a contract based on limited funding of \$ 35,000.00. The following bids were received:

Bolton Corporation \$ 58,300.00

Elcon Service \$ 50,579.00

McNutt Service Group \$ 48,699.00

Carolina Comfort Heating & Cooling \$ 49,558.00

City staff has reviewed all bids and determined that McNutt Service Group, Inc. is the lowest bidder and based on the limited budget of \$ 35,000.00, recommends acceptance of base bid #1, #2 and part "B" of base bid #3 for a combined total of \$34,409.00.

Approved funding is available in the capital improvement project account to pay for this renovation to the heating/ventilating/air-conditioning system at the Shiloh Recreation Center.

The Parks and Recreation Department staff requests City Council authorize the City Manager to enter into a contract for \$ 34,409.00 with McNutt Service Group, Inc.

### **Budget Amendment relative to Hockey Related Expenses**

Summary: The consideration of a budget amendment, in the amount of \$305,000, to amend the Civic Center's Fiscal Year 1998-99 budget in order to fund hockey related expenses.

In October 1998, the City of Asheville and Asheville Smoke, Inc. entered into an agreement to provide a minor league hockey program at the Asheville Civic Center. In June 1998, however, when the Civic Center's annual budget was initially adopted, no formal agreement existed between the City and Asheville Smoke, Inc. As such, expenditures and revenues related to the minor league hockey program were not included in the Civic Center's original FY 1999-1999 budget.

With the minor league hockey program now fully operational, the Civic Center has incurred hockey related expenses, i.e. building maintenance, renovations, concessions, temporary labor, etc. that were not included in the original budget. These expenditures are estimated to be \$305,000.

In addition to increased expenditures related to hockey, the Civic Center has generated new revenues, primarily from increased concession sales, that were not included in the Civic Center's initial revenue projections. The Civic Center has also generated additional revenue from its new public skating program. These new revenues will be sufficient to offset the \$305,000 in additional hockey related expenditures. Thus, it is recommended that Council increase the Civic Center appropriation by \$305,000 to be offset by \$305,000 in additional revenue generated from hockey ticket sales.

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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.

### **DROUGHT RELATED EXPENSES**

Mr. Tom Frederick, Director of Water Resources, said that this is the consideration of a budget amendment to amend the Regional Water Authority's Fiscal Year 1998/1999 balanced budget in order to fund drought related expenses.

Critically low water levels in the North Fork and Bee Tree Reservoirs prompted the Regional Water Authority to declare Phase III mandatory water restrictions on December 15, 1998. Reservoir levels continue to remain critically low which has resulted in unexpected operational expenses including the purchase of approximately 2 million gallons of water per day from Hendersonville. The total cost of drought related expenses is estimated to be \$334,750 through the end of February 1999.

The Fiscal Year 1998/1999 Water Fund Budget does not contain a provision for expenses related to emergencies such as droughts or floods, so it will be necessary for the Authority to adopt a revised budget to fund this severe drought.

Highlighted below are drought related operational expenses that are expected to be incurred through the end February 1999:

Water Conservation Kits \$17,000

Public Education/Advertising 10,000

Recycle Backwash Water 12,000

Replace Bee Tree Filter Media 5,000

Electrical/Pumping Costs 26,250

Treatment Chemicals 8,750

Consultant Fees (CDM) 15,000

Overtime Water Maintenance/Plants 60,750

Contractor Assistance (Leak Repair) 20,000

Total \$174,750

In addition, there is the expense of purchasing water from Hendersonville and other utilities through the end of February 1999 that is expected to cost approximately \$160,000.

The operating expenses highlighted above totaling \$174,750 can be funded by decreasing or postponing the following budgeted expenses/projects:

Repairs to equipment/buildings/watershed roads \$30,000

Training 4,000

Mills River Utilities (due to delays in start-up) 15,000

Spring Image Enhancing/Water Eff. Campaign 10,000

Vacancies throughout the Department that

were unfilled during first half of 98/99 as well

as the frozen Admin. Assist. and Eng. Tech. 115,750

Total \$174,750

There are no other areas in the operating budget that can be cut in order to fund the purchase of water from other utilities without reducing critical programs and/or customer service. It is, therefore, recommended that the Fiscal Year 1998/1999 Water Fund Budget be amended to provide funding in the amount of approximately \$160,000.

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It is possible that there may be enough revenue collected from surcharges that were implemented as part of the Phase III mandatory water restrictions on December 15, 1998, to cover the purchase of water from Hendersonville and other utilities. Since that time, water production has decreased approximately 5%, indicating that the surcharges have encouraged customers to reduce consumption by that same amount. Although it is difficult to accurately predict the effect of conservation efforts; it is estimated that if this trend in reduced consumption continues, revenue of nearly \$175,000 may be realized from the surcharges. However, if consumption drops to 10% of normal, revenues will drop by nearly \$130,000.

Since conservation efforts and the surcharges realized from them are unpredictable, it may be necessary for staff to request another budget amendment as early as next month. If the drought worsens, there may also be additional expenses that will need to be funded in the near future.

Staff recommends approval of reducing or postponing the budgeted line items highlighted above in order to fund operating expenses related to the drought. In addition, staff recommends review and approval of amending the Authority's Fiscal Year 1998/1999 balanced budget in order to fund the purchase of \$160,000 of water from Hendersonville through the end of February 1999.

Mr. Frederick responded to several questions and comments from Council, some being, but are not limited to: is it possible to purchase water from the Town of Black Mountain and the Town of Weaverville, what is the target date for the Mills River Treatment Plant to come on line, is there a possibility to capture water when hydrants are flushed for public health and safety needs, why doesn't the Water Fund budget contain money for emergencies, are there any federal agencies that the City can look to in times of drought, is the Water

Efficiency Program actually being decreased by \$10,000, and the need for a press release explaining the 25% water loss.

Mayor Sitnick asked to participate in discussions with the Regional Water Authority on their rate structure to see if something can be done to create an emergency fund so that in times of drought individual residential users are not so heavily penalized.

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.

### **CARTER COVE ROAD SEWER PROJECT**

Mr. John Echeverri, Assistant City Engineer, said that this is the consideration of a budget amendment to appropriate \$200,000 from the General Fund Contingency for sewer improvements for the Beaverdam Annexation - Carter Cove Area.

On November 10, 1998, City Council awarded the contract for the Beaverdam Annexation - Carter Cove Area project to Cooper Construction Company in the amount of \$442,278. It has been determined that \$250,000 exists in the project budget. Staff is requesting an additional appropriation of \$200,000 from the City's General Fund Contingency to cover the additional cost of the project and an additional 10% contingency to complete the project. The Water Authority is paying approximately \$16,500 of the cost for the installation of the water line which is a part of this project.

Staff has held several meetings with the residents of Carter Cove to prepare for the installation of the water line and the sewer line. Construction will be ready to begin as soon as the one additional easement is acquired. This is the easement of Robert M. and Lenoir Swicegood. Staff has met with Mr. Mac Swicegood several times in an effort to obtain this -7-

easement. Staff is actively pursuing obtaining this easement by providing Mr. Swicegood with all the information he needs to get his parents signature on the easement. Staff's goal is to have construction begin in four to six weeks.

Staff recommends that City Council appropriate \$200,000 from the General Fund Contingency for the Beaverdam Annexation - Carter Cove Area Sanitary Sewer Improvements.

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.

### **REPORT ON NATIONAL LEAGUE OF CITIES MEETING IN KANSAS CITY, MISSOURI**

Vice-Mayor Hay, Councilwoman Field and Councilman Tomes all reported on their recent trip to the National League of Cities meeting which was held in Kansas City, Missouri. Each shared important information with Council as it related to issues affecting the City of Asheville.

Mayor Sitnick asked that City Council consider reporting on their trips at formal Council meetings so that members of the community can hear the reports since the formal meetings are broadcast.

### **BOARDS AND COMMISSIONS**

Vice-Mayor Hay reviewed the options of the appointment to the Citizens-Police Advisory Committee and the Asheville School Board.

Upon recommendation of the City Council Boards/Commission Committee, it was the consensus of City

Council not to interview the two central area candidates for the Citizens-Police Advisory Committee but to place the appointment on the next formal meeting agenda for consideration.

Upon recommendation of the City Council Boards/Commission Committee, and after further discussion of the reappointment process and the excellent credentials of the applicants, it was the consensus of City Council to have the City Clerk prepare the proper paperwork to reappoint Roy Harris and Brian Weinkle to the Asheville School Board.

## **OTHER BUSINESS**

### **Urban Sprawl and Ways to Control It**

At the request of Hazel Fobes, Mayor Sitnick read the following letter dated February 2, 1999, from Hazel W. Fobes: "Yesterday, February 1, I delivered to the Mayor's office letters addressed to each of you containing copies of an article from the Christian Science Monitor, (one of the nation's leading newspapers) January 20, 1999 titled 'Suburbs Create Sprawl-free Zones to Control Growth' and information on a letter to opinion, Mt. XPRESS, January 27, '99 from a reader, John Murrell-Kisner, who is forming with David Stewart a group, Smart Growth Partners, focusing on livable, healthy communities. Their next meeting is February 25, at noon, 29-1/2 Page Ave. Tel: 253-8265 and 285-0810. They encourage interest and input. I bring this to your attention now because urban sprawl needs to be addressed and curbed now and because among your top issues for the council's 1999 goals are transportation, local economy, environment and quality of life. All of these relate to uncontrolled suburban development. A growing concern in the nation and in Asheville and Buncombe Co. is the rapid growth of our suburbs. This brings traffic, smog, crime, wider highways, destruction of farmlands, some residential areas, vilifies -8-

open-spaces. To curb this unrestrained development in our suburbs and encourage planning, growth management movements have organized programs in 12 states, including New York, New Jersey, Maryland and California. The term being used for these programs is 'Smart Growth'. Remember Asheville is 'Smart Growth Partners'. I ask you to give serious concern to this problem and contact our local group."

### **St. Dunstons Road**

Because City Council doesn't normally take public comment at a worksession, Vice-Mayor Hay moved to waive the rules and take public comment in order to hear a neighborhood road concern that needs a decision on the following day. This motion was seconded by Councilman Cobb and carried unanimously.

Mr. and Mrs. May, residents on St. Dunstons Road, said that their family moved to St. Dunstons Road in 1997 at the time the road was closed. It was their understanding, and the neighbors in the area, that the road was to remain closed after the construction was completed by the N.C. Dept. of Transportation ("NC DOT") on the McDowell Street bridge project. It was also their understanding that the road would not be re-opened as a connector street from McDowell Street to Biltmore Avenue and that the NC DOT was to cul-de-sac St. Dunstons Road. They have just received a letter from the NC DOT that says that unless they hear differently from the City of Asheville on or before tomorrow (February 3, 1999) they will continue to proceed with the re-opening of St. Dunstons Road. They urged City Council to notify the NC DOT to keep the road closed because St. Dunstons is a narrow road and if re-opened with a traffic light at the intersection of McDowell Street and St. Dunstons Road, will attract a large amount of traffic through this residential neighborhood. They said that two petitioners were given to the City of Asheville to keep the road closed. At the very least, they urged City Council to hold a public hearing in order to hear the residents' concerns regarding this street being re-opened.

City Manager Westbrook explained that the City's official position has been, and remains, to re-open St. Dunstons Road for public safety purposes. He explained that the road was temporarily closed for about two



years for NC DOT's construction project.

Councilwoman Field recalled that when this NC DOT project came before City Council, an issue arose about cutting down trees in that area and the NC DOT worked with the City to resolve that issue. She did not recall the road closing being an issue expressed by the neighborhood.

Assistant City Manager Doug Spell explained that the City's position is that the road be re-opened from a public safety standpoint. He did not recall that there were any problems associated with the traffic or cut-through when the road was open. He felt that if people were going to try to cut through from McDowell Street to Biltmore Avenue that they would probably use Doctor's Drive because it is a straighter road. He said that NC DOT planning documents show that in future years the amount of cars anticipated to be traveling on St. Dunstons Road would be minimal traffic for a residential street. He did note that if the road were re-opened, the City has many traffic calming methods that can be used to address any traffic problems they may encounter. Regarding the width of St. Dunstons Road, he said the width is not out of the ordinary for residential streets in Asheville.

Fire Chief John Rukavina explained the Fire Department's response time with the road open vs. the road being closed. He said that from a public safety standpoint, his recommendation would be to re-open the road.

A resident at 172 St. Dunstons Road, said that there used to be a one-way sign on St. Dunstons Road prior to the closing and now the sign is gone. She also urged Council to keep the -9-

road closed due to the anticipated increase in traffic. She felt that if the road were to be re-opened, the road would need to be widened and more one-way signs installed on the road.

Discussion surrounded the proposed cul-de-sac and who would have to pay for any right-of-way needed for that construction; and the procedure which would need to be followed for a formal street closing as required by the General Statutes.

City Council instructed the City Manager to contact Mr. Smart with the NC DOT, the next day to see if the deadline date of February 3, 1999, can be postponed until City Council can discuss this matter at a formal meeting with NC DOT representatives and area neighbors. If the February 3, 1999, deadline cannot be postponed, the City's original position to re-open St. Dunstons Road would remain intact as recommended by City staff.

### **CLOSED SESSION**

At 5:27 p.m., Councilwoman Field moved to go into closed session for the following reasons: (1) to establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange or lease - G.S. 143-318.11(a)(5); and (2) to consult with an attorney employed by the City in order to preserve the attorney-client privilege between the City and its attorney. The parties to the lawsuit about which the Council expects to receive advice are: Richard A. Black, individually and in his capacity as Administrator of the Estate of Dorcas Faye Black; Michelle Hughes Elliott; Douglas Charles Elliott; the City of Asheville; James Cheeks; the North Carolina Department of Transportation; Ken Putnam; Merry Maids Limited Partnership; Munchel Enterprises, Inc., d/b/a Merry Maids; Archie Franklin Lail, Edda Lail; and Karl Heinz Lail - G.S. 143-318.11(a)(3). This motion was seconded by Councilman Cloninger and carried unanimously.

At 6:10 p.m., Councilwoman Field moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

**ADJOURNMENT:**

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

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CITY CLERK MAYOR

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