

Tuesday - June 1, 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:

East Oakview Sanitary Sewer Improvements

Summary: The consideration of a resolution awarding the contract for the Brevard Road Annexation Area East Oakview Road Sanitary Sewer Improvements to the lowest responsible bidder, Hobson Construction Company Inc. in the amount of \$67,075.

This project is part of the proposed Brevard Road Annexation Area Sanitary Sewer Improvements. The project consists of installing approximately 1200 linear feet of eight inch sanitary sewer line to serve existing residences on East Oak View Road.

On Friday, May 7, 1999, at 5:00 p.m., the Engineering Department received three bids for the project as follows:

Hobson Construction Co., Arden, N.C. \$67,075

Tennoca Construction Co., Candler, N.C. \$85,119

Steppe Construction Co., Mills Spring, N.C. \$95,472

The lowest responsible bidder for this project was Hobson Construction Company Inc. with a bid of \$67,075.

Hobson Construction Company has performed several projects of this nature for the City of Asheville in the past without any major problems.

The construction time for this project is 30 calendar days listed in the contract documents. The contract documents stipulate liquidated damages in the amount of \$250 per calendar day if the contractor shall neglect, fail or refuse to complete the work within the time herein specified.

Staff recommends that City Council adopt the resolution awarding the bid for Brevard Road Annexation Area East Oakview Road Sanitary Sewer Improvements to Hobson Construction Company Inc., the responsible low bidder, and authorize the City Manager to execute all necessary agreements and contracts.

Grant for Phase II of Master Street Tree Plan

Summary: The consideration of a resolution to apply for grant funds available with the N.C. Dept. of Environment and Natural Resources to develop the second phase of the Master Street Tree Plan.

-2-

Funds are available through the State of N.C. Dept. of Environment and Natural Resources, Division of

Forest Resources in the Urban and Community Forestry Grants Program, to improve urban forest resources.

The Parks and Recreation Department is responsible for developing a Master Street Tree Plan (MSTP) for street trees on City right-of-ways located within the city limits of Asheville. The existing inventory is almost fifteen years old and no longer accurately reflects the trees of the City. Phase II of the process will specifically identify the location, size, condition, and site conditions of trees located in the south district of Asheville. The MSTP will help serve as a critical link in developing a long term management plan for Asheville's urban trees, provide information for future tree planting and forestry planning, and provide educational and volunteer opportunities for community organizations.

The Parks and Recreation Department is requesting \$10,000 in grant funds which requires a 100% match. The in-kind match is located in the Parks Division budget and will include supplies, transportation, volunteer hours, and project management.

The Parks and Recreation Department recommends City Council authorize the City Manager to apply for and enter into this agreement if the City receives the grant award.

Budget Amendment re: Purchase of Equipment for Stephens-Lee Alumni Room

Summary: The consideration of a budget amendment, in the amount of \$5,000, to purchase equipment to be used in the Alumni Room at Stephens-Lee Center.

The Stephens-Lee Alumni Association has raised \$5,000 through donations to be used specifically in the construction of the Alumni Room at Stephens-Lee Center. This Alumni Room will serve as a meeting room for the association and a display area for the archives from the old Stephens-Lee High School. Through numerous donations the Stephens-Lee Alumni has collected funds for this purpose. The \$5,000 will be added to the current project fund and equipment will be purchased through the City of Asheville purchasing procedures. The equipment to be purchased consists of office furniture including desk, chairs, credenza, computer stand, conference table and chairs, display cabinets and computer hardware and software consistent with equipment approved by the City's Division of Information Services.

The Parks and Recreation staff recommends Council approval of the budget amendment to appropriate \$5,000 to the Stephens-Lee Renovation Project to be used to purchase equipment for the Alumni Room.

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.

AMENDMENT TO FEES & CHARGES MANUAL AND AMENDMENT TO PARKING METER ORDINANCE FOR HONDA HOOT PARKING FEES

Mr. Bill Schaefer, Finance Director, said that this is the consideration of: (1) a resolution amending the Fees and Charges Manual for Parking Garages and Parking Meters; (2) an ordinance amending the Code of Ordinances regarding parking meter fees for limited events for motor vehicles; and (3) a resolution setting the specific limited event fees for Honda Hoot 1999.

The Honda Rider's Club of America has sponsored the Honda Hoot Rally in Asheville, North Carolina, for the past five years, and desires to bring the rally to Asheville again in 1999. In prior years, the rally organizers have worked with City Finance Department staff to utilize the Civic Center parking garage and on-street metered spaces for rally registrants. Honda pays the -3-

City for an agreed upon number of spaces and offers those spaces free of charge to rally registrants as part of their registration package. Because the rally has grown so much in the past few years, Honda and City Finance Department staff desire a more manageable method of parking motorcycles while offering the same

convenience to rally registrants as in years past.

Currently, the City's Fees and Charges Manual has no provisions for non-standard parking fees in the garages or on-street and the Code of Ordinances does not allow parking at meters during hours of enforcement without depositing a coin. As a result, in order to provide a non-standard fee during Honda Hoot, it is necessary to amend the Fees and Charges Manual and the Code of Ordinances. These amendments will enable the future use of "Limited Event" fees not only for Honda Hoot; but also, any other limited events involving motor vehicle parking in garages and at meters. A resolution of City Council will be required to set the specific cost of the fee for each "Limited Event".

The following are the specific "limited event" fee arrangements proposed by Honda Riders of America, previously endorsed by the Fees and Charges Committee of City Council for Honda Hoot 1999 and included in the proposed resolution:

- Honda will produce and provide a sticker, suitable for affixing to motorcycle headlamp, indicating payment of a parking fee.
- For each advance registration (estimated to be 3,000), the fee will be \$0.50.
- Honda will produce and provide additional stickers to be sold by City of Asheville staff to on site registrants (estimated to be 1,000) for a fee of \$3.00 each, all of which will be revenue to the City.
- Motorcycles bearing headlamp stickers will be allowed to park in a designated area of the Civic Center parking garage, and at metered spaces throughout the downtown area for the duration of the rally.

City staff recommends City Council adopt the enabling resolutions and ordinance.

Upon inquiry of Councilman Seller, Mr. Schaefer said that this will not infringe on the skateboard park on the top of the Civic Center deck.

When Vice-Mayor Hay asked about what incentives the Chamber of Commerce (for example) were providing to the Honda Hoot, City Manager Westbrook said that he had not heard anything from the groups who urged City Council to do what they could to retain the rally coming to Asheville.

Councilman Cloninger suggested comparing what the total parking revenue would be with and then without the Honda Hoot to see if the amount charged is appropriate.

Mayor Sitnick was very concerned about setting a precedent of allowing more than one motorcycle to park in one space. Mr. Schaefer responded that the motorcycles will be ticketed if they are parked outside the designated parking lines and felt that it is a more efficient use of parking to allow the maybe 3-4 motorcycles per space.

Mr. Schaefer responded to a concern from Mayor Sitnick relative to the licensing of vendors and to the extent of the City's ability, they will attempt to enforce not only the individuals selling parts, but the major companies as well. He did note that the Honda Hoot is working cooperatively with the City in identifying the vendors that they are aware of.

-4-

Mayor Sitnick felt that the price per sticker (\$0.50 for the five day event if pre-registered and \$3.00 for others) was too low, in that how can the City justify raising the parking meter fees from \$0.25 per hour to \$0.75 per hour for our community and then charge this low price to visitors. She stressed that this proposal would be that pre-registered participants could park on the street all day for a dime a day.

Councilman Cloninger agreed with Mayor Sitnick and suggested that \$5.00 be charged for pre-registration and \$10.00 for others be charged.

When discussion concerning the parking sticker amount started, Mr. Schaefer explained that the Honda Hoot has already started their mailings with the \$0.50/\$3.00 proposal figure, which is the amount traditionally paid in other cities.

When Council was distressed in finding out that the Honda Hoot has already printed their material without waiting for approval by City Council, Mr. Schaefer explained that this item was originally scheduled for City Council consideration in January of 1999, however, it was pulled from the agenda pending ordinance revisions and drafting of resolutions.

All of Council agreed that the Honda Hoot makes a tremendous impact on the community.

After figuring about how much revenue the City would be losing during that five day period if all the 700 parking metered spaces in downtown were full, Councilman Cobb suggested \$3.00 for pre-registration and \$5.00 for others.

Vice-Mayor Hay stressed that even though the mailings have gone out for the Rally, the City will be billing Honda Hoot and it will be up to them to determine who will make up the difference between the \$0.50 and the figure City Council approves.

Mayor Sitnick said that she would be willing to support \$3.00 for pre-registration and \$5.00 for others and that next year, there will be a policy in place about these type events.

It was the consensus of the City Council to instruct Mr. Schaefer to meet with Honda Hoot representatives before the next formal meeting to inform them on the Council's discussion of charging \$3.00 for pre-registration and \$5.00 for others.

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.

PRITCHARD PARK DOWNTOWN TRAFFIC EVALUATION

Mr. Alan Glines, Assistant Landscape Architect, said that this is the consideration of a resolution authorizing the City Manager to enter into an amendment to a contract with Genesis Group for a Downtown Traffic Evaluation as a result of the Conceptual Plan for Pritchard Park.

Since the February 1999 review to City Council and the subsequent meeting with the Council appointed committee, staff has revised and developed the proposed Scope of Work for the Downtown Traffic Evaluation and developed a Phasing Proposal for Pritchard Park. In association with the Engineering Department and the Parks and Recreation Department, Genesis has developed a Scope of Work for the Downtown Traffic Evaluation.

The Downtown Traffic Evaluation Proposal will include conducting traffic counts for the central corridor from College Street at Charlotte Street, westbound to Patton Avenue at South French Broad Avenue. In addition to traffic counts the study will review turning movements, -5-

traffic flow capacity and fire response timing as it evaluates the proposal of returning the downtown east-west traffic to a two-way system. The study will include a report that will outline design recommendations to implement changes at specified intersections, opportunities for on-street parking and loading zones and opinion of costs. The cost for the proposal is \$37,149.

The proposal is subject to the review and approval by the Transportation Advisory Committee (TAC) which would amend the MPO Transportation Planning Work Program Budget for Fiscal Year 1999-2000. The City's share will be 20% and if approved by the TAC, the TAC will reimburse the City 80% of the cost of the Downtown Traffic Evaluation. The City currently has budgeted their 20% share and when they are reimbursed by the TAC for the 80%, an appropriate budget amendment will be presented to Council.

City staff recommends that Council give the City Manager authorization to enter into an amendment to a contract with Genesis Group for the Downtown Traffic Evaluation.

Upon inquiry of Councilman Cobb, City Manager Westbrook said that if the TAC did not approve the project, the City would either not do the project or come back to City Council for an additional appropriation. Councilwoman Field said that in her experience with the TAC, they have some money set aside for these type of projects and felt, more than likely, they would approve the project.

At the request of Councilman Cloninger, Mr. Glines said that he would provide City Council with a detailed breakdown of the cost of the proposal.

When Mayor Sitnick asked if the Engineering Department could perform this work, City Engineer Cathy Ball said that she felt that they would not be able to meet the necessary timelines.

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 COMPREHENSIVE SUSTAINABLE ECONOMIC DEVELOPMENT STRATEGIC PLAN IMPLEMENTATION PROCESS

Mr. Mac Williams, Economic Development Director, said that City Council is being asked to 1) approve appointment of a specialized task force to oversee implementation of the Economic Development Strategic Plan, and 2) authorize staff to develop a list of candidates for the task force and to present that list to City Council for approval.

Dr. David Kolzow, Consultant with Lockwood Greene Consulting, and an associate have met with numerous individuals throughout the community, as well as with a number of boards and commissions. The next step in the strategic plan is the worksession to be held on June 11, 1999. The purpose of the worksession is to review the results of the leadership survey, the citizen survey and the Lockwood Greene Consulting assessment of the local strengths and weaknesses. From this discussion, we will develop a list of issues that need to be resolved and the groups will set priorities. This group of issues then needs to be evaluated by a citizens' group who would recommend how to achieve the results noted in the issues, where the funding if needed will come from, and who would be responsible in the final priorities.

Dr. Kolzow suggests there is a need for a specialized economic development strategy group of no more than ten (i.e. principal owners/executives within the business community) to work with him and staff over a period of months. The results of their work would be brought to City Council for review and approval.

-6-

Staff and Dr. Kolzow recommend that City Council authorize staff to develop a list of candidates to work with Dr. Kolzow on the last step of the Economic Development Strategic Plan and to present that list back to City Council for approval.

Councilman Tomes felt that there should be an effort to include someone outside the principal owners/executives within the business community that would bring sensitivity to the table.

Mr. Williams responded to various questions/comments from Council about the make-up of the task force.

Mayor Sitnick wondered if City Council would be interested in interviewing the list of candidates who will work with Dr. Kolzow.

Mayor Sitnick said that during the retreat, it was the consensus of Council to address the strategic plan as the "comprehensive sustainable strategic plan" and asked that those words be included in all official documents.

Mr. Williams invited City Council members to submit names of individuals they felt would be good candidates for the task force.

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.

SEXUALLY ORIENTED BUSINESS REGULATIONS

City Attorney Oast said that this is the consideration of an ordinance establishing additional restrictions on adult establishments.

Senate Bill 452 (1997), ratified in 1998 and now codified at G.S. 160A-181.1, and elsewhere, permits municipalities to exercise a greater degree of control over sexually-oriented businesses within their jurisdictions. These regulations fall into two categories: zoning and general police power regulations.

Under the Unified Development Ordinance ("UDO") as originally adopted, adult establishments were uses by right, subject to special requirements. When it became apparent that Senate Bill 452 might become law, City Council took steps to preserve the status quo of the City with respect to adult establishments. In April of 1998, adult establishments were moved from uses by right subject to special requirements, to uses for which Conditional Use Permits were required. When Senate Bill 452 became law in August of 1998, Council adopted a temporary moratorium prohibiting new adult establishments or the expansion of existing ones, as the law allowed, to consider additional regulations.

Zoning: Asheville already has an effective dispersal ordinance in the UDO. This ordinance contains certain locational and separation requirements for adult establishments. These ordinances have been upheld on many occasions. In 1995, the City performed the study that the courts have held is necessary to provide a foundation for a dispersal ordinance, and the ordinance was adopted and incorporated into the UDO in 1997.

While dispersal ordinances have been upheld by the U. S. Supreme Court, there was less certainty about whether conditional use permits could be used to regulate adult establishments; the courts were divided. Earlier this year, in the case of Steakhouse v. Raleigh, the 4th Circuit Court of Appeals upheld a regulatory scheme in Raleigh that involved a dispersal -7-

ordinance implemented through a conditional use permit process. This is the same regulatory scheme currently reflected in the UDO. It is recommended that this regulatory scheme be made permanent with respect to adult establishments.

General Police Power: These are regulations that affect the operational characteristics of adult establishments. They are not zoning regulations and, as long as they are reasonable, can be made to apply to existing establishments.

The City already had some regulations on the operation of adult establishments, such as minimum age for patrons and performers, licensing, touching or fondling, etc. The new law provides clear enabling authority for these existing regulations, and permits other regulations as well.

The proposed ordinance establishes additional regulations for the following:

- Open booths for establishments that have booths.
- Requirement that genital areas of performers remain covered.
- Requirement that buttocks, privates and genitals of non-performers be covered.
- Requirement that clarifies that adult entertainers may not touch patrons (existing ordinance prohibiting touching of specified anatomic areas).
- Prohibition on peripheral activities on the same premises. This is intended to prohibit such activities as car washes, unless enclosed within the same building as the adult establishment.

The law permits regulation of other aspects of the business such as hours of operation, additional clothing restrictions, and possibly even alcohol sales. These regulations must be consistent with constitutional limitations, which essentially means that there must be an identified "secondary impact" that the regulation is intended to address, beyond morality-based objections.

The proposed regulations do not go as far as the law appears to allow. However, the constitutionally-required justification for such regulations does not clearly exist. To the extent that the current situation deteriorates, the law specifically permits additional regulations to apply to existing businesses (an "anti-grandfather" provision). It may be possible, therefore, to impose stricter regulations as the need arises.

Adoption of the proposed ordinance is recommended.

City Attorney Oast explained that due to an error in the codification of the City Code, if Council wishes to consider the possibility of allowing sexually oriented businesses by conditional use permit, which will require an amendment to the Unified Development Ordinance, it will be necessary to extend the moratorium on sexually oriented businesses for a short period of time. It was the consensus of Council to have the City Attorney draft the temporary moratorium ordinance.

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.

-8-

NEXT COMMUNITY MEETING (JUNE 29)

It was the consensus of City Council to hold the next community meeting on Tuesday, June 29, 1999, at the North Asheville Community Center located at 27 Larchmont Road, beginning at 6:00 p.m. for staff to be present and answer any questions and the community meeting beginning at 7:00 p.m.

BOARDS & COMMISSIONS

It was the consensus of City Council to have the City Clerk prepare the proper paperwork to reappoint Sally Rhoades, Susan Dodson and Michael Hyatt to the Carriage Permit Advisory Board.

It was the consensus of City Council to have the City Clerk prepare the proper paperwork regarding the Citizens/Police Advisory Committee (1) to reappoint John Ingersoll (north) and Jimmy Hungerford (west); (2) to reappoint Lonnie Blair (east) due to Mr. Blair's request that the rules be waived and that he be appointed to serve another term and because there was no other applicant from the east interested in being appointed;

(3) to appoint Betty Budd (south).

It was the consensus of City Council to have the City Clerk prepare the proper paperwork regarding the Civic Center Commission to (1) reappoint Robert Swan and Richard Bowman and (2) arrange interviews for Denise Goodson, Clay Dover, Peter Crosa and John Leander.

It was the consensus of City Council to have the City Clerk prepare the proper paperwork to appoint Gene Bell to the Civil Service Board. Vice-Mayor Hay said that Dr. Nancy Kauffman was eligible for reappointment, however, Dr. Kauffman has confirmed that she will be leaving the Asheville area in one year and City Council felt it would be in their best interest to fill the position with someone who would be eligible to serve the full two year term.

It was the consensus of City Council to have the City Clerk prepare the proper paperwork regarding the Crime-Stoppers Board of Directors to (1) reappoint Tommy Sellers; and (2) appoint Josefina Matty and Leslie Hennessee.

Because under the new structure from the Buncombe County Drug Commission to the Mountain Center for Substance Abuse Prevention ("MCSAP"), the appointments are made by the MCSAP Board of Directors rather than by any local government, therefore, there is no need for the City to consider any appointment to this Board.

It was the consensus of City Council to have the City Clerk arrange interviews with Anne Watkins, Cindy Pomeroy, Yvette Logan and Celeste Fletcher for vacancies on the Film Board.

It was the consensus of City Council to have the City Clerk prepare the proper paperwork to reappoint Jody Kuhne and Fred Eggerton to the Historic Resources Commission.

Mayor Sitnick instructed the City Clerk to arrange for interviews with T. Bentley Leonard, Mary Robertson, Minnie Jones, Helen P. Branson, LaShawn Horton and Adam Fetterman for vacancies on the Housing Authority Board of Directors.

It was the consensus of City Council to have the City Clerk prepare the proper paperwork regarding the Recreation Board (1) to reappoint Charles Bullman; and (2) to arrange interviews with Susan Sparboe and Derek Weekley. Vice-Mayor Hay said that Ann Babcock (who is on the Tree/Greenway Commission) is interested in serving on the Recreation Board.

-9-

It was the consensus of City Council to have the City Clerk prepare the proper paperwork regarding the Tree/Greenway Commission (1) to reappoint Margaret Tinkler, Ann Babcock (subject to her not being appointed to the Recreation Board) and Jerry Bailey; and (2) to arrange interviews with Ginger Mahler, Leonard Pardue and Sofia Mannos.

It was the consensus of City Council to have the City Clerk prepare the proper paperwork to appoint Councilman Tommy Sellers to the Regional Water Authority of Asheville, Buncombe and Henderson. Mayor Sitnick noted for the record that she has received a letter from Ms. Hazel Fobes asking that City Council "weigh carefully the Council's interest in keeping informed about Authority business against the desirability of the Authority having members with expertise in water or related scientific and engineering matters."

ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 5:30 p.m.

CITY CLERK MAYOR
