

Tuesday - October 19, 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:

MSD Sewer Line Easement

Summary: The consideration of a resolution authorizing the Mayor to execute an easement to the Metropolitan Sewerage District for an existing sewer line which will be upgraded on property owned by the City of Asheville located off of Old County Home Road.

Staff has been working with Martin-McGill, a consultant for the Metropolitan Sewerage District, in coordinating improvements to be made on an existing sanitary sewer line and a permanent easement. The property, located off of Old County Home Road, was dedicated to the City for park use. It is currently undeveloped. The Parks and Recreation Department staff have agreed that the easement will in no way limit the potential use of the property for a park.

City staff recommends that the Mayor be authorized to execute easement documents for an existing sewer line to the Metropolitan Sewerage District in order to upgrade the sewer line located off of Old County Home Road (PIN No. 9628.08-79-7112).

Extension in Deadline for Public Access Channel Proposals

Summary: The consideration of a request from the non-profit organizations interested in submitting proposals to manage the public access channel for an extension in the deadline to submit these proposals.

On August 3, 1999, City staff requested permission to issue a Request for Proposal (RFP) soliciting non-profit organizations who were interested in managing the public access channel. The RFP was issued and a mandatory pre-bid conference was held on September 3, 1999, with all interested bidders. WCQS Radio and the League of Women Voters attended the pre-bid conference. Both organizations requested an extension in the deadline for the proposals. The deadline was originally set for October 15, 1999. The organizations have asked that the deadline be extended to January 28, 2000, so that they can explore the feasibility of forming partnerships to manage the public access channel.

Staff recommends that City Council grant an extension in the deadline to submit proposals to manage the public access channel until January 28, 2000.

Vice-Mayor Hay and Councilwoman Field both expressed their disappointment with the lack of response to the RFP and now with the requested extension, it would be several more months before the channel would be up and running.

It was the consensus of City Council to have Ms. Robin Westbrook, Public and Community Information Officer, submit monthly status reports to City Council on the progress of the two organizations possibly forming a partnership. -2-

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.

DOWNTOWN COMMISSION AMENDMENTS

Chair of the Downtown Commission Carol King said that this is the consideration of approving revised changes to the ordinance regarding the Downtown Commission.

Last winter, the Downtown Commission reported to you several recommendations that were the result of a technical visit conducted by National Main Street Center. One of the recommendations was to make changes to the ordinance regarding the Downtown Commission. It was felt the ordinance needed to be updated to reflect the changing dynamics in downtown. The recommendation was to shift the focus from revitalization to instead a focus on sustainable and continued development of downtown.

Since then, the Downtown Commission has spent considerable time recently discussing its future efforts as an organization chartered by the City Council. This discussion, along with the ongoing issue identification process involving the Mayor's Roundtable, various focus groups and the Center City Plan meetings, has resulted in a number of suggested revisions to the Downtown Commission's charter which is part of the City Code of Ordinances.

Ms. King then reviewed with Council the suggested changes which involved updating obsolete language, reprioritizing the purposes and powers, restructuring the membership of the Commission, as well as clarifying its role in areas such as promotion, design review and communication.

The Downtown Commission's current initiatives and successes include: Pack Square Task Force; Center City Plan; Downtown Design Review, Streetscape Committee College Street Design Charette, Support for Chamber location downtown; Parking Task Force; Building Code Chapter Nine extension and the National Main Street Technical Visit Recommendations.

The City Development staff of the Planning and Development Department recommend approving the revisions to the ordinance.

Vice-Mayor Hay, Chair of the City Council Boards/Commissions Committee, said that the Committee reviewed these amendments and recommended approval of the changes.

At the request of Councilwoman Field, and with the consensus of City Council, staff was directed to add "promote downtown living" as an objective to reach the Downtown Commission's goals.

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.

UDO AMENDMENT REVIEW

City Attorney Oast said that these Unified Development Ordinance amendments are being brought before City Council in order that staff may respond to questions Council may have prior to the public hearings, which are scheduled on Tuesday, November 9, 1999.

Ordinance to Amend the Unified Development Ordinance to revise the standards of wireless telecommunication facilities

Mr. Gerald Green, Senior Planner, said that this is the consideration of an ordinance amending the Unified Development Ordinance with regard to standards for the location of telecommunications facilities in response to issues identified by service providers at the time of adoption of the ordinance.

When the City Council adopted the Telecommunications Facilities Ordinance in January 1999, the service providers identified six areas of concern with the ordinance. City Council directed staff and the Planning and Zoning Commission to study the identified concerns and to propose appropriate revision to the ordinance, if needed. The Commission and staff spent over two months studying the identified issues, even hiring a telecommunications engineer to provide input on the question of tower height. Based upon this study, the Commission is recommending certain revisions to the ordinance. The revisions are presented with the following goals:

- Promote and facilitate co-location of facilities;
- Enable adequate service to be provided to Asheville's citizens and visitors; and
- Protect and preserve Asheville's scenic beauty.

One of the issues of concern identified by the service providers was the tower height limit of 100 feet. The service providers argued that this height limit would limit the ability to provide adequate service and/or result in a proliferation of towers. After studying this issue closely, the Planning and Zoning Commission is recommending the tower height limit remain at 100 feet. Revisions recommended by the Commission include:

- Permitting existing structures (including non-conforming ones) to be improved or rebuilt at the existing height to accommodate co-located equipment;
- Reducing the buffering requirement for co-located equipment;
- Providing City Council authority to reduce the required setback of a new structure from adjacent residential uses and zones;
- Revising the standards for consideration of electric transmission towers as locations for telecommunications equipment; and
- Reducing the maintenance/removal bond amount when the equipment is co-located in an existing equipment shelter.

Representatives of the service providers were involved in the development of the proposed amendments.

The Planning and Zoning Commission voted unanimously to recommend adoption of the proposed amendment. The staff of the Planning and Development Department also recommends adoption of the amendment.

Mr. Green noted that he met with representatives of some service providers earlier in the day and they expressed two concerns: the five year conditional use permit renewal and the tower height issue.

Mr. Larry McDevitt, attorney, asked that City Council delete the five year conditional use permit renewal requirement.

Mr. Gary Pennington, attorney, addressed the concern about limiting the tower heights to 100 feet.

It was the consensus of City Council to proceed with the recommended changes as presented by staff and approved by the Planning & Zoning Commission and instruct the Planning staff to investigate the concerns expressed by the service providers and report back to Council. -4-

Flexible Development Standards

Mr. Gerald Green, Senior Planner, said that this is the consideration of amending the Unified Development Ordinance which would create flexible development standards for setbacks, lot area and dimension, and number of parking spaces and would permit structures which comply with design review standards to be exempt from the setback, height, and building floor area requirements of the underlying zoning district.

The Planning and Zoning Commission, at their October 6, 1999, meeting, reviewed and recommended approval of an amendment to the Unified Development Ordinance which would establish Section 7-11-7 to create flexible development standards. These standards would, under certain conditions, permit the Planning and Development Director to relax the existing standards for setbacks, lot area and dimensions, and number of parking spaces. In addition, it would permit structures which comply with design review standards to be exempt from the setback, height, and building floor area requirements of the underlying zoning district. The Planning and Development Director could approve the following relaxations in the existing standards if certain conditions are met:

- Reduction in required setbacks up to 10% or 24 inches, whichever is greater;
- Up to a 25% reduction in the required number of parking spaces; and
- Up to a 10% reduction in lot area or dimension.

In addition, structures which have been reviewed by a qualified design review board and found to comply with the applicable design guidelines would be exempt from the setback, height, and building floor area requirements of the underlying zoning district.

The Asheville Planning and Zoning Commission voted 7-0 to recommend approval of the wording amendment. The Planning and Development staff recommends approval of the amendment.

Alternative Landscape Compliance

Ms. Stacy Merten, Urban Planner, said this is the consideration of an ordinance to allow the Planning and Development Director to review and approve requests for alternative compliance to the landscape requirements.

Currently the Unified Development Ordinance (UDO) requires that any request for alternative compliance to the landscaping requirement of Article 11, must be heard by the Technical Review Committee (TRC). Since the adoption of the UDO, all requests for alternative compliance meeting the criteria have been approved by the TRC based on the recommendation of staff and the representative from the Tree/Greenway Commission. Most of these requests have been for Level I projects which are typically reviewed in 5-10 days. Often these projects are unnecessarily delayed when seeking alternative compliance due to the current process of review by the TRC. Staff discussed this wording amendment with the TRC and all agreed that it would be beneficial to amend the UDO.

Planning & Development staff presented this wording amendment to the Planning & Zoning Commission at their October 6, 1999, work session and meeting. The Commission voted unanimously to recommend to City Council the adoption of this wording amendment.

Mayor Sitnick asked that the record show that City Council has received this information and instructs the

City Manager to proceed with the public hearings on November 9, 1999.

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UPDATE ON CITY'S ENVIRONMENTAL SUSTAINABILITY INITIATIVE

Waste Management Coordinator Karen Rankin said that the City of Asheville has partnered with the Land-of-Sky Regional Council's Waste Reduction Partners (WRP) and the NC Division of Pollution Prevention and Environmental Assistance (DPPEA) to examine and improve the environmental impact of the City's internal operations.

In 1998, Governor Hunt issued a challenge to State agencies to set an example of environmental stewardship in their internal operations. Each agency was charged to plan and select strategies to implement environmental sustainability initiatives into its specific responsibilities and operations. The objective was to make environmental stewardship an integral part of the way government operates.

With the state initiative as a model, the City of Asheville has begun implementation of a similar environmental sustainability program. This program has several goals:

1. Identify current City operations/projects that promote environmental stewardship.
2. Propose future projects that can be both environmentally desirable and economically feasible.
3. Involve all City employees and increase awareness of the environmental component within every employee's job.
4. Create permanent mechanisms and practices that make "environmental excellence" a part of the way the city conducts business.

To date, the WRP team consisting of retired engineers and scientists, has conducted assessments at Fleet Management, City Hall, and the Print Shop. Depending on the facility being examined, these assessments focus on water and energy use, solid waste generation, and emission production. The assessments conducted on City facilities have revealed several opportunities for improving efficiency and reducing waste.

In addition to revealing opportunities for improvement, the team discovered many ways the City is already serving as a model in the area of environmental sustainability. Programs are in place for recycling items ranging from office paper to scrap metal. The use of recycled paper is prevalent and hazardous chemicals are treated and disposed of properly. The team hopes to increase awareness and participation in these current programs through employee education.

With potential opportunities coming forth through the assessments, the need to track impacts becomes obvious. To that end, the team has begun to collect data that could be used as benchmarks for the City's sustainability initiative. Information on the amount of power and water used in City buildings, the amount of paper purchased, and the number of gallons of gasoline used by City vehicles can be collected and compared annually to reveal improvements or areas in need of attention. Collection and analysis of this data is ongoing.

Council was very supportive of the efforts along these lines.

Councilwoman Field supported a facilities management program along with working towards a paperless government.

Mayor Sitnick hoped that the City can find some alternatives to the spray that they use on weeds in curbs and sidewalks, both to keep the toxins out of the ground water and to keep employee exposure down.

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Ms. Rankin said that work on the sustainability initiative will continue over the next several months and a final report with recommended action steps will be provided to Council upon completion.

UPDATE ON TRAFFIC ON ST. DUNSTAN'S ROAD

City Engineer Cathy Ball reported to City Council with updated traffic count on the streets in the St. Dunstan's Road neighborhood.

On February 9, 1998, staff requested that City Council pass a resolution in favor of leaving the connection between St. Dunstan's Road and McDowell Street open. Council did so largely because closing it would delay emergency response to the area. City Council asked staff to update them on the status of the traffic, particularly cut-through traffic, once the road was opened.

On February 5, 1999, and February 6, 1999, traffic counts were taken. These counts were taken prior to the opening of St. Dunstan's Road to McDowell Street. Traffic counts were taken on June 25, 1999, through June 28, 1999, after St. Dunstan's Road and McDowell Street were connected.

According to the before and after traffic counts some conclusions can be made:

1. Traffic volumes did not increase significantly in any areas where counts were taken (except near McDowell Street where "before" counts were zero).
2. It appears that on weekdays, approximately 100 cars per day (30%) of the traffic on Grindstaff Road moved (back) to St. Dunstan's Road once the road was reopened.
3. Based on the number of homes on St. Dunstan's Road and Grindstaff Road, there is some cut-through traffic on both St. Dunstan's Road and Grindstaff Road. The number of houses on these two streets is about 30, which would generate approximately 300 one-way trips per weekday. A rough estimation of cut-through trips would be 300 cut-through trips. This means that about 2/3 of the traffic on these two streets are cut-through trips.
4. The highest traffic volume recorded in the neighborhood was less than 500 vehicles per day, which is a relatively low number for a local service residential street.

Staff recommends leaving this street open to allow better access to the neighborhood.

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.

REQUIREMENT FOR OWNERS TO CLEAN UP AFTER ANIMALS

City Attorney Bob Oast said that at the request of Mayor Sitnick, he has prepared a draft ordinance to require pet owners to clean up after their pets.

The ordinance requires pet owners to clean up after their pets, if the pets defecate on public or quasi-public property or right-of-way, or on private property other than that of the pet owner. The ordinance also requires appropriate disposal of any collected fecal matter.

There is already an ordinance provision, Section 3-9(6) in the Asheville City Code, that provides that animal defecation on the property of another may be a nuisance, but this requires a qualitative judgment as to what constitutes a nuisance, and only applies to private property.

This ordinance, like other City animal control ordinances, may be enforced civilly by animal control officers or by a designated agency. -7-

If City Council wishes to require owners to clean up after their pets, adoption of the ordinance is recommended.

Discussion surrounded how the ordinance will be enforced and who will enforce it.

Upon inquiry of Vice-Mayor Hay and upon consensus of City Council, City Attorney Oast said that he would amend the ordinance to include language that if property owners don't mind animals defecating on their private property, then there would be no violation of the ordinance. He noted that he would also amend the language that violation of the ordinance would be a civil penalty.

Councilman Cobb spoke in support of the ordinance and felt it should be enforced city-wide.

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.

REPORTS ON BOARDS/COMMISSIONS

Councilman Sellers reported that at the Regional Water Authority meeting, a request was brought up by Buncombe County Chairman Tom Sobol (and Regional Water Authority member), to amend the Regional Water Authority's by-laws as follows: "All members of the Authority shall serve 3-year terms. No member may serve more than 2 consecutive 3-year terms, but this restriction shall not apply to Authority members who are members of the Buncombe or Henderson County Boards of Commissioners or the Asheville City Council, so long as they remain members of said Boards or Council." City Council agreed that this amendment to the by-laws was appropriate.

City Manager Westbrook said that the Water Authority will be presenting this recommendation for amendment laws to the City Council, Buncombe County Commissioners and Henderson County Commissioners.

OTHER BUSINESS

City Manager Westbrook gave a brief factual report on the unplayable ice conditions, due to an equipment malfunction, that led to a rescheduling in the Asheville Smoke's hockey game on October 15, 1999. He said the cooling tower, an important piece of equipment used in the formation of the ice, malfunctioned during the set-up of the rink causing the ice to freeze more slowly than anticipated.

After Vice-Mayor Hay noted that the City needs to begin to do something with the Civic Center in order to

meet the massive community need, Mayor Sitnick said that she would not feel comfortable with imposing the entire burden of responsibility on the Asheville taxpayers.

It was the consensus of City Council to refer the request from the Merchants Action Coalition to have City Council review the possibility of allowing "sandwich board/A-frame" signs on sidewalks within the Central Business District to the Asheville Downtown Commission for their review and recommendation back to City Council.

CLOSED SESSION

At 5:45 p.m., Councilman Cloninger moved to go into closed session 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 -8-

are: City of Asheville, Elijah Jones t/a Jones Convenience Store, NC Alcoholic Beverage Control Commission - statutory authorization is G.S. 143-318.11 (a) (3). This motion was seconded by Councilman Sellers and carried unanimously.

At 5:57 p.m., Councilman Sellers moved to come out of closed session. This motion was seconded by Vice-Mayor Hay and carried unanimously.

ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 5:57 p.m.

CITY CLERK MAYOR
