

Tuesday - November 16, 1999 - 3:00 p.m.

Worksession

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor Edward C. Hay Jr.; Councilman M. Charles Cloninger; 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: Councilman H. Earl Cobb

**CONSENT:**

**Demolition of 119 Springside Road**

Summary: This is the consideration of an ordinance directing the Director of the Building Safety Department to demolish and remove the structure located at 119 Springside Road.

This structure is located in Central Asheville with an address of 119 Springside Road. Over the years, the Building Safety Department has received numerous complaints from neighboring property owners. The structure is a one-story wooden frame house that has been extensively neglected over the years resulting in substantial deterioration and dilapidation. The Code Enforcement Officer's efforts to eliminate this nuisance has been frustrated by the inability to locate the current owner and a lack of knowledge of the whereabouts of the record owner. After requesting assistance from the Legal staff in the fall of 1999 and receiving same in October of 1999, notice to the Owner was published and a hearing was conducted before the Director Designee on October 21, 1999.

Subsequent to the October 21, 1999, hearing, the Housing Code Coordinator was contacted by the Owner, Nancy E. M. Harmon. Ms. Harmon informed the Housing Code Coordinator that she was in complete agreement that the structure located at 119 Springside Road should be demolished. Ms. Harmon came to the Complaint Notice of Hearing and signed the consent to demolish and waiver of notice. Ms. Harmon stated that she was not financially able to cause the structure to be demolished and removed. Ms. Harmon stated that she had no problem with the City immediately proceeding with the demolition of the structure. Ms. Harmon, who is a widow, has executed appropriate forms to allow the City to dispense with all further procedures required by law to protect the interest of the property owners. Ms. Harmon desires for the City to immediately proceed with the demolition and removal of the structure and to place a lien against the property for the cost of the demolition.

**General information:**

- Fair market value of house is \$55,300.00 (disputed).
- Value to rebuild the house only is \$87,594.00.
- Land value without the house is \$13,100.00.
- Estimated cost to demolish is \$4,000.00.

Funds to demolish and remove the structure are available in the Building Safety Department.

The Building Safety Director recommends adoption of an ordinance directing the demolition of 119 Springside Road.

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## **Municipal Agreement for Inspection of Bridges**

Summary: The consideration of a resolution authorizing the Mayor to enter into a municipal agreement with the N.C. Department of Transportation (NC DOT) on a bi-annual basis for the reinspection of bridges on the Municipal Street System.

In 1983 the Federal Highway Administration developed the Federal Off-System Bridge Replacement Program. Since the establishment of the program, the City has replaced 17 bridges through the program. The program is funded 80% through federal funds and 20% through City funds and administered by the NC DOT. To remain eligible for replacement funds and avoid penalties, it is required that all public bridges are inspected every two years. The NC DOT offers three options for meeting the bi-annual inspection requirements. One is to do the inspection with City forces; two is for the City to hire a consultant to do the inspections; three is for the City to allow the Department of Transportation to do the inspections through a qualified private engineering firm.

Since 1983, the City has elected to execute an agreement with NC DOT to accomplish the required inspection through their personnel or engineering consultants. This process allows high numbers of bridges to be inspected under one contract or operation, and therefore, results in minimum inspection cost per bridge. NC DOT representatives anticipate the inspection costs to be \$2,000 per bridge for the upcoming inspection. The City has 25 bridges in need of inspection this year which would bring the cost to \$50,000. The City's share of 20% is \$10,000. Funds for the City's share are budgeted in the Public Work's Bridge Maintenance line item.

The Public Works Department staff recommends adoption of the resolution authorizing the Mayor to execute a municipal agreement with the NC DOT for inspection of bridges on the Municipal Street System.

## **Grant Application to State for Funds to Purchase Van for Transporting Older Adults, etc., to Parks and Recreation Activities**

Summary: The consideration of a resolution authorizing the City Manager to apply for and enter into an agreement with the N. C. Department of Health and Human Services to fund the purchase of a 15 passenger van.

Funds are available through the N. C. Department of Health and Human Services in the Human Services Grant Program to benefit older adults, adults with disabilities, at-risk children, and youth and families. The City of Asheville wishes to apply for funding to purchase a 15 passenger van to assist in transporting participants in all four categories to and from recreation program sites.

The lack of transportation is one of the primary barriers that prevent most people in the category groups from benefiting from the services of Asheville Parks and Recreation. The van will be used in conjunction with existing vans and other transportation services to assist in providing transportation to approximately 1180 participants per week from all four categories, a 64% increase over the current level of service. Existing staff holding a current North Carolina license will operate the vehicle.

The grant will provide 100% of the project costs, with no match required by the City of Asheville.

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The Parks and Recreation Department recommends the City of Asheville to apply for the grant funds through the N. C. Department of Health and Human Services in the Human Services Grant Program to purchase a 15 passenger van.

## **Budget Amendment re: Legal Services**

Summary: The consideration of a budget amendment to increase appropriated fund balance by \$45,000 to cover outside legal counsel expenses including the billboard defense lawsuit.

For Fiscal Year 1999-2000, the Legal Services Division budget for general outside legal counsel was \$24,000. There was no separate appropriation established for the billboard lawsuit defense.

During the current fiscal year, the Legal Services Division paid approximately \$16,500 to the Charlotte law firm of Horack, Talley, Pharr & Lowndes for billboard lawsuit expenses using funds from its general outside legal counsel budget. In addition, Legal Services has paid approximately \$4,031 in general outside legal counsel expenses. Approximately \$3,468 remains in the outside legal counsel budget.

Currently there is a payment due in the amount of \$19,500 for the billboard defense. The Charlotte law firm anticipates an additional \$6,000 in billboard expenses for the remainder of the year. To cover the remaining billboard expenses, Legal Services is requesting an appropriation in the amount of \$45,000 from fund balance. The balance left from this appropriation will be used to replenish the general outside counsel budget for the remainder of the year.

City staff recommends City Council appropriate \$45,000 from fund balance to cover remaining billboard expenses and the replenish the general outside legal counsel budget.

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.

## **REGIONAL WATER AUTHORITY'S SEMI-ANNUAL REPORT**

Water Resources Director Tom Frederick summarized the of the activities of the Water Resources Department and the Regional Water Authority for Fiscal Year 1998-99. He reported on several of their programs within the last year, including (1) activities and accomplishments in demand management corresponding to the drought within the past year; (2) update on the Pipeline Replacement Program and the Mills River Water Treatment Plant construction; (3) development of a Critical Needs List for the Water Distribution System; (4) successful award of over \$3.5 million in grants for both water distribution system improvements and Mills River watershed protection; (5) performance of the divisions of the Department; and (6) budget highlights from Fiscal Year 1998-99.

The annual report has traditionally served as one of the two semi-annual reports from the Water Authority to the City Council as prescribed by Article IV, Section D of the Water Agreement. A memorandum to City Council is planned in the spring and will serve as the second report.

Mr. Frederick responded to several questions and comments raised by City Council, some being, but are not limited to: why water rates are raised and what that additional revenue is used for, how much of the 21 million gallons per day is coming from the new Mills River Plant, what is the status of the conservation program, will there be funds available in the near future to -4-

improve the facility of South Charlotte Street, are discussions underway with the Town of Woodfin, how do our water rates compare with other communities not in North Carolina but of similar size, and what is the percentage of the revenues from residential and non-residential users.

Discussion surrounded the legislation which requires the City pay for the relocation of water lines for NC DOT projects. Mr. Frederick noted that our present obligation this year is \$259,000 and next year it is anticipated that the costs will be over \$1 Million.

Mr. Frederick said that because of the result of the successful water conservation campaign, based on data they have observed, they do not project that they will realize the revenues in the current year that were assumed when they adopted a \$20.6 million budget. They are now projecting their revenues to be just over \$19 million this year.

City Manger Westbrook said that the City really needs to sell water. He said that we have had some plant closings in the textile and related industries, as part of a national trend, and they will be replaced with knowledge based industry that will probably use less water.

Councilman Cloninger felt as part of the conservation evaluation, the Water Authority should look again at a rate structure of major water users vs. residential users.

### **FINANCING PURCHASE OF A FIRE TRUCK AND TRASH CANS**

Finance Director Bill Schaefer said that this is the consideration of a resolution authorizing the installment financing of one fire truck and 4,000 trash cans and the associated budget revisions.

The City of Asheville Capital Improvement Budget includes authorization in FY 99/00 for the lease purchase of a pumper fire truck (\$195,574.00) and 4,000 trash cans (\$163,656.25) which are to be used in conjunction with two specialized auto-reach sanitation trucks in a pilot program.

The Finance Department sought proposals from 31 firms to finance the purchase of the pumper and trash cans. Proposals were received from twelve firms, the best of which was submitted by Crestar Leasing Corporation - - 4.951% interest for ten years (amortization of the trash cans portion will extend over a five-year period while the pumper will extend to ten years).

The proposed resolution authorizes an installment purchase contract between the City of Asheville and Crestar Leasing Corporation for the purchase of the pumper and trash cans and authorizes the City Manager to execute and deliver any and all necessary documents.

Financing for the two auto-reach sanitation trucks in the pilot program, along with a Fire Department severe service vehicle, in the amount of \$495,000.00, was awarded to Wachovia Leasing Corp. in December 1998. Proceeds from that financing have been held in escrow pending delivery of the vehicles. Since payment for the vehicles is not made until delivery to and acceptance by the City, the \$495,000 remained in fund balance as of the end of FY '99. Due to the delay in delivery, it is now necessary to adopt a FY 1999-2000 budget amendment which appropriates lease purchase proceeds currently held in fund balance in order to complete the purchase of the auto-reach sanitation trucks and the severe service vehicle. Delivery of the vehicles is expected within the next forty-five days.

City staff recommends City Council adopt the resolution authorizing the installment financing of one fire truck and 4,000 trash cans and the associated budget revisions.

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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 this item on the next formal City Council agenda.

### **HAW CREEK VOLUNTEER FIRE DEPARTMENT AMENDED AGREEMENT**

Fire Chief John Rukavina said that this is the consideration of a resolution authorizing the City Manager to enter into an amended agreement with the Haw Creek Volunteer Fire Department, Inc. for a one-year period.

In 1988, the City of Asheville and the Haw Creek Volunteer Fire Department, Inc. entered into a five-year fire

protection agreement in connection with the City's annexation of part of the Haw Creek Fire Department's fire district, pursuant to N.C.G.S. 160A-49.1. In 1991, that contract was amended (again, in connection with an annexation). In December of 1997, the contract was extended for a two-year period; this extension was not required by N.C.G.S. 160A-49.1, but the City Council and Haw Creek's Board of Directors agreed that there were benefits to extending the contract, and providing limited continuing direct payments.

City staff and Haw Creek representatives have been working to negotiate a continuing agreement, because the Haw Creek Volunteer Fire Department depends on continuing City response to the Chunn's Cove area for fire insurance rating (and, thus, fire tax) credits. The recommended contract amendments include this continuing service, but end direct payments to Haw Creek.

The Fire Chief recommends City Council adoption of a resolution authorizing the City Manager to enter into the amended agreement with the Haw Creek Volunteer Fire Department, Inc. for a one-year period.

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.

### **ABC INVESTIGATION - 55 SOUTH MARKET STREET**

City Attorney Oast said that this is the consideration of a resolution requesting the N.C. Alcoholic Beverage Control Commission to investigate alcohol sales at 55 South Market Street, known as Jones Convenience Store.

In July of this year, the North Carolina General Assembly adopted Session Law 1999-312, amending G.S. 18B-309 of the ABC law. The new law was effective on October 1. The amendment provides that certain types of businesses that hold ABC permits and are located in designated urban redevelopment areas may not have alcoholic beverages sales in excess of 50% of the total annual sales of the business. The types of businesses covered by this provision include retail businesses as defined in G.S. 18B-1000(7), which includes the convenience store at 55 South Market. The new law further provides that the ABC Commission "shall suspend or revoke a permit issued by it if the permittee is in violation of [the new law]."

In order to invoke this investigation or audit by the ABC Commission, the law requires that the City Council of the affected municipality request it.

If Council wishes request an audit of Jones Convenience Store at 55 South Market Street, adoption of the resolution is recommended.

Vice-Mayor Hay was concerned if would be limiting the other kinds of new businesses that might want to relocate in the area. City Attorney Oast said that what the law addresses is establishments that are essentially off-premise types of businesses which the convenience store -6-

is. To the extent that an on-premise establishments were to locate in the redevelopment area and their primary business is dispensing alcoholic beverages, then he didn't think this requirement would affect them. This just applies to certain kinds of retail establishment.

Some discussion occurred about whether the City should request an audit of any business in that small redevelopment area. City Attorney Oast said that he thought the convenience store is the only off-premise establishment in the redevelopment area.

At the request of Councilman Cloninger, City Attorney Oast said that he would find out how many ABC permits have been issued in that redevelopment area.

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**

Vice-Mayor Hay gave an update on the vacancies on the Downtown Commission, the Board of Adjustment and the Transit Commission.

Councilwoman Field requested to be the liaison to the newly created Public Art Board.

### **OTHER ITEMS**

Mayor Sitnick stated that City Council is dedicated and committed to finding remedies for the aging Civic Center. She felt that we should reach out to all who use the Civic Center, including Buncombe County, tourists, regional visitors, etc. to help pay for the costs to fix the Civic Center and not rely on the Asheville taxpayers to pay for it all. She urged the fans to continue their energetic support of the Asheville Smoke team and the management of Asheville Smoke.

Vice-Mayor Hay stressed the serious need to proceed with plans regarding the Civic Center. A feasibility report with regard to the Civic Center should be forthcoming to City Council in the very near future.

Councilwoman Field asked for an estimate and breakdown of costs on what the total would be to fix the Civic Center. She asked that this information be discussed at the upcoming City Council Retreat.

### **ADJOURNMENT**

Mayor Sitnick adjourned the meeting at 4:58 p.m.

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CITY CLERK MAYOR

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