

Tuesday - May 2, 2000 - 3:00 p.m.

Worksession

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Brian L. Peterson; Councilwoman Terry M. Whitmire; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilwoman Barbara Field

CONSENT:

Disposal of City-Owned Property

Summary: The consideration of a resolution authorizing the Purchasing Director to dispose of City-owned personal property by sealed bid.

Subject to Council's approval, the resolution authorizes the City's Purchasing Director to dispose of a metal storage building and seven sections of bleachers that have been declared surplus by the Parks and Recreation Department. The surplus is located in the old Asheville Motor Speedway and will be sold on an "as is, where is" basis pursuant to N. C. Gen. Stat. sec. 160A-266.

City staff requests City Council's approval of the resolution.

Financial Feasibility Study

Summary: The consideration of a resolution confirming a resolution of the Regional Water Authority to award a contract to Raftelis Financial Consulting (RFC) to perform a Financial Feasibility Study.

In 1995, RFC prepared a Financial Feasibility Report that was included in the Official Statement for the City of Asheville's Water System Revenue Bonds, Series 1996, which were issued to fund the Mills River Expansion Program. Since the issuance of the 1996 revenue bonds, over \$20 million of additional capital improvements have been identified and will become necessary over the next five years.

In order to finance \$20 million in capital improvements, the Authority anticipates that the City of Asheville will need to issue revenue bonds in February or March of 2001. The bonds will be similar to those issued in 1996. As with the 1996 bond issue, a Financial Feasibility Report will be required that would include a five-year financial plan and an analysis of proposed rate increases. More significantly, the Report will demonstrate the ability of the Authority, through estimated debt service coverage, to pay off the bonds in the future. This report will be included in the Official Statement of the bond issue.

Development of a Financial Feasibility Report will involve the following tasks:

- Review of background information including financial, accounting, operations, legal, regulatory, and billing information.
- Development of the financial plan including projections of demand, revenues, operation and maintenance expenses, and capital costs. The plan will also detail the debt service schedule and coverage requirements for financing the proposed bond issue.

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- Preparation of draft Financial Feasibility Report and presentation to the Authority, the City, the

Authority's engineering consultants, investment bankers, bond counsel, and the Local Government Commission.

- Meeting with the LGC and other members of the financing team to discuss the Financial Feasibility Report. This will include three sets of modifications to the financial information and the report based on feedback.
- Revisions and finalization of the report, after obtaining input from the LGC and other members of the financing team. The final report will be included in the Official Statement of the bond issue.

Mr. Raftelis, of RFC, has served over 300 government utilities in his 25-year career. In particular, he has extensive experience in performing financial feasibility evaluations for various municipalities across the country. He has previously assisted the Authority in the water cost of service and rate study performed in 1995 and the financial feasibility analysis performed in 1996. He is very familiar with our organization and the political atmosphere of this community. Given RFC's prior work on the 1996 Bond Issue and his recent assistance to review the Authority's five-year financial plan, he was able to reduce fees substantially below the amount he billed for the 1996 feasibility study.

In order to meet the schedule to issue bonds in early 2001, it will be necessary to initiate the Financial Feasibility Study no later than June 1, 2000. The total cost is estimated not to exceed \$44,989. Funding has been identified and is available in the 35 Fund.

The Regional Water Authority approved the award of a contract with RFC to conduct a Financial Feasibility Study which is required in order to issue bonds in early 2001, and staff recommends City Council's concurrence with the Authority's action.

Budget Amendment for Non-Resident Fees

Summary: The consideration of a budget amendment, in the amount of \$25,000, to appropriate expenditures for non-resident fees which have been collected for various Parks and Recreation programs.

Several years ago, City Council approved collecting non-resident fees for various Parks and Recreation services. These fees include services for classes, adult and youth sports, and various clubs that use Parks and Recreation facilities. The Parks and Recreation Department wishes to establish expenditure line items and appropriation in order to spend funds which have been collected. The revenue that has been collected is intended to be used for various capital projects of the department. It is the intent of staff to use these funds in conjunction with various public/private endeavors and other activities or improvements that will benefit the community.

The Parks and Recreation Department requests City Council approve appropriating funding from revenue collected from non-resident fees totaling \$25,000.

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.

RESOLUTION NO. 00-77 – RESOLUTION OF INTENT TO ESTABLISH AND MAINTAIN AN INDEPENDENT LOCAL AIR POLLUTION CONTROL AGENCY

Mayor Sitnick submitted to City Council a report on the future of the Western North Carolina Regional Air Pollution Control Agency and Board. The report contained the purpose of the Mayor's Ad Hoc Committee ("Committee"), the law, a brief history of the WNC Regional Air

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Pollution Control Agency and Board, statistics, contacts, Committee minutes, Board and Employee Interim Policy, industry letters, minutes of worksession minutes regarding County Manager Wanda Greene's request and request withdrawal, and opinions from the Board, State and Agency.

In summary, on behalf of the Committee, the WNC Regional Air Pollution Control Agency should be an independent agency with an autonomous board by an interlocal agreement with the possibility of expanding the interlocal agreement to include other municipalities and counties.

A brief discussion surrounded expanding the Board to add representation of other municipalities or counties if the interlocal agreement is expanded.

Councilman Worley explained why, in the future, the City Council's participation in the interlocal agreement may be an impediment if our goal is for the agency to be regional.

City Attorney Oast read a resolution of intent to establish and maintain an independent local air pollution control agency. In said resolution, he read that (1) The City shall, through appropriate channels, pursue the establishment of an independent air pollution control agency, with an autonomous board, by interlocal agreement pursuant to N. C. Gen. Stat. sec. 143-215.112, with participation by Buncombe County and other local governments in the area as appropriate; and (2) The Mayor and City Manager are hereby each authorized to prepare and execute such documents and take such other action as necessary to give effect to this resolution.

Vice-Mayor Cloninger moved to waive the rules and take formal action at this meeting with regard to this matter. This motion was seconded by Councilwoman Whitmire and carried unanimously.

Vice-Mayor Cloninger moved to adopt Resolution No. 00-77. This motion was seconded by Councilwoman Whitmire and carried unanimously.

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FISCAL YEAR 2000/2001 BUDGET REVIEW SCHEDULE

Budget Director Ben Durant said that this is the consideration of amending the Fiscal Year 2000-01 Budget Schedule.

City Council has requested a special budget worksession to discuss various funding options for affordable housing. Due to the consideration of this worksession, it is necessary to revise the previously adopted budget schedule.

Staff recommends Council establish a date for a special housing worksession and adopt revised a budget schedule.

After discussion, it was the consensus of City Council to hold (1) a budget worksession on May 18, 2000, at 1:00 p.m. in the First Floor North Conference Room, City Hall Building; (2) affordable housing worksession on May 30, 2000, at 4:00 p.m. in the First Floor North Conference Room, City Hall Building; (3) community meeting on May 30, 2000, at 7:00 p.m. at the Murphy-Oakley Community Center at 749 Fairview Road, Asheville, N.C.; (4) regular worksession on June 6, 2000, at 3:00 p.m. in the First Floor North Conference Room; (5) public hearing on the 2000-01 Annual Operating Budget and Capital Improvements Program on June 6,

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2000, at 5:00 p.m. in the Second Floor Council Chamber, City Hall Building; and (6) adoption of the 2000-01 Annual Operating Budget and Capital Improvements Program on June 13, 2000, at 5:00 p.m. in the Second Floor Council Chamber, City Hall Building.

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.

LEGISLATIVE PACKAGE

City Attorney Oast said that this is the consideration of submissions to the legislative delegation, and request for legislative action during 2000 "short" session of the North Carolina General Assembly.

The 2000 session of the North Carolina General Assembly begins on May 8, 2000, and local bills must be submitted to the bill drafting office by May 17, 2000. The deadline for filing local bills is May 24, 2000. Because this is a "short" session, our legislators are requested to certify that local bills introduced by them are not controversial, and the City typically requests only routine amendments, if it requests anything.

At its retreat in January, City Council heard a presentation and expressed interest in submitting bills to address several discrepancies between our Charter and State law. These were:

1. Amend Section 8 of the Chapter regarding notice of Council meetings. Currently, the Charter provides that special meetings may be called by the clerk upon request of (i) the mayor; (ii) the city manager; or (iii) any three members of city council. Section 8 also provides for council members to receive 12 hours' notice of council meetings.

The general law provides otherwise. G.S. 160A-71 provides that a special meeting may be called by the mayor, mayor pro tem (or vice mayor), and for council members to receive 6 hours' notice of special meetings.

There are also some discrepancies between the general law and the charter regarding public notification of special meetings. The general law requires broader notice, which is what we do.

SUGGESTION: Delete the part of Section 8 that addresses Special Meetings, at least as to notification procedures. If this is done, we will be bound by State law, and there will be no confusion with conflicting Charter provisions. The one part of the Charter provision that Council may desire to retain is the provision setting forth who may call a special meeting.

2. Sec. 22 of the "Related Laws" (non-charter local legislation) provides that the City may select the place or places to which the City's garbage may be removed, and the manner of its removal. This provision was enacted in 1923.

The general law provides in G.S. 160A-311 and 312, that municipalities may operate solid waste collection and disposal systems and facilities.

SUGGESTION: Delete Section 22 of the Related Laws as duplicative of the general law.

3. Add the City of Asheville to the list of cities to which G.S. 160A-300.1 applies.

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This law, which was originally adopted in 1997 with application to Fayetteville and Charlotte only, authorizes

the use of traffic control photographic devices as enforcement tools in connection with traffic control devices. Essentially, the law allows the use of cameras to catch vehicles that run stoplights. In 1999, it was expanded to include other cities.

The law authorizes a civil (as opposed to criminal) penalty of \$50.00, and does not result in points against licenser insurance. The law requires the posting of adequate warnings that such a system is in use, and also provides that the citation must state specifically how the citation may be challenged. The civil penalty may only be imposed where no criminal violation is noted.

This was not discussed at the January retreat, but has been requested by the Police Department as a way to address and strengthen traffic control at some problem intersections.

SUGGESTION: Request that the City of Asheville be added to the list of municipalities authorized to use cameras to enforce the law at traffic lights. The only potential problem with this request is that it may be viewed as controversial and ineligible for consideration at this session.

4. Non-betterment Relocation Costs. This bill, which was introduced last session but did not pass either house, is nevertheless eligible for consideration in this short session because it affects the budget. Our legislators are working hard for us on this, and we will continue to monitor its progress.

If City Council wishes to submit these requests to our legislative delegation, approval of 1, 2 and 3 above is requested.

Discussion surrounded if City Council really wanted to proceed with the use of traffic control photographic devices as enforcement tools in connection with traffic control devices. City Attorney Oast again noted that this item may be viewed as controversial and ineligible for consideration at this Short Session. He said that he would gather information from other cities and see what their experience has been with this law.

It was the consensus of City Council to submit Items 1 and 2 described above to our legislative delegation, noting that Item 4 is on-going.

NEXT COMMUNITY MEETING

It was the consensus of City Council to held the May 30, 2000, community meeting on May 30, 2000, at 7:00 p.m. at the Murphy-Oakley Community Center at 749 Fairview Road, Asheville, N.C.

MISCELLANEOUS ITEMS

Vice-Mayor Cloninger noted that the Public Access Channel Commission will be approaching City Council to ask for a disbursement from the Contingency Fund for travel expenses, which he would recommend. Councilman Peterson stated that City Council needed to do what they can to support this Commission.

Vice-Mayor Cloninger reviewed with Council the upcoming board/commission appointment process.

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City Manager Westbrook updated City Council on the status of the revisions to the Civic Center Commission ordinance.

Upon inquiry of Mayor Sitnick, City Attorney Oast said that he would be bringing a revised noise ordinance to City Council for consideration later this month.

CLOSED SESSION

At 4:25 p.m., Councilwoman Whitmire moved to go into closed session in order to (1)

To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including lawsuits involving the following parties: Jennifer Jacobs, Meredith Hunt, Helen Gordon, Life Advocates, Inc., Leanna F. Young, Janet Rebecca Crisp, Paul Evington, Scott Alan Gaddy, Rock S. Edwards, William R. Annarino, Leroy Lunsford, City of Asheville, Leona Young, Boyd McKaskill, John Long, and Darryl Fisher - statutory authorization is contained in G.S. 143-318.11(a)(3); and (2) To prevent disclosure of information that is privileged or confidential pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that renders the information to be discussed confidential is N. C. Gen. Stat. 160A-168, the Personnel Privacy Act. The statutory authorization is contained in G.S. 143-318.11(a)(1). This motion was seconded by Councilman Worley and carried unanimously.

Councilman Hay asked if he should be excused from the closed session since he has a conflict of interest with one person named. City Attorney Oast said the point of the closed session is to update Council on the status on the lawsuit, not to discuss any strategies with regard to the lawsuit.

At 5:13 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Councilwoman Whitmire and carried unanimously.

ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 5:13 p.m.

CITY CLERK MAYOR
