

Tuesday – April 3, 2001 - 3:00 p.m.

Worksession

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

Absent: Vice-Mayor M. Charles Cloninger

**CONSENT:**

**Police Department Equipment Storage**

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the U.S. Treasury Department, Bureau of Alcohol, Tobacco and Firearms regarding the use of an outdoor storage magazine.

The Asheville Police Department currently has a need to store equipment utilized by the Asheville Police Department Hazardous Device Team. The Bureau of Alcohol, Tobacco and Firearms (BATF) has designated funds to purchase a storage facility for our use at no cost to the City of Asheville. In return for the use of the storage facility, the City of Asheville must find a location to place the storage facility and allow the BATF access to one half of the storage facility.

A storage site has been identified and approved for facility placement which met federally mandated environmental guidelines, which include:

- Limited access to the facility
- Placement distances from inhabited areas
- Safety precautions

The BATF and the Asheville Police Department Hazardous Devices Team will utilize this storage facility.

The Asheville Police Department recommends that City Council authorize the City Manager to execute an agreement with the Bureau of Alcohol, Tobacco and Firearms to acquire and utilize this storage facility.

Upon inquiry of Councilwoman Bellamy, Police Chief Will Annarino described the types of things that would be stored in this facility.

**Budget Amendment and Contract re: Urban Trail Station 2: Crossroads**

Summary: The consideration of a budget amendment, in the amount of \$59,000, for a grant appropriation for the Urban Trail's Station 2: "Crossroads" and a resolution authorizing the City Manager to enter into a contract with Grace Hanson Corporation and Knox Galleries to develop bronze sculptures of two wild turkeys, one sow pig and one piglet.

The Asheville Urban Trail Committee and the Parks and Recreation Department are working in partnership to complete construction of the Urban Trail. Station 2: "Crossroads" is one of the final stations leading to the completion of the Trail. "Crossroads" is located in front of the Vance Monument in downtown Asheville and signifies Asheville's early history of the Native American footpath of the Cherokee that later became the Buncombe Turnpike used by farmers to herd livestock on its way to southern markets.

The City of Asheville applied for a grant in December 2000 to the Janirve Foundation. The grant was recently awarded in the amount of \$38,300. We have also received \$15,000 in private donations and pledges for the remaining \$5,700 balance. All funds are designated for cost associated with developing the bronze sculptures of turkeys and pigs at Station 2: "Crossroads".

The Urban Trail Committee drafted the turkey and pig concept for Crossroads, and reviewed works by bronze sculpture artists. Artist Grace Hanson through Knox Galleries was selected to develop life size, bronze sculptures of two wild turkeys, one sow pig and one piglet at a price of \$36,500. The artist will commence work within five days of executing the contract agreement, and the work will be complete no later than December 2001.

The Parks and Recreation Department is responsible for the management and development of the Urban Trail along with the Urban Trail Committee.

The Parks and Recreation Department recommends City Council approve the budget amendment and resolution.

**Downtown Milling Contract**

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Asphalt Unlimited of Asheville, N.C. to mill streets located in the Central Business District.

Street milling is the removal of old surface material to reduce street elevation and allow new material to match existing infrastructure, such as curbs and storm drains.

The City is in need of a contractor to provide milling services for streets in the downtown area. In accordance with N.C. Gen. Stat. sec. 143-131, informal bids for paving and resurfacing services were solicited and three responses were received. The bidders are listed below:

Company	MB Part	Drug Free	Bond	Bid
Asphalt Unlimited Company	100%	Yes	Yes	\$2.50 a square yard
Slurry Pavers Inc.	No Bid	No Bid	No Bid	No Bid
Apac No Bid No Bid No Bid No Bid				

Funding for this project has already been allocated in the Public Works Department's Capital Improvement budget.

The Public Works Department staff recommends City Council adopt the resolution authorizing the City Manager to enter into a contract with Asphalt Unlimited of Asheville Inc.

**Budget Amendment re: Police Department Grant**

Summary: The consideration of a budget amendment, in the amount of \$139,346, to appropriate federal grant and local funds to the Police Department budget to reduce crime and improve public safety.

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City Council authorized the City Manager to submit a grant application to the US Department of Justice, Local Law Enforcement Block Grant Program (LLEBG) on August 8, 2000 (Resolution No. 00-141). The grant in the amount of \$125,411 has been awarded. A local match of \$13,935 is required. The source of the local match is 110 0603 483 5315.

Under the conditions of the grant, funds are to be used to reduce crime and improve public safety.

City staff recommends Council adopt the budget amendment.

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.

### **CONDITIONAL USE PERMIT**

Planning & Development Director Scott Shuford said that a minimum of two weeks before Council's consideration of a conditional use permit (CUP) case, Planning and Development staff will send to Council a brief information sheet on the CUP request, including the location of the subject property, the type of request, and pertinent factual information about the property and request, such as acreage and zoning of the property, the date of the public hearing at which you will consider the CUP, and any special issues associated with the request (such as whether the CUP was submitted to correct a violation as in the Grandview case from Council's last meeting). This summary information is intended to keep Council informed of upcoming CUP cases and give Council an opportunity to visit the site in advance of the meeting.

City Attorney Oast and Mr. Shuford then reviewed with Council general process concerns. Concerns discussed included that the quasi-judicial format does not allow Council an opportunity to adequately research issues outside the public hearing; items that City Council should disclose on the record, i.e., that they have visited the site, special knowledge of a particular issue, etc.; staff recommendations in staff reports can compromise City Council's ability to act or cause second-guessing if Council overrules staff or the Planning & Zoning Commission; relevancy of speaker's comments; time limits for individuals and group speakers; Council should have general discussion prior to voting; on CUP's, delay the vote until the next meeting to give staff time to investigate claims and relevancy of specific comments or conditions; need for definitions of the seven conditional use standards that need to be met; and the possibility of re-instituting a "sign-in" sheet to better facilitate public comment.

It was the consensus of City Council to direct staff to create a "citizens guide" that can be updated for planning and development processes to better inform the public about the City's public hearing procedures and development review processes, as well as to provide answers to frequently asked questions. Said guide should be placed on the City's webpage. Items that can be included in the guide would be advising the public that the spokesperson for a group can call witnesses and that there is a possibility that the vote on conditional use permits may be delayed until the next formal meeting.

Staff was directed to clarify in their recommendation that their recommendation is based upon information they have received prior to the official public hearing, and does not take into account any information that may be presented to Council for the record at their public hearing.

In addition, Mr. Shuford assured City Council that if staff hears information at the public hearing that may change their recommendation, they would bring that to Council's attention at the public hearing. City Council

could then continue the public hearing pending receipt of further information.

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Staff summaries will include relevant information about possible development alternatives to the requested CUP or conditional use zoning. The purpose of this information is to ensure that Council is clearly aware of reasonably anticipated potential development alternatives available to the applicant.

Staff was directed to create an information sheet on relevant public hearing procedures and basic ground rules. This information should be sent to property owners in the notice area and will also be available to those who attend the public hearing. Information on the sheet could contain information that petitions are not relevant information to be presented because the people who signed the petition are usually not present at the public hearing and are not allowed to be cross-examined.

City Council encouraged organized and coordinated presentations. It was the consensus of City Council to allow groups that demonstrate substantial organization additional time to speak, up to the length of the time taken by the applicant or 30 minutes, whichever is great. The organized group would be allowed to speak first, after the applicant's presentation, in order to get pertinent issues on the table as early as possible in the meeting.

It was the consensus of Council that after the public hearing is closed, that City Council hold their discussions prior to any motions being made.

City Council always has the option to postpone action on any conditional use permit or conditional use zoning to obtain additional information. This fact needs to be reinforced in order to manage expectations on the part of the applicant or public hearing attendees regarding Council coming to an immediate decision at the conclusion of the public hearing. Requests by City Council for additional information that would result in a postponement will be handled on a case-by-case basis.

It was the consensus of City Council to pause discussion at 10:00 p.m. to determine the willingness of Council to complete the agenda given the remaining issues for consideration and the number of potential public speakers.

It was the consensus of City Council to have the Planning staff attempt to define the current seven conditional use standards and bring back for City Council consideration any other standards they feel need to be addressed, e.g., impacts on significant natural and topographic features.

City staff was directed to provide a presentation board listing the conditional use permit standards so that Council and the public can refer to them during the deliberations at the public hearing.

City Attorney Oast said that he would have to research the issue if Council can talk with the neighborhood and/or applicant if the public hearing is postponed.

It was the consensus of City Council to not apply these changes to the April 10, 2001, conditional use permit public hearing regarding a parking lot at the corner of Charlotte Street and Edwin Place.

Mr. Shuford advised the Council that he would compile the directions given to him at this meeting.

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#### **APPOINTMENT TO PACK SQUARE CONSERVANCY INC. BOARD OF DIRECTORS**

Mayor Sitnick said that she received a letter from Ms. Carol King, Chair of the Pack Square Conservancy

Inc., in which she wrote that the Pack Square Renaissance Task Force has created the Pack Square Conservancy Inc., a 501 (c) (3) organization dedicated to making Pack Square Renaissance a reality. Their by-laws call for the appointment of a City Council member to their Board of Directors and they recommend City Council appoint Charles Worley. She said that Councilman Worley has been a volunteer member of the Pack Square Renaissance Task Force and has been present and involved at most of their meetings.

Councilwoman Bellamy moved to waive the rules and take formal action at the meeting. This motion was seconded by Councilwoman Field and carried unanimously.

Councilwoman Bellamy moved to appoint Councilman Charles Worley to the Pack Square Conservancy Inc. Board of Directors. This motion was seconded by Councilman Hay and carried unanimously.

### **CLOSED SESSION**

At 5:38 p.m., Councilman Worley moved to go into closed session 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 terms of a contract for the acquisition of real property by purchase, option, exchange or lease – G.S. 143-318.11 (a) (5). This motion was seconded by Councilwoman Bellamy and carried unanimously.

At 6:02 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Mayor Sitnick and carried unanimously.

### **ADJOURNMENT:**

Mayor Sitnick adjourned the meeting at 6:02 p.m.

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CITY CLERK MAYOR

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