

Tuesday – June 12, 2001 - 5:00 p.m.

Regular Meeting

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor M. Charles Cloninger; 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 Deputy City Clerk Phyllis Corns

Absent: None

INVOCATION

Mayor Sitnick gave the invocation.

I. PROCLAMATIONS:

A. BUNCOMBE COUNTY MEDICAL SOCIETY AND ALLIANCE ENDOWMENT DONATION

Dr. Emory Williams and Dr. Wayne Montgomery presented City Council with a check to the Clean Air Community Trust from the Buncombe County Medical Society and Alliance Endowment in the amount of \$5,000 to demonstrate their commitment for the health of our community.

On behalf of City Council, Mayor Sitnick thanked Drs. Williams and Montgomery for the wonderful donation.

B. RESOLUTION NO. 01-75 – RESOLUTION CONCERNING STATE REIMBURSEMENTS, REVENUE OPTIONS AND LOCAL FISCAL CRISIS

Councilman Worley read the resolution urging the Governor and General Assembly to take immediate action to relieve local governments of the impossible situation in which they have been placed during the current fiscal year and Fiscal Year 2002 and to ensure, in the short term, the provision of basic services to the State's eight million residents. Said resolution requests that for long-term fiscal resources of program stability, the General Assembly is urged to authorize replacement revenue which meets the following prerequisites: replaces reimbursements on a hold-harmless basis to all local governments, does not require voter approval to realize the replacement revenues, does not require annual appropriations or other actions by the N. C. General Assembly, produces adequate revenues to offset any revenue losses caused by State action and sufficient revenue growth to keep pace with inflation and other changing factors or needs, has a distribution formula that is reasonable and fair, gives local governments sufficient discretion as to uses of the proceeds; and avoids further pressure on the local ad valorem property tax.

Councilman Worley moved for the adoption of Resolution No. 01-75. This motion was seconded by Councilwoman Bellamy and carried unanimously.

RESOLUTION BOOK NO. 26 – PAGE 364

II. CONSENT:

Councilwoman Field asked that Consent Agenda Item "M" be removed from the Consent Agenda for discussion.

Councilwoman Bellamy asked that Consent Agenda Items "D" and "K" be removed from the Consent Agenda for individual votes due to a conflict of interest.

Councilwoman Bellamy asked that Consent Agenda Items "Q", "R", "S" and "T" be removed from the Consent Agenda for individual votes.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 22, 2001, THE JOINT CITY/COUNTY MEETING HELD ON MAY 29, 2001, AND THE WORKSESSION HELD ON JUNE 5, 2001

B. MOTION SETTING A PUBLIC HEARING ON JUNE 26, 2001, TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO ESTABLISH STANDARDS FOR NON-RESIDENTIAL ACCESS ONTO RESIDENTIAL STREETS

C. MOTION SETTING A PUBLIC HEARING ON JUNE 26, 2001, TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE REGARDING REVISIONS TO THE SOIL AND EROSION CONTROL ORDINANCE

D. MOTION SETTING A PUBLIC HEARING ON JUNE 26, 2001, TO CONSIDER AMENDING A PREVIOUSLY GRANTED CONDITIONAL USE PERMIT FOR THE CLINGMAN AVENUE CONDOMINIUMS

This item was removed from the Consent Agenda due to a conflict of interest by Councilwoman Bellamy.

E. RESOLUTION NO. 01-76 - RESOLUTION AUTHORIZING THE SALE OF DISPOSAL PARCEL 157 ON JORDAN STREET IN THE EAST END/VALLEY STREET COMMUNITY TO WILLIAM BOYLE IN THE AMOUNT OF 2,400

Summary: The consideration of a resolution authorizing the Mayor to convey Disposal Parcel 157 on Jordan Street in the East End/Valley Street Community Improvement Area to William Boyle in the amount of \$2,400.

On May 22, 2001, the City Council directed the City Clerk to advertise for upset bids on Disposal Parcel 157. The advertisement ran in the Asheville Citizen-Times on May 25, 2001, as provided in N. C. Gen. Stat. sec. 160A-269.. No response was received. Therefore, the offer to purchase from William Boyle in the amount of \$2,400. was not upset and the sale to William Boyle should be approved.

Approval of the resolution will authorize the sale of the property to William Boyle for the amount of \$2,400.

Community Development staff recommends adoption of the resolution.

RESOLUTION BOOK NO. 26 – PAGE 365

F. RESOLUTION NO. 01-77 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LICENSE AGREEMENT WITH TRITON PCS PROPERTY COMPANY FOR A CONCEALED WIRELESS COMMUNICATION FACILITY AT 300 MERRIMON AVENUE

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Summary: The consideration of a Resolution authorizing the City Manager to execute a License Agreement with Triton PCS Property Company, LLC (Triton) for a concealed wireless communication facility at 300 Merrimon Avenue.

The building at 300 Merrimon Avenue is the historic Fire Station #4 and is currently known as the Harley Shuford Arson Task Force Building. The property is listed in the National Register of Historic Places and is

one of the oldest fire training towers in the United States. The training tower is in need of structural reinforcement and rehabilitation.

In conjunction with the proposed License Agreement Triton will carry out the rehabilitation of the training tower in accordance with plans approved by City staff and the State Historic Preservation Office. The cost of the rehabilitation, estimated at \$60,000, will be paid by Triton. Triton will install a 15' flag pole on top of the training tower which will house their concealed wireless communication facility along with a 9' x 13' equipment shed on the ground at the rear of the building. The term of the License Agreement will be 5 years with one period 4.5 year renewal period. Triton will pay a License Fee of \$14,400 the first year with a 4% annual increase each year thereafter.

Planning Department staff recommends adoption of the resolution.

RESOLUTION BOOK NO. 26 – PAGE 366

G. RESOLUTION NO. 01-78 - RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE FOR UPSET BIDS FOR A VACANT LOT AT 125 IRIS DRIVE

Summary: The consideration of a resolution authorizing the City Clerk to advertise an offer of purchase for upset bids for a vacant lot at 125 Iris Drive.

A bid from Brian K. Perry, in the amount of \$12,200, has been received for the purchase of a vacant lot at 125 Iris Drive. The bid is not less than the tax value of \$12,200.

The property is a single family residential RS 8 zoned lot on Iris Drive comprising approximately 0.28 acre of land. The property has a rectangular shape and is fairly level elevated about 3' - 4' above street level. It has approximately 100 front feet on Iris Drive. There is no current or contemplated use for the property by the City. Mr. Perry plans to build a single family residence on the site for his own home.

Approval of the resolution will initiate the sale of the property through the upset bid process as provided in N. C. Gen. Stat. sec. 160A-269.

Planning staff recommends adoption of the resolution.

RESOLUTION BOOK NO. 26 – PAGE 367

H. RESOLUTION NO. 01-79 - RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE FOR UPSET BIDS FOR A PORTION OF 36 GROVE STREET

Summary: The consideration of a resolution directing the City Clerk to advertise an offer to purchase for upset bids for a portion of 36 Grove Street.

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36 Grove Street is located on the east side of Grove Street in downtown Asheville and zoned Central Business District. The 1.05 acres lot is improved with a building currently being used as the Senior Opportunity Center and a parking lot. The bid from BOC Enterprises, in the amount of \$111,000, is for the parking lot portion of the property which comprises 0.57 acre and includes the stipulation for the City to retain a non-exclusive parking easement on the property in order to continue to provide parking to the Senior Opportunity Center. The site proposed to be purchased with the parking easement encumbrance was appraised by Mark Morris at a fair market value of \$111,000.

The proposal from BOC Enterprises is made in order to facilitate the expansion and renovation of the

building at 48 Grove Street. The total project cost for 48 Grove Street is expected to exceed \$3,000,000. The sale of the property will result in an increase to the tax base and improvement of the Grove Street area.

Approval of the resolution will initiate the sale of the property through the upset bid process as provided in N. C. Gen. Stat. sec. 160A-269.

Finance Department and Parks and Recreation Department staff recommend adoption of the resolution.

RESOLUTION BOOK NO. 26 – PAGE 368

I. RESOLUTION NO. 01-80 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE N. C. DEPT. OF CRIME CONTROL AND PUBLIC SAFETY FOR REGIONAL HAZARDOUS MATERIALS RESPONSE

Summary: The consideration of a resolution authorizing the City Manager to renew an agreement with the N. C. Dept. of Public Safety and Crime Control for provision of regional hazardous materials emergency response.

North Carolina is divided into six geographical regions for the purpose of hazardous material emergency response. The North Carolina Department of Crime Control and Public Safety contracts with municipalities across North Carolina to respond into the geographical regions and provide technician level hazardous materials emergency response.

The region six area covers from Cleveland County west to the Tennessee Border. Twenty-two counties comprise the response region. The State of North Carolina provides the hazardous materials response truck, all response equipment and provides for administrative costs of operating the team. In addition, the state funds extensive training for members of the Asheville Fire and Rescue Department to enable us to competently handle hazardous materials emergencies.

The City of Asheville has full use of the truck and all specialty equipment within the City of Asheville. Without the state hazardous materials contract, Asheville taxpayers would need to provide much of resources necessary to properly respond to emergencies within Asheville. With the contract, we have the advantage of the equipment and resources being funded at the state level, rather than at the local level.

During the seven years that we have provided regional hazardous materials response services, we have not experienced difficulties or disadvantages with the program. This program is also consistent with the City's Mission Statement.

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City staff recommends City council authorize the City Manager to renew the Regional Hazardous Materials Contract with the North Carolina Department of Public Safety and Crime Control for Region 6.

RESOLUTION BOOK NO. 26 – PAGE 369

J. RESOLUTION NO. 01-81 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH ROCKWELL AUTOMATION DODGE FOR CONFINED SPACE RESCUE SERVICES

Summary: The consideration of a resolution authorizing the City Manager to renew a contract with Rockwell Automation Dodge to provide technical rescue - confined space rescue services to the Rockwell Facility.

Rockwell Automation Dodge, located at 70 Reems Creek Road, Weaverville, North Carolina, is a manufacturing facility whose operation necessitates entry of their staff into confined spaces. State and

Federal OSHA requirements necessitate that the facility provide for the emergency rescue of persons who may become trapped within confined spaces at their facility.

The City of Asheville is authorized to provide these type services pursuant to North Carolina General Statute sec. 160A-293. The City Of Asheville is capable of providing certain standby and rescue response services in connection with the use and maintenance of these confined spaces.

In consideration of the services rendered and available, Rockwell Automation Dodge agrees to pay the City of Asheville \$5,000.00 annually. Rockwell Automation Dodge provides funding that fully supports the operational costs of the services.

During the time that we have provided technical rescue services to Rockwell (since Fiscal Year 1999-2000), the City has not experienced difficulties or disadvantages with the program. This program is also consistent with the City's Mission Statement.

City staff recommends City Council authorize the City Manager to renew the Technical Rescue – Confined Space Rescue agreement with Rockwell Automation Dodge.

RESOLUTION BOOK NO. 26 – PAGE 370

K. BUDGET AMENDMENT TO THE 35 FUND – WATER MAJOR CAPITAL IMPROVEMENTS FUND

This item was removed from the Consent Agenda due to a conflict of interest by Councilwoman Bellamy.

L. ORDINANCE NO. 2813 - BUDGET AMENDMENT TO THE 29 FUND – WATER BOND CAPITAL IMPROVEMENTS FUND

Summary: The consideration of a budget amendment (29 Fund - Water Bond Capital Improvements Fund) to reflect the transfer of \$2 million in N. C. Dept. of Environment & Natural Resources Grant Funds from the 35 Fund (Water Major Capital Improvements Fund).

By Resolution 92-17 dated May 19, 1992, the Regional Water Authority (Authority) authorized and budgeted for various capital projects to be funded by City Water Bond Proceeds in the 29 Fund. By Resolution 82-25 dated October 5, 1982, the Authority authorized and

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budgeted for various capital projects to be funded by Investment Earnings, Contributions From Other Funds and Appropriated Fund Balance in the 35 Fund.

On August 15, 2000, the Authority approved an amendment to the 35 Fund (Water Major Capital Improvements Fund) to reflect funding from the \$2 Million High Unit Cost Grant received from the State for Critical Needs Phase II. On December 19, 2000, the Authority approved a \$1 million increase in the 29 Fund (Water Bond Capital Projects Fund) for Critical Needs Phase II to be funded with a portion of \$13.3 million 2001 Revenue Bond Issue. Both of these budget amendments were also approved by City Council. Staff is recommending transferring the grant funds of \$2 million from the 35 Fund to the 29 Fund, so that the total funding for the Critical Needs Phase II projects in the amount of \$3 million can be managed in one fund. Staff recommends increasing revenues for State Grant DEH-087 in the amount of \$2 million and increasing the appropriations for Critical Needs Improvements from \$1 million to \$3 million.

The Regional Water Authority approved the amending Capital Project Ordinance 92-17 (29 Fund) at their May 22, 2001, meeting.

Staff recommends approval of a budget amendment to the 29 Fund to reflect the changes identified above.

ORDINANCE BOOK NO. 19 – PAGE 155

M. RESOLUTION AMENDING THE ASHEVILLE STANDARD SPECIFICATIONS & DETAILS MANUAL TO INCLUDE FIRE FLOW AND FIRE HYDRANT REQUIREMENTS FOR BUILDINGS

This item was removed from the Consent Agenda for further discussion.

N. RESOLUTION NO. 01-82 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A DONATION FROM THE SUSANNE MARCUS COLLINS FOUNDATION TO SUPPORT THE POLICE DEPARTMENT'S MOUNTED PATROL

Summary: The consideration of a resolution authorizing the City Manager to accept on behalf of the City a donation from The Susanne Marcus Collins Foundation, Inc., and to adopt a budget ordinance amendment in the amount of \$7,500 to add the donation to the police operating budget.

The Susanne Marcus Collins Foundation, Inc., has donated \$7,500 to support the Asheville Police Department's Mounted Patrol . The funds are intended to purchase one Bay American Quarter Horse, which will enable the Police Department provide better police services to the citizens of downtown Asheville.

City staff recommends City Council adopt a (1) resolution authorizing the City Manager to accept the donation; and (2) budget amendment, in the amount of \$7,500, to appropriate funds in the police operating budget.

RESOLUTION BOOK NO. 26 – PAGE 371

O. ORDINANCE NO. 2814 - BUDGET AMENDMENT FROM THE SUSANNE MARCUS COLLINS FOUNDATION TO SUPPORT THE POLICE DEPARTMENT'S MOUNTED PATROL

Summary: See Consent Agenda Item "N" above.

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ORDINANCE BOOK NO. 19 – PAGE 157

P. RESOLUTION NO. 01-83 - RESOLUTION MODIFYING THE CITY COUNCIL MEETING SCHEDULE TO CANCEL THE JULY 3, 2001, CITY COUNCIL WORKSESSION

RESOLUTION BOOK NO. 26 – PAGE 372

Q. RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE 2001 BELE CHERE FESTIVAL ON JULY 27-28, 2001

This item was removed from the Consent Agenda for an individual vote.

R. RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE 2001 GOOMBAY FESTIVAL ON AUGUST 24-26, 2001

This item was removed from the Consent Agenda for an individual vote.

S. RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT

BEVERAGES AND/OR UNFORTIFIED WINE AT THE 5TH ANNUAL BREWGRASS FESTIVAL ON SEPTEMBER 15, 2001

This item was removed from the Consent Agenda for an individual vote.

T. RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE 2001 GREEK FESTIVAL ON SEPTEMBER 28-30, 2001

This item was removed from the Consent Agenda for an individual vote.

Mayor Sitnick said that members of Council have been previously furnished with a copy of the resolutions and ordinances and the Consent Agenda and they would not be read.

Vice-Mayor Cloninger moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

MOTION SETTING A PUBLIC HEARING ON JUNE 26, 2001, TO CONSIDER AMENDING A PREVIOUSLY GRANTED CONDITIONAL USE PERMIT FOR THE CLINGMAN AVENUE CONDOMINIUMS

Councilman Hay moved to excuse Councilwoman Bellamy from voting in this matter due to a conflict of interest. This motion was seconded by Councilman Worley and carried unanimously.

Councilman Worley moved to set a public hearing on June 26, 2001, to consider amending a previously granted conditional use permit for the Clingman Avenue Condominiums. This motion was seconded by Councilwoman Field and carried unanimously.

ORDINANCE NO. 2815 - BUDGET AMENDMENT TO THE 35 FUND – WATER MAJOR CAPITAL IMPROVEMENTS FUND

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Councilman Hay moved to excuse Councilwoman Bellamy from voting in this matter due to a conflict of interest. This motion was seconded by Councilman Worley and carried unanimously.

Summary: This is the consideration of a budget amendment to the 35 Fund (Water Major Capital Improvements Fund) to reflect the transfer of grant funding for Critical Needs Phase II to the 29 Fund (Water Bond Capital Improvements Fund), to decrease future funding for N. C. Dept. of Transportation (NCDOT) projects that are being funded in the 29 Fund, and to reflect a transfer to capital from the Fiscal Year 2001-02 Water Fund Budget.

By Resolution 82-25 dated October 5, 1982, the Authority authorized and budgeted for various capital projects to be funded by Investment Earnings, Contributions From Other Funds, and Appropriated Fund Balance in the 35 Fund. By Resolution 92-17 dated May 19, 1992, the Authority authorized and budgeted for various capital projects to be funded by City Water Bond Proceeds in the 29 Fund.

Transfer Grant Funding For Critical Needs Phase II - On August 15, 2000, the Authority approved an amendment to Capital Project

Ordinance 82-25 (35 Fund – Water Major Capital Improvements Fund) to reflect funding from the \$2 Million High Unit Cost Grant received from the State for Critical Needs Phase II. On December 19, 2000, the Authority also approved a \$1 million increase in the 29 Fund (Water Bond Capital Projects Fund) for Critical Needs Phase II to be funded with a portion of \$13.3 million 2001 Revenue Bond Issue. The Asheville City Council also approved both of these amendments.

Staff is recommending transferring the grant funds of \$2 million from the 35 Fund to the 29 Fund, so that the total funding for the Critical Needs Phase II projects in the amount of \$3 million can be managed in one fund. This change to the 35 Fund will become effective upon the date of adoption of this budget amendment.
