

Tuesday – January 15, 2002 - 3:00 p.m.

Worksession

Present: Mayor Charles R. Worley, Presiding; Vice-Mayor Terry M. Bellamy; Councilman Joseph C. Dunn; Councilman James E. Ellis; Councilwoman Diana Hollis Jones; Councilman R. Carl Mumpower; and Councilman Brian L. Peterson; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burlison

Absent: None

CONSENT:

Street Milling Contract

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Asphalt Unlimited to prepare for pavement resurfacing of various streets in Asheville, North Carolina.

The City is in need of a contractor to provide milling services to city streets in the Asheville city limits. In accordance with N.C. Gen. Stat. sec. 143-131, informal bids for milling services were solicited and one qualified response was received. The bidders are as follows: Asphalt Unlimited at \$85,085.09 and no response from Slurry Pavers.

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 a resolution to authorize the City Manager to enter into a contract with Asphalt Unlimited to mill streets in the Asheville area.

Upon inquiry of Councilman Peterson, Mr. David Foster, Public Works Project Coordinator, said that the contractor is responsible for disposing the material.

Security Enhancements at Water Resource Facilities

Summary: The consideration of a resolution authorizing execution of a contract with Sentry Alert Security Service Inc. for adequate security and protection for the Mills River Water Treatment Plant, the Water Maintenance Facility and the North Fork Water Treatment Plant and watershed.

Increased security measures are needed to provide adequate security and protection of the water system. Specifications and security needs were identified for each Water Resources Facility, with the exception of the Bee Tree Water Treatment Plant which is off-line due to spillway modifications. This area will be looked at approximately 60 days prior to completion of the spillway project in August 2003 for security requirements.

Requests for bids were sent to local security firms with only two firms responding. The bids received were \$137,642.00 (low bid) from Sentry Alert Security Services, Inc. and \$436,600.00 from Haynes Technologies. Bids were not received from Carolina System and Services, Inc. and Hayes and Lunsford Technologies.

Facility entry will be by card control (same system now used at City Hall). Controlled entry at all Water Resources Facilities will be tracked at the various facilities using the same security software that is currently in use in City Hall. Controlled gate entrance/exit will enable

staff to limit access to possible vulnerable areas of the water plants and maintenance facility. All gates and other key points will have closed-circuit television monitoring. All entry/exit doors will have limited card control access. All Water Resources Facilities have been on heightened security since the September 11, 2001, terrorist attacks. Installation of the requested security equipment will provide the added security measures required to protect our water sources, facilities and employees. The Regional Water Authority of Asheville, Buncombe and Henderson approved increased security measures at its October 2001 meeting. Funds have been allocated from the Water Maintenance operational budget to fund these security enhancements.

Staff recommends the Council approve the contracts to Sentry Alert Security Service, Inc. in the amounts of \$39,840.00 for the Mills River Water Treatment Plant, \$10,652.00 for the Water Maintenance Facility, and \$87,150.00 for the North Fork Water Treatment Plant.

Interim Water Resources Director David Hanks responded to Council's questions regarding what now is being done for security.

Grant Application for Azalea Road Park Phase I

Summary: The consideration of a resolution to apply for and enter into an agreement with the N. C. Dept. of Environment and Natural Resources, Division of Parks and Recreation for funds through the North Carolina Parks and Recreation Trust Fund, to assist with the development of parks and greenways.

Azalea Road Park represents the City of Asheville's first phase of a major greenway and park system being developed along the Swannanoa River on Azalea Road in east Asheville. This first phase will include the development of two fields of the four field soccer complex, restrooms, concession, kayak launch, two picnic shelters, a large playground, disc golf, fitness and greenway trails, river observation decks, restoration of the Thomas Wolfe cabin, and parking areas.

The Parks and Recreation Department, Western North Carolina Soccer Foundation and RiverLink are in partnership to implement an ambitious fundraising plan to raise \$3 million to build the first phase of the park.

If the grant funds are received, they will be used to assist with the construction of the first phase of Azalea Road Park.

The Parks and Recreation Department is requesting \$250,000 in grant funds from the N. C. Parks and Recreation Trust Fund, which requires a 50% cash or in-kind match. The cash match is available through the Western North Carolina Soccer Foundation via the John B. Lewis Family Foundation.

The Parks and Recreation Department recommends the City of Asheville to apply for and enter into an agreement for grant funds with the North Carolina Parks and Recreation Trust Fund to assist with the construction of Azalea Road Park Phase I.

Clerk to Advertise for Upset Bids for Lot in East Riverside – Tract 2 on Choctaw Street

Summary: The consideration of a resolution directing the City Clerk to advertise an offer to purchase property on Choctaw Street (Tract 2) in the East Riverside Redevelopment Project.

Choctaw Street Tract 2 is a residential zoned lot near the corner of Choctaw Street and Congress Street comprising 0.224 acre. A bid has been received from Tilman and Sabrina Jackson in the amount of \$11,800.00 to purchase said property, which bid is not less than the

appraisal of \$11,800.00. The bid from the Jackson's includes the proposal to construct a single family residence on the property.

The sale of the property has been through Interdepartmental Review and all respondents concurred with no exceptions.

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.

Community Development staff recommends adoption of the resolution.

Donation from Haw Creek Neighborhood Association for Haw Creek Park Interpretive Signs

Summary: The consideration of a budget amendment to appropriate an additional \$8,712.00 to the Haw Creek Park Project from the Haw Creek Neighborhood Association for interpretive signs.

The City of Asheville is continuing its development of a passive park in the Haw Creek community which includes a restroom/picnic shelter, gazebo, playground area, paved woodland trails, landscaping, and a parking lot. The last feature, interpretive signage, will be implemented through the City of Asheville Capital Improvement Budget, Parks & Recreation's Trust Fund, Adopt-A-Trail, and the Haw Creek Neighborhood Association. A budget amendment is necessary to appropriate an additional \$8,712.00 to this project from the Haw Creek Neighborhood Association. The Association's commitment of these funds will enable the project to be completed.

The Parks and Recreation Department recommend approval of the budget amendment in the amount of \$8,712.00 for the Haw Creek Park Interpretive Sign Project.

Sale of Right-of-Way on Brevard Road to the N. C. Dept. of Transportation

Summary: The consideration of a resolution to convey land on Brevard Road to the N. C. Dept. of Transportation.

The N. C. Dept. of Transportation (NC DOT) has offered to purchase a portion of land owned by the City on Brevard Road. The land is located approximately 300 feet north of the Blue Ridge Parkway entrance and lies between the existing east right-of-way line of Brevard Road and the west bank of the French Broad River.

The NC DOT has agreed to pay \$14,550.00 for .12 acre of right-of-way, .14 acre temporary construction easement and .05 acre utility easement over the portion of the property which abuts Brevard Road. Brevard Road will be widened to four lanes with a center median in front of the property. The temporary construction easement would expire upon completion of construction. The utility easement would render the portion of land encumbered by the easement useless for any other purpose. The NC DOT's offer to purchase is subject to its authority to exercise eminent domain.

The entire parcel has an area of 1.784 acre. Compensation for the right-of-way and easements was determined by an appraisal of the portion of the property being taken in the amount of \$14,550.00

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Approval of the resolution will authorize conveyance of the right-of-way and easements to the NC DOT for the amount of \$14,550.00.

Planning Department staff recommends adoption of the resolution.

Municipal Agreement with the NC Dept. of Transportation

Summary: The consideration of a resolution authorizing the City Manager to sign a municipal agreement with the N. C. Dept. of Transportation (NC DOT) for the replacement of a permanent bridge at East Oakview Road over Hominy Creek.

East Oakview Road is a City maintained street located off Brevard Road near the Farmers Market. Bridge #52 is located on East Oakview Road over Hominy Creek. This bridge recently collapsed due to the weight of an oversized truck. This agreement will require the NC DOT to pay 80% of the replacement of a permanent bridge. The City will be required to pay 20% of the cost of the permanent replacement bridge.

The cost of the permanent bridge was not been determined. It will most likely range from \$300,000 to \$500,000. The City's portion of the cost will range from \$60,000 to \$100,000.

This agreement costs 80% of the cost to replace a permanent bridge with two lanes of travel and a pedestrian crossing. It will not cover cost associated with a temporary bridge. Staff is currently working with the NC DOT to borrow and install a temporary bridge across Hominy Creek until the permanent structure is operational.

Staff recommends the consideration of a resolution authorizing the City Manager to sign a municipal agreement with NC DOT for the replacement of a permanent bridge at East Oakview Road over Hominy Creek.

City Manager Westbrook said that it will take approximately 3 weeks for a temporary bridge to be installed and approximately two years for a permanent bridge to be built.

Mayor Worley 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.

PUBLIC ACCESS CHANNEL COMMISSION UPDATE

Ms. Beth Lazer, Chair of the Public Access Channel Commission, gave Council an overview of what is public access, public access for Asheville and their progress to date. Their progress to date includes monthly meetings, planning sessions, ACM conference, visits to channels and research. She explained that public access is television by and for the people, an electronic forum for sharing information and ideas and entertainment. Public access benefits include: building community, connecting people with government and improving the quality of life. In December of 2000, the Commission presented the following recommendations to Council: (1) form a nonprofit organization ; (2) develop a management and operational plan for the station; (3) identify sources of operational funding; (4) locate a facility; and (5) enlist community groups to produce programs for public access television. Forming a nonprofit has a proven track record in other community and limits the City's liability and have the potential for funding. They have already filed Articles of Incorporation and are currently working on a 501 (c) (3) application. With regard to the operational plan they have contracted with a consultant, held a 3-day working retreat and have reviewed draft documents relating to by-laws, policies, procedures and budgets. With regard to the operational funding, they have met with Buncombe County Manager, appeared at Buncombe County's public hearing and have served on the Buncombe County Cable Franchise Agreement Task Force. They also have enlisted community groups to produce

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programs. What they have learned to date is that the public access channel is a laboratory for skills training and that it contributes to the area's economic development.

Since this would be a win-win situation for the City and County to join forces by having one public access channel, they have been working with the County to include an operational funding request as they negotiate with Charter Communications on a new franchise agreement.

She asked for City Council's continued support and their help in finding a City-owned site for their facility.

Ms. Lazer responded to several questions from Council, some being, but are not limited to, how much is the Commission asking for in the County's franchise agreement, how many square feet are needed for their facility, who decides on programming, will the City Council still have a representative on the Board of Directors of the 501 (c) 3, how will the Board of Directors of the non-profit be selected, why does the City only provide funds for capital funds vs. operational funds, has anyone approached UNC-Asheville or A-B Tech to see if they would be interested in sharing space with the Commission,

At Vice-Mayor Bellamy's request, Ms. Lazer said that she would provide City Council with additional information on how other cities handled their development of the Public Access Channel.

Mayor Worley thanked Ms. Lazer and the Commission members for their hard work and the information presented.

UDO AMENDMENT REVIEW

Revisions to the Flexible Development Standards

City Attorney Oast said that this Unified Development Ordinance amendment is being brought before City Council in order that staff may respond to questions Council may have prior to the public hearing, which is scheduled for Tuesday, February 12, 2002. He advised Council that it would be inappropriate for Council to receive comments from the public at this worksession.

Chief Planner Gerald Green said that this is the consideration of an amendment to the Unified Development Ordinance (UDO) to identify front setbacks as a category for modification using flexible development standards and to clarify the provisions regarding variances and flexible development standards.

Flexible development standards allow City staff to make administrative exceptions to certain parts of the UDO under specific circumstances. We have identified a new dimensional category for the application of flexible development standards - front setbacks.

To a great extent, front setbacks determine the character of most subdivisions. Front setbacks are generally measured from the right-of-way and, in Asheville, street pavement and right-of-way widths have not been consistent. Consequently, subdivisions in the same zoning classification may have front setbacks that measure different distances from the edge of pavement due to this variety. Additionally, in our mountainous terrain, some lots in a subdivision are differently situated than other lots due to topography. These circumstances, among others, warrant some flexibility in establishing the front setbacks for both entire subdivisions and for individual lots within subdivisions.

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The ordinance provides for the application of flexible development standards in order to make adjustments to front setbacks in such circumstances. Staff believes that this ordinance will provide the needed flexibility to evaluate and approve reasonable adjustments to front setbacks in a number of cases where such flexibility is needed. The ordinance amendment also clarifies the relationship between flexible development standards and variances.

Staff has received no comments in opposition to the proposed revisions.

At their January 2, 2002, meeting, the Planning and Zoning Commission voted 6 to 0 to recommend approval of the proposed ordinance amendment. The Planning and Development staff also recommends approval of the amendment.

Mr. Green responded to various questions from Council but felt that this ordinance amendment is a good effort in providing flexibility.

Mayor Worley asked that the record show that City Council has received this information and instructs the City Manager to proceed with the appropriate public hearing on February 12, 2002.

NEW STATE FIRE CODE

Alignment of Fire Code with N.C. State Building Code

Fire Chief Greg Grayson said that this is the consideration of an ordinance deleting Chapter 6 of the Code of Ordinances and replacing it with an ordinance to align the Asheville Fire Code with the new North Carolina State Fire Code.

The North Carolina State Building Code Council has adopted the International Fire Code with North Carolina amendments as the Fire Code for the State of North Carolina. The new Fire Code for North Carolina went into effect January 1, 2002. Chapter 6 of the Code of Ordinances is the Fire Code for the City of Asheville. N. C. Gen. Stat. secs. 160A-174 and 160A-76 (b) authorizes the cities to adopt such codes under their general ordinance making power.

The deletion and replacement of Chapter 6 allows the Asheville Fire and Rescue Division to enforce the State Fire Code, adopts sections of the Code that are optional to locations in the State and meets the requirements of the North Carolina General Statutes. Fire Chief Grayson said that two new items include a section on violations and a section on nuisance fire alarms.

Fire protection water supply requirements for the City of Asheville were addressed by Council in the fall of 2001. These requirements are now found as Section 10 of the Asheville Standard Specifications and Details Manual.

City staff recommends City Council adopt the ordinance deleting Chapter 6 of the Code of Ordinances in its entirety and replacing it with an ordinance to align the Fire Code with the new North Carolina State Building Code.

Amendment to Fees & Charges Manual to be Consistent with new State Fire Code

Fire Chief Greg Grayson said that this is the consideration of a resolution amending the Fees and Charges Manual establishing Fire Code Permit Fees to be consistent with the new State Fire Code.

The North Carolina State Building Code Council has adopted the International Fire Code with North Carolina amendments as the Fire Code for the State of North Carolina effective

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January 1, 2002. The Fees and Charges Manual establishes Fire Code Permit Fees that coordinate with Chapter 6 of the Code of Ordinances, the Fire Code for the City of Asheville.

City staff recommends City Council adopt the resolution amending the Fees and Charges Manual for Fire Code Permit Fees.

Modification to the Fire Code Violations to be Consistent with new State Fire Code

Fire Chief Greg Grayson said that this is the consideration of an ordinance revising Section C of the Code of Ordinances (Schedule of Civil Penalties) establishing Fire Code violations in order to be consistent with the new State Fire Code.

The North Carolina State Building Code Council has adopted the International Fire Code with North Carolina amendments as the Fire Code for the State of North Carolina effective January 1, 2002. Section C of the Schedule of Civil Penalties establishes Fire Code violations that coordinate with Chapter 6 of the Code of Ordinances, the Fire Code for the City of Asheville.

City staff recommends City Council adopt the ordinance amending Section C of the Schedule of Civil Penalties.

Mayor Worley 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.

REPORT FROM BOARDS AND COMMISSIONS COMMITTEE

City Council instructed the City Clerk to arrange interviews for the following Boards: Board of Adjustment, Community Relations Council, Fair Housing Commission, Transit Commission and Tree Commission.

City Council instructed the City Clerk to prepare the proper paperwork to reappoint Bill Schaefer to the Firemen's Relief Fund; Paula Robbins and Pauline Kaltsunis to the Greenway Commission; Brady Blackburn to the Metropolitan Sewerage District Board of Directors; and Betty Clark, Pamela Myers and Kenn Kotara to the Public Art Board.

It was the consensus of City Council that appointments to the Film Commission be opened to Buncombe County residents and that each board that is opened to County residents be reviewed on a case by case basis.

It was the consensus of City Council to advertise for two vacancies on the Civic Center Commission. Said vacancies are for former Civic Center Chair Carl Mumpower's position and also Dan Breneman's position.

After a brief discussion, it was the consensus of City Council to place on the February 26, 2002, agenda an amendment to the Rules for Appointments to Boards and Commissions. Said amendment would add the following sentence to the qualifications "In addition, appointees to boards or commissions that perform quasi-judicial functions or that have direct responsibility for governmental matters must be United States citizens." Said boards that apply will be noted in the Talent Scout: Airport Authority, Alcoholic Beverage Control Board, Board of Adjustment, Board of Electrical Examiners, Civil Service Board, Asheville-Buncombe Community Relations Council, Asheville-Buncombe Fair Housing Commission, Firemen's Relief Fund Board of Trustees, Asheville-Buncombe Historic Resources Commission, Metropolitan Sewerage District Board, Minority Business Commission, Planning & Zoning Commission, Regional Water Authority of Asheville, Buncombe and Henderson, School Board, Tourism Development Authority and WNC Regional Air Quality Agency Board.

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RESOLUTION NO. 02-5 – RESOLUTION RECOGNIZING MONDAY, JANUARY 21, 2002, AS "DR. MARTIN LUTHER KING JR DAY"

Vice-Mayor Bellamy requested City Council adopt Resolution No. 02-5 recognizing Monday, January 21, 2002, as "Dr. Martin Luther King Jr. Day" in the City of Asheville, and urging citizens to commend this observance at 11:00 a.m. on that day by ringing bells for peace, nonviolence, and racial, ethnic and religious harmony.

Vice-Mayor Bellamy moved to waive the rules and take formal action at this meeting. This motion was seconded by Councilman Peterson and carried unanimously.

Vice-Mayor Bellamy moved to adopt Resolution No. 02-5. This motion was seconded by Councilman Peterson and carried unanimously.

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ADJOURNMENT:

Mayor Worley adjourned the meeting at 5:05 p.m.

CITY CLERK MAYOR
