

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 Burleson

Absent: None

CONSENT:

Donation from Asheville Professional Firefighters

Association

Summary: The consideration of a budget amendment to accept a donation of \$17,100 from the Asheville Professional Firefighters Association.

The Asheville Professional Firefighters Association has raised money through fundraising efforts. The Association desires to donate money to the City to purchase a thermal imaging camera for use in the Fire and Rescue Division. The camera will allow firefighters to see in smoke and dark conditions. Use of the camera improves firefighter effectiveness and safety. The cameras also allow firefighters to locate and rescue fire victims quickly and to search for fire hidden in walls and building voids.

The Asheville Firefighter's Association, IAFF Local 865, recently received the "North Carolina Professional Firefighters and Paramedics of North Carolina Local of the Year" award for the State of North Carolina. This is a prestigious honor for the Association. The Association is comprised of approximately 85% of the Asheville firefighters.

City staff recommends City Council adopt a budget amendment accepting the donation.

Urban Trail ADA and Sidewalk Improvements Contract

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Precision Contracting Co. Inc. to construct ADA and sidewalk amenities located along the Urban Trail in downtown Asheville.

The City is in need of a contractor to perform ADA and sidewalk construction services along the Urban Trail. In accordance with N.C. Gen. Stat. sec. 143-129, formal bids for ADA and sidewalk construction services were solicited and four responses were received. The bidders are listed below:

<u>Company</u>	<u>MB Part</u>	<u>Drug Free</u>	<u>Bond</u>	<u>Bid</u>
Carolina Specialties Construction Inc.	Non-Compliance	Yes	Yes	\$111,827.00
Precision Contracting Inc.	100%	Yes	Yes	\$133,410.00
Candler Concrete Works Inc.	0%	Yes	Yes	\$137,328.54
Jerry Payne Const. Co. Inc.	0%	Yes	Yes	\$191,300.00

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These amenities will include: The installation of seven additional handicap accessible ADA ramps. Sidewalk replacement on Haywood Street adjacent to the downtown library, which will include new handicap accessible parking spaces to accommodate side-unloading vehicles, tree grates, and streetscape amenities such as benches and trash cans. The installation of thematic, directional markers will assist downtown visitors in finding their way along the Urban Trail.

As part of a TEA 21 Grant, 80% of the project funding is reimbursable from the N. C. Dept. of Transportation. The City's 20% match has already been allocated in the Public Works Department's Capital Improvement Project budget. Under the provisions of a TEA 21 Transportation Improvement Project (project number E-4138), completion of this contract would qualify the

City of Asheville for a reimbursement of \$106,728.00.

The Public Works Department staff recommends City Council adopt the resolution to construct ADA and sidewalk amenities along the Urban Trail.

Preventive Maintenance Contract for Traffic Signals

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Green Light Electric, Inc., for preventative maintenance of traffic control devices in the amount of \$79,775.

In April 2001, the Public Works and Engineering staff undertook the project of reengineering the Division of Traffic Operations, given the fact that two signals technicians resigned and the impending retirement of the traffic signal supervisor. Staff goals were to evaluate the existing level of service and determine if reengineering options were available, with the possibility of contracting out some of the existing services. Other goals were to improve overall signal services, assure system reliability, and maintain direct accountability for fundamental system functions.

City staff has determined that preventative maintenance activities could, and should be, contracted to the private sector.

It was further determined that a minimum staff level of two signal technicians, whose pay scale and classification would more closely emulate the N. C. Dept. of Transportation technicians with similar responsibilities, would be maintained to insure emergency response and guarantee that timely repairs were enacted. Their primary responsibility, beyond emergency response, is to maintain and update signal system data and functions of coordination and timing.

Bids were solicited to determine actual costs for a comprehensive preventative signal maintenance program by the private sector. The City received three bids for the work. Bids were received from the following vendors:

Green Light Electric	\$119,800
ALS of North Carolina	\$199,800
MB Haynes Electric	\$249,945

City staff negotiated with the successful bidder to further reduce the contract amount for the required work to \$79,775 per year for the next 5 years, with annual options for renewal, calculating a 3% increase per year.

The overall cost savings from the reengineering idea, along with the improved services mentioned above, is approximately \$40,000 per year.

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Staff requests that City Council approve a resolution authorizing the City Manager to enter into an agreement with Green Light Electric, Inc. for preventative maintenance of traffic control devices.

Approval of 2002 Co-Sponsored Events

Summary: The consideration of a motion approving the 2002 festival and special events scheduled co-sponsorship by the City of Asheville.

In March of 1995, the Asheville City Council adopted a festival policy. A segment of that policy requires that City Council approve the list of festivals requesting co-sponsorship with Asheville Parks & Recreation on an annual basis. In 2001, the City co-sponsored 37 events produced by 25 organizers. For 2002, the request is for 65 events produced by 35 organizers.

The criteria for inclusion as a co-sponsored event are laid out in the Outdoor Special Event Guide which are:

1. The requesting applicant must represent a non-profit organization as defined by state or federal tax law.
2. The requesting applicant/organization does not discriminate on the basis of race, color, creed, sex, sexual orientation, age, political or religious affiliation, ethnicity, national origin or economic standing.
3. The proposed event is community focused and recreational in nature.
4. The proposed event is open to the general public.
5. The proposed event has been planned to facilitate a positive impact to the community.
6. Eligibility for co-sponsorship status is based on successful completion and submittal of application, agreements, letters of petition and/or contracts within the specified period of time.

The Parks and Recreation Department recommends accepting the list of events as the only events eligible for co-sponsorship for 2002. All further requests for 2002 will be denied, and organizers will be encouraged to apply for 2003.

When Councilman Mumpower expressed concerned about the City co-sponsoring 65 events with regard to the budget situation, Parks & Recreation Director Irby Brinson explained that it would be a total of approximately \$95,000, two-thirds being non-direct costs. He explained that other third of that total is for overtime costs for Park Maintenance, Asheville Police Department, and some Public Works services.

Mr. Brinson explained that the policy was adopted in 1995 and it would be difficult to decide who and who not to co-sponsor, especially when they meet the criteria established in the policy. He said staff will do their best to limit co-sponsorship, however, they would need direction from City Council. A possible way to limit co-sponsorship would be to not allow any new festival or possibly look at a lottery system and draw from a hat.

Councilman Ellis felt that festivals are a great way to bring in some tax base to our City and create some jobs. The economic development factor also needs to be considered as hotels, restaurants, etc. benefit as well.

Councilman Dunn felt that the festivals that help people out are the important festivals, and given our budget constraints, the City needs to look for ways to save money.

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Councilman Mumpower realized the millions of dollars of secondary impact from the festivals last year, but still expressed concern over the City's tight budget. He suggested maybe half co-sponsorship or to totally postpone co-sponsorship until our budget is on firm ground.

Vice-Mayor Bellamy pointed out that there are some non-profit organizations that supplement their budget based on "walks" or "runs". The County has reduced their funding to non-profits and the City is looking at that as well. She stressed how the non-profits depend on the community and the City to help them raise money. She felt that by not co-sponsoring, especially non-profits, the City will do more harm than good. In addition, there are business entities that clearly benefit from co-sponsorship too. She supported co-sponsorship of each one of the festivals. She also noted that each of the festival organizers paid a \$25 application fee, and Council doesn't realize that the festivals pay for a lot of the associated costs, e.g., electricity, etc.

At the suggestion of Councilwoman Jones, it was the consensus of City Council to have staff review the policy adopted back in 1995 and bring it back in early fall for Council review. This way people will be on notice ahead of time that the policy, and possibly the criteria, might change.

Fire Station 8 Renovations

Summary: The consideration of a resolution authorizing the City Manager to sign a contract with Glazer Architecture, P.A., in the amount of \$33,000, for renovations and additions at Fire Station #8 located at 902 Tunnel Road.

Fire Station #8 was constructed in 1966 and no major building renovations have been undertaken during the life of the building. The additional growth of east Asheville required the building to house a pumping fire engine and ladder truck today. However the building was only designed for one fire company. The renovations include women's locker area, storage area, enlarged dayroom and kitchen. A new public entry, bay for a quick response vehicle, and officer office are in the scope of work. Site work to improve the traffic flow is included in the contract. The contract is an AIA Document with modifications for the City of Asheville.

The funds for this project were appropriated in previous fiscal years and no funds would be used from Fiscal Year 2001-02 appropriations.

The Fire Chief recommends City Council authorize the City Manager to sign the contract with Glazer Architecture, P.A. for renovations and additions to Fire Station #8.

Fire Station 3 Renovations

Summary: The consideration of a resolution authorizing the City Manager to sign the contract with Glazer Architecture, P.A., in the amount of \$18,600, for basic renovations and minor additions at Fire Station #3 located at 50 Oregon Avenue.

Fire Station 3 was constructed in 1976 and no major building renovations have been undertaken during the life of the building. Presently, a pumping fire engine and a ladder truck are housed within the station. The renovations include re-roofing the building, renovating the kitchen, new finishes in the dayroom, kitchen, and dorms, new HVAC for all areas except the apparatus bays, electrical and plumbing renovations as required by Code. The contract is an AIA Document with modifications for the City of Asheville.

The funds for this project were appropriated in previous fiscal years and no funds would be used from Fiscal Year 2001-02 appropriations.

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The Fire Chief recommends City Council authorize the City Manager to sign the contract with Glazer Architecture, P.A. for renovations and additions to Fire Station #3.

Clerk to Advertise Offer to Purchase Disposal Parcel 146 on Lincoln Street

Summary: The consideration of a resolution establishing minimum price and authorizing the City Clerk to advertise an offer to purchase Disposal Parcel 146 in the East End/Valley Street Community for the amount of \$3,200.

Disposal Parcel 146 is a substandard lot located on the north side of Lincoln Street comprising 3,659± square feet. The lot is irregular in shape and mostly flat about street level then sloping up sharply to the rear. The bid in the amount of \$3,200 from Damon Rouse includes the proposal to combine the property with adjoining property currently owned by Mr. Rouse on Jordan Street.

Although the new tax appraisal is \$5,600, this property was available for several years at the previous tax value of \$2,000 and then at \$4,900 with no offers having been received. A letter of opinion from Ben Mansell CRS, GRI with RE/MAX Advantage Realty, indicates that due to the limited utility of the property to any buyer except an adjoining owner, the market value of the property would be approximately \$3,000.

Approval of the resolution will establish the minimum price in the amount of \$3,200 and 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.

Sale of Property at 9-13 Biltmore Avenue

Summary: The consideration of a resolution setting a public hearing and directing the City Clerk to publish a notice regarding proposed sale of real property at 9 -13 Biltmore Avenue, Asheville, N.C.

The property at 9 -13 Biltmore Avenue is located about 125 feet south of Pack Square. It is improved with a store front building with three bays dating from the 1920s. The land area comprises 14,469 square feet and the total combined building area is approximately 6,529 square feet. The lot extends to the east side of South Lexington Avenue, about 125 feet south of the intersection with Patton Avenue, and is improved with marked parking spaces on an asphalt surface. The lot is rectangular in shape and sloped to street level access. The appraised value of the property is \$530,000.

Asheville Area Arts Council has submitted a proposal to purchase the property minus the air rights over the rear parking lot in the amount of \$462,500. The bid from the Arts Council includes the proposal to cooperate with the eventual purchaser of the air rights over the parking lot to allow construction a new building containing parking, office, retail and/or residential units on South Lexington Avenue. The new building would be constructed above the first level by the purchaser of the air rights. The calculated value of the air rights retained by the City to be sold separately is \$67,500. The bid from the Arts Council reflects the appraised value minus the air rights. The City has a bid in hand from a redeveloper for the air rights. The bid from the Arts Council includes an offer of \$339,000 cash and a request that the City finance \$123,500 of the purchase price.

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If the bid of the Arts Council is accepted, Community Development staff recommends evidence of funding or financing be required within 60 days of acceptance.

Approval of the resolution will schedule a public hearing on March 12, 2002, and initiate the sale of the property through a private sale as provided in N. C. Gen. Stat. sec. 160A-457(4).

Community Development staff recommends adoption of the resolution.

Contract Approval Authority

Summary: The current contract approval authority for the City Manager is relatively low compared to formal bid limits set in the North Carolina General Statutes and normal practices across the state, thus requiring many routine, budgeted, contracts to require approval of Council. This change, if approved, would increase the City Manager's authority consistent with state law and general practices across North Carolina.

Currently the City Manager is authorized to sign contracts up to \$30,000.00. All contracts for construction and services above \$30,000.00 require approval of City Council. In many cases contracts are approved by Council on the consent agenda and, therefore, require several additional weeks before the awarding of the contract can be accomplished. This slows down the process and, in several recent cases, you have noticed where staff has asked you to take special action at worksessions in order to be able to move projects forward at a more rapid pace.

Just recently the General Assembly amended General Statute §143-129 regarding the procedures for letting of public contracts. The General Assembly increased the amount of the contract needed to trigger the formal bidding requirements as outlined in the statute. The recent changes require that cities receive formal bids on construction or repair contracts that could amount to more than \$100,000.00. In addition, the formal bid requirement for purchases of apparatuses, supplies, material or equipment has been raised from \$30,000.00 to \$50,000.00. (Note: Informal bids are still required for purchases from \$5,000.00 to \$49,999.99.)

In order to align local responsibilities with newly changed state law, it is recommended that the City Manager be given authority to approve contracts in the following manner:

- A. Construction or repair contracts up to \$100,000.00 could be approved and signed by the City Manager without City Council approval while construction contracts over \$100,000.00 must be approved by City Council before the City Manager is authorized to sign the contract.
- B. Purchase contracts for apparatuses, supplies, materials or equipment below \$50,000.00 could be approved and signed by the City Manager without Council approval.
- C. Service contracts up to \$50,000.00 can be approved and signed by the City Manager without Council approval while service contracts \$50,000.00 and over need City Council approval before the City Manager can sign the contract. Currently, the City Manager can sign a service contract under \$30,000.00 without City Council approval. (NOTE: THERE IS NO REQUIREMENT TO BID A SERVICE CONTRACT AND THERE ARE NO MONETARY THRESHOLDS.)

All of the above recommendations are made with the understanding that there must be sufficient funding in the budget and that all contracts will be approved in accordance with federal, state and local laws. In addition, the Manager will continue to report to City Council on a quarterly basis in writing regarding the contracts of the City.

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The above changes would take some of the items off the Council's agenda which sometimes tend to lengthen it with routine matters. In addition, it would follow the tradition of allowing Council approval of formally bid construction projects and large service contracts, while allowing the City Manager to execute the remaining contracts.

The City Manager requests that Council adopt the ordinance granting authority to approve, award and execute construction contracts, purchase contracts and service contracts as outlined.

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.

2002 TAX REVALUATION

Buncombe County Tax Collector Jerome Jones explained the 2002 Buncombe County revaluation. He explained how the

City's tax base has grown. He pointed out that revaluation has three key points: (1) values are determined by market forces; (2) computer assisted mass appraisal: possible errors occur in some appraisals; and (3) every taxpayer has the right to appeal. Revaluation is (1) every four years; (2) 1998 last revaluation; (3) 2002 next revaluation; and (4) it's continuous. Revaluation is a process that determines fair market value and analyzes local real estate sale, cost and market trends. Three approaches used to value include: (1) cost; (2) sales comparison/market; and (3) income. The following are reasons why we have revaluations: (1) North Carolina General Statutes; (2) insure fairness, equity and uniformity; (3) property values change at different rates; (4) sales/assessment ratio; and (5) public service companies. Revaluations are conducted by (1) the county assessor; (2) in-house personnel; and (3) local appraisers who are state certified. Mr. Jones then explained the Elderly/Disabled Exclusion Program. This program excludes the larger of \$20,000 or 50% of residence value. Some facts of the program include (1) you must be 65 years of age or older; (2) totally and permanently disabled; (3) gross income of \$18,000 or less (spouse); (4) must be a North Carolina resident; and (5) once you enroll, you don't have to enroll again. He said that there are approximately 3,400 people enrolled. Mr. Jones then explained that the value, not the taxes, can be appealed and reviewed the process starting out with the informal appeal, working it's way up to the NC Supreme Court. He did note that virtually all appeals are settled locally.

Mr. Jones then answered and responded to various questions from Council, some being, but are not limited to, historic designations, has there been any property depreciation, does the revaluation have any effect on the tax collection rates, flyer sent out has valuable information in it, many homes are becoming not affordable after revaluations; and how do our property tax rates stack up with the rest of the state.

Upon inquiry of Councilwoman Jones, Mr. Jones said that he would provide the Council with information on how many of the 3,400 people enrolled in the Elderly/Disabled Exclusion Program are City residents.

At the suggestion of Councilman Mumpower, City Manager Westbrook said that the City might be able to put something on it's governmental channel about the County's Elderly/Disabled Exclusion Program.

City Manager Westbrook said that he is working with Mr. Jones regarding the building being designated historical but then luxury apartments being built inside that building – all being taxed at 50% under the historic landmark designation.

City Manager Westbrook said that this is a good example of the cooperation between the City and the County working together.

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UDO AMENDMENT REVIEW

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, March 12, 2002. He advised Council that it would be inappropriate for Council to receive comments from the public at this worksession.

Identifying Artist's Studios & Workshops as Home Occupations in Residential Districts

Chief Planner Gerald Green said that this is the consideration of an ordinance amending the Unified Development Ordinance to identify artist's studios and workshops as home occupations in residential districts and to establish standards for these uses.

The Planning and Zoning Commission is recommending adoption of an amendment to the City's zoning standards to identify artist's studios and workshops as home occupations and to establish standards for these uses. Home occupations are currently permitted in all residential districts and although many artists have studios or workshops in their homes, these uses are not specifically identified in the City's zoning code. As a result of the City of Asheville's popularity as an arts center, the number of artist's studios and workshops located in residential areas will continue to increase. Artist's studios and workshops often require more space than traditional home occupations due to the need to store materials and for larger work areas. The proposed amendment addresses this need by allowing artist's studios and workshops to be larger than other home occupations. In order to protect adjacent residential uses from potential adverse impacts of artist's studios and workshops, a larger lot size is required for larger studios and workshops. Larger studios and workshops, when constructed as a separate building, must be setback a greater distance from the property lines. The studios and workshops must also adhere to the other standards for home occupations set forth in the City's zoning ordinance. These standards address:

- The display of goods and products as well as other advertising;
- Prohibition on retail sales from the home;
- Restriction on uses that create odor, noise, glare, etc.; and

- Standards for signs and parking.

Staff worked with a group of artists and craftspeople in developing the standards set forth in the draft ordinance amendment. No comments in opposition to the proposed revisions have been received.

The Planning and Zoning Commission voted 7 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 Councilman Peterson's questions about the definition of a workshop and also displaying of goods on the premises.

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 March 12, 2002.

HOUSING TRUST FUND LOAN RECOMMENDATIONS

Councilman Dunn moved to excuse Vice-Mayor Bellamy from participating in this discussion due to a conflict of interest. This motion was seconded by Councilman Mumpower and carried unanimously.

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Community Development Director Charlotte Caplan said that this is the consideration of a resolution to award five loans from the City's Housing Trust Fund.

Available funds in the City Housing Trust fund stand at \$512,000. This comprises \$400,000 in new Fiscal Year 2002 funds and approximately \$112,000 in loan repayments. Applications for these funds were invited by letter and advertisement on December 7, 2001.

Eight applications were received by the January 18 deadline, requesting loans totaling \$840,000. They were reviewed by a five-person committee of City staff and outside experts, using criteria developed by a broad-based focus group last fall. The review committee reported to the Housing and Community Development Committee, which has recommended the five highest ranked applications for a total of \$520,000 in loans, producing 26 affordable housing units. They are:

1. WNC Housing, Inc. – \$100,000 for "Independence Cottages", five 1-bedroom houses for rent to very low income individuals with severe and persistent mental illness; on Clemmons Street and Spinnet Street.
2. Mountain Housing Opportunities – \$80,000 for construction of a 4-bedroom house for sale and rehabilitation of two dilapidated houses, one for sale and one as a rental duplex; on Jefferson Street, Clingman Avenue, and Rector Street.
3. Tim & Wendy Vorst – \$40,000 for a duplex with a 1-bedroom and a 3-bedroom apartment to rent on Brookshire Street.
4. Tim & Wendy Vorst – \$120,000 for a 6-plex of 1-bedroom apartments to rent on Hendersonville Road.
5. Carolina Custom Exteriors – \$180,000 for a 3-bedroom house for sale, and two duplexes and a 4-plex to rent on Galax St. The proposal includes an offer to buy the City-owned site on Galax.

Proposed loan terms are as follows:

WNC Housing:	2% interest payable annually; first year's interest and all principal repayment deferred for 30 years.
Mountain Housing:	Rental duplex: 2% interest with all payments deferred for 20 years; S/F homes: x% interest with all payments deferred for 30 years, where x = the rate of appreciation of the properties.
Tim & Wendy Vorst:	2% for 30 years, amortizing, on both projects.
CC Exteriors:	2% construction loan only on the S/F house; 2% for 15 years amortizing on the rental units.

The Housing & Community Development Committee and City staff recommends approval of the five loans from the City's Housing Trust Fund.

Mayor Worley questioned the deferrals and his theory of the Housing Trust Fund was that the Fund would continue and evolve and help more people than having a good portion of our assets tied up for a number of years with the deferrals. Ms. Caplan explained that this issue did come up last year and was sent to a focus group. It was their consensus that only a limited amount would be deferred, stressing that the deferral is necessary for the low and very low income projects. She stressed that financing affects affordability.

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Councilman Dunn, member of the Housing & Community Development Committee, did note that WNC Housing requested no interest, however, they did agree to a 2% interest payable annually. He said that the Committee is aware of the deferral issue and also wants to see money being put back into the Fund.

Councilwoman Jones, member of the Housing & Community Development Committee, said that the Housing Trust Fund is only one answer to affordable housing, as is Community Development Block Grant funds. She said the Fund is a great tool and the Committee members are thinking of ways to improve the system.

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.

TROLLEY FRANCHISE

Transit Services Director Bruce Black said that this is the consideration of a franchise ordinance for the operation by Trolley Leasing, LLC, of a narrated historic tour trolley on the streets of the City of Asheville.

Trolley Leasing, LLC, is a Florida Limited Liability Corporation. They propose to do business in Asheville as Asheville Historic Trolley Tours, with two trolleys. The services to be offered will include narrated historic tours of the downtown and nearby historic areas. They intend to stop at a number of local hotels. The tickets will be sold at various locations including hotels and the Asheville Visitors Center.

The tour will follow an established route and could occur up to four times per day. The business plan does not contemplate point-to-point transportation of people on a scheduled basis for a fee, but does include the possibility of charter business.

At the request of City staff, the operator has met twice with the City Traffic Engineer and he has signed off on the proposed route as not unduly interfering with the normal flow of traffic.

The vehicle is a 30-foot rubber-tired trolley with open sides where the windows would normally be. This area can be closed off with clear plastic roll down curtains in inclement weather. The operator has assured the staff that the narration from within the trolley is not audible outside the vehicle.

The vehicle is driven and the tour narrated by one person, but could also include a second person if appropriate.

It is recommended that the Council franchise the historical tour aspect of this business. A tour trolley usually runs somewhat slower than prevailing traffic and occasionally stops to embark or discharge passengers from a public street. This creates the possibility of interfering with the flow of traffic on public streets by creating unsafe situations or by blocking a lane of traffic. The franchise, as drafted, would simply require that the City's Traffic Engineer sign off on the proposed routes and be advised of any changes subject to his approval. At this time, the Traffic Engineer has reviewed and approved the routes, but the operator is conferring with the Traffic Engineer on some proposed changes.

The franchise ordinance also limits operation of the narrated tour from 7:00 a.m. to 8:00 p.m., Sunday through Thursday, and between 7:00 a.m. and 12:00 Midnight Friday and Saturday. For City-recognized holidays and days on which City-approved festivals occur in the Central Business District, the operating hours may be extended to 12:00 Midnight, regardless of the day

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of the week. For charter operations, the hours of operation are not limited to the above, providing that Trolley Leasing meets all local, state and federal laws regarding the operation of a chartered vehicle.

The ordinance is drawn to be as narrow as possible. It does not attempt to franchise any other part of the business operation except that part which will regularly and routinely utilize local public rights-of-way with the potential of repeated

constraints to the flow of traffic.

City staff recommends City Council adopt the franchise ordinance.

Mr. Rich Mills, owner of Trolley Leasing LLC, said that they are currently operating in Everglade City, Florida, and also Madison, Georgia.

Upon inquiry of Councilwoman Field, Mr. Mills said that his trolleys have the state of the art small diesel engine. He did state, however, that they are willing, as this progresses, to look at ways to address the issue of air quality.

Vice-Mayor Bellamy felt that the \$1 day franchise fee was too low. Mr. Black responded that this is a one year agreement and that fee will be revised when, and if, the franchise renewal is requested. Mr. Mills said that he would also be willing to discuss the franchise fee at the end of the year. He also noted that in the cities he is currently operating in, they had no franchise fee in that they feel the trolley is a moving billboard advertising the City. He felt that the cities get a lot of intangible benefits from his business.

Upon inquiry of Councilwoman Jones, Mr. Black said that this trolley would also help with the problems of parking in downtown.

City Attorney Oast noted that the franchise, by law, has to be adopted by two votes, which need to happen at two different meetings. He suggested City Council vote on the franchise at the February 26, 2002, formal meeting and then at the March 5, 2002, worksession.

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.

UPDATE ON RESTRUCTURING AND INCREASING PENALTIES FOR ANIMAL CONTROL VIOLATIONS

Police Chief Will Annarino said that this is the consideration of an ordinance to restructure and increase penalties for animal control violations.

The current penalty for animal control violations is \$10.00 for the first offense; \$20.00 for the second offense within 12 months of the first; and succeeding offenses within 12 months of a prior offense result in increased penalties in \$10.00 increments per offense. Penalties of these amounts have proven ineffective in promoting voluntary compliance with animal control regulations. In addition, collection of penalties is a problem because of the costs of collecting delinquent penalties exceeds the value of the revenue.

It is proposed that the penalties be increased as follows:

- First offense -----\$50.00
- Second offense within 12 months -----\$100.00
- Third offense within 12 months-----\$150.00

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- Succeeding offenses within 12 months result in increased penalties in \$50.00 increments per offense. (For example the fourth offense within 12 months would carry a \$200.00 penalty; the fifth would carry a \$250.00 penalty, and so on.) The maximum penalty is set at \$500.00.
- Unpaid penalties would be declared delinquent after the 30th day from the issuance of the citation and thereafter for each additional 30-day period of delinquency.
- Delinquency fee-----\$50.00. (This is similar to the parking penalty delinquency schedule which provides for a \$25 fee for each 30 day delinquency period.)

The following is a survey of seven cities' and counties' which have animal control penalties (none provide for a delinquency fee for non-payment):

- Chapel Hill: \$50 per offense; if payment is not received a criminal summons is issued, to \$500.
- Buncombe County: Each offense not to exceed \$500 at the discretion of the Animal Control Officer.
- Lee County: 1st offense \$25; 2nd \$50; 3rd \$250 and/or confiscation of animal.

- High Point: \$50 per offense.
- Salisbury: 1st offense \$25; 2nd \$50; 3rd \$75; 4th \$250. Loose dog is \$50.
- Sanford: 1st offense \$50; 2nd \$100; 3rd \$250 and/or confiscation of animal.
- Cary: 1st offense \$20; 2nd \$50; 3rd \$75; 4th \$100; 5th \$250 and confiscation of animal.

Public education of the penalty structure is an important component of the implementation plan. Asheville's Government Access Channel, the "City Works" section of the Asheville Citizen-Times, internet postings and other methods will be used to inform the public. The effective date of the ordinance will allow a 60-day window of opportunity for staff to carry out public education activities.

Spay and neuter alternatives to penalties will be considered on a case-by-case basis.

The contract for animal control services the City has with the Asheville Humane Society specifies that all civil penalties and license fees collected will be retained by the Humane Society to off-set expenses associated with enforcing the annual license fee, sterilization of animals adopted from the shelter, and public education. For 2001, approximately \$1,700 in penalties and \$10,000 in license fees were collected.

City staff recommends Council adopt the ordinance.

There was a lot of discussion with regard to how the spay and neutering alternatives would occur, how the penalties would escalate, the need for dogs to be licensed and benefits associated with that licensing, the cost for a license, how the public (especially renters who do not receive water bills with the licensing insert) is not aware that dogs need to be licensed, penalties are too high, and maximum cap should be \$500 per offense.

Police Chief Will Annarino stressed that the City wants to violators to pay for this program, not the general taxpayers.

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.

MISCELLANEOUS MATTERS

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Worksessions Items

Upon inquiry of Councilman Peterson, Mayor Worley said that the proper procedure for a Council member to have an issue placed on a worksession agenda is to let him know at least one week in advance of the worksession and he would advise the City Clerk to place it on the agenda.

U.S. Citizenship on Boards and Commissions

It was the consensus of Council to remove the U.S. citizenship on boards and commissions from City Council's consideration on February 26, 2002, and remand the issue back to the City's Boards and Commissions Committee.

Current Operations at the Civic Center Worksession Item

Upon inquiry of Councilman Mumpower, City Manager Westbrook said that it was his understanding that City staff was to provide City Council with a staff representation with regard to the current operations at the Civic Center – what is and is not working – at the March 5, 2002, worksession. He did not think that City Council wanted him to invite the tenants, but to hear the staff presentation and then if Council wanted different information, then the tenants could be brought in.

Councilman Mumpower felt strongly that the Civic Center Commission members should be invited to the worksession to hear the report, or possibly even share the report with them prior to City Council. City Manager Westbrook said that he would be happy to invite the Commission members, however, the City doesn't normally release information to others before City Council. In addition, due to time restraints, he didn't think that the staff's presentation could be ready any sooner than the Friday before the Tuesday worksession, if then.

Mayor Worley agreed that the Commission members should be present to hear the report in that Council may wish to defer the report to them or to ask them questions.

Public Hearing Procedures

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Councilwoman Jones felt City Council should look at its deliberation process. She felt it was important that Council balance open government while not short-changing City Council discussion.

Mayor Worley said that he had once suggested that if a meeting reaches a certain hour (11:00 p.m. or Midnight) that a good breaking point be found and the meeting be recessed until the next day or next couple of days.

Vice-Mayor Bellamy agreed in at if the public knows ahead of time that the meeting will not last past Midnight, they could be better prepared.

Councilman Peterson agreed in that the Mayor can announce at 10:00 p.m. a short break at which time people can sign-in to speak if the meeting is recessed to another day. That way only those who attended the beginning of the meeting would be allowed to speak at the end of the meeting on a different day.

It was the consensus of Council to have Mayor Worley, Vice-Mayor Bellamy and Councilman Peterson work on a proposed policy regarding the length of the meetings.

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Asheville Smoke

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Discussion occurred with regard to a letter City Council members received from the Asheville Smoke asking for two things, both of which mean providing funding which would require a City Council appropriation. City Manager Westbrook said that based on the information from the State with regard to the budget, a reduction in City services, and infrastructure needs in the City, he did not recommend making an appropriation to those requests.

When Councilman Mumpower suggested the City write off the facility fee for the remainder of their season, City Manager Westbrook said that City Council would have to pass a resolution and then there could be a problem with the basketball team and other vendors who use the facility.

City Manager Westbrook stated that City Council has worked with the Asheville Smoke in the past by taking over some responsibilities. He stressed that we do value the Smoke.

All of Council stressed that the City of Asheville recognizes the importance of hockey, but given the City's financial situation is unable to help them financially. Therefore, it was the consensus of Council to ask staff to look for some non-financial support for the Smoke.

State Budget Cuts

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Mayor Worley updated City Council on a meeting he had recently with the Metropolitan Coalition and Governor Easley regarding the State budget. In summary, Governor Easley agreed to work with the Coalition and try to determine if there are other areas of the State budget that can be cut to alleviate pain to cities and towns, and to also look at ways to make our revenues more secure. It will be difficult to get any of our reimbursements back this fiscal year and the State is anticipating a similar problem next year. He did state that our local delegation was sympathetic and very much willing to help to make Asheville's revenues more secure in years to come.

City Manager Westbrook said that the Governor has appointed a Revenue Commission whose charge will be to review the revenue laws passed in the 1930's.

Councilwoman Jones spoke of the need for leadership and mutual support in how we approach this problem on a local level.

ADJOURNMENT:

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

CITY CLERK

MAYOR