

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:

Amendment to 2003 City Council Meeting Schedule

Summary: Staff recommends to Council that they amend the City Council 2003 meeting schedule to delete the first worksession of each month and meet on the second, third and fourth Tuesday of the month, with the worksession being held on the third Tuesday.

For some time the City Manager and the Mayor have been discussing the possibility of altering the Council's worksession schedule. We currently meet every week of the month, and when a month has a fifth Tuesday, we have a community meeting. Staff proposes that Council delete the first worksession of each month and meet only the second, third and fourth weeks of each month, with the worksession being the third week. This would give us three meetings per month, and in months with five weeks, we would still have a community meeting. The worksession on the third week would function as it does currently, with that information being discussed at the formal Council meeting on the fourth week. Both the City Clerk and the City Attorney have reviewed the idea and do not find any problems. In fact, the City Clerk feels that it might work more smoothly in that public hearings where there are going to be large numbers of people and a long public hearing could be held on the second meeting of the month which may better facilitate space and time needs.

City staff recommends City Council amend their 2003 regular meeting schedule to delete the first worksession of each month.

Councilman Peterson was opposed with the deletion of the first worksession because he felt that City Council doesn't get enough informal briefings from staff as a whole Council. Cutting that in half is not the direction he would like to see Council go in. He felt it was worthwhile to continue having that first worksession because deleting it would tend to have Council less informed. He also preferred two short worksessions to one long worksession.

Councilman Ellis spoke in favor of deleting the one worksession in that Council has many obligations and freeing up one evening would allow them to attend a different meeting.

City Manager Westbrook said that the free Tuesday would allow Council to have an additional day to schedule a special item. In addition, after researching eight other cities in North Carolina, we find that most only have two meetings per month. City staff is always available to Council by phone or to set up a meeting.

Mayor Worley felt that deleting one worksession a month would allow staff to be more efficient with their time. It is incumbent upon Council to contact staff with questions if they need clarification. In addition he felt that deleting one worksession might help City Council to develop practices for better use of their time.

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Councilwoman Jones suggested that the first worksession remain and that the development of that agenda be rotated amongst Council members.

Councilman Peterson suggested that the first worksession be devoted to having groups or boards come in to brief Council.

Councilman Mumpower felt the staff access is good, but was concerned about limiting discussions at a worksession with the entire Council. He felt that structure with the agenda is important and that's the Mayor's responsibility. He suggested this matter be remanded back to the Mayor and staff to take into consideration Council's comments.

It was the consensus of Council to not take this forward to the next formal meeting, but to ask for suggestions from

Council for better or innovative ways of addressing this issue.

Contract for Chestnut Street Sidewalk Replacement

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Dee Williams and Company Inc., to install sidewalks located along Chestnut Street in Asheville, North Carolina.

The City is in need of a contractor to provide sidewalk installation services for sidewalks along Chestnut Street between Broadway Avenue and Merrimon Avenue. In accordance with N.C. Gen. Stat. Sec. 143-131, informal bids for sidewalk installation services were solicited and three responses were received. The bidders are listed below:

Company	MB Part	Drug Free	Bond	Bid
Candler Concrete Works Inc	0	Yes	Yes	\$137,388.00
Land O Sky Concrete				\$195,000.00
Precision Contracting	100	Yes	Yes	\$ 91,876.00
Dee Williams and Company Inc.	100	Yes	Yes	\$ 80,949.59

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 contract with Dee Williams and Company Inc. to install sidewalks along Chestnut Street.

Utility Agreement with the N.C. Dept. of Transportation and Budget Amendment

Summary: The consideration of a resolution authorizing the Mayor to execute a utility agreement with the N. C. Dept. of Transportation (NCDOT) to relocate a water line on NC 191 from the Parkway to Sardis Road and consideration of a budget amendment to provide \$1,320,266 in funding for this project.

The Water Resources Department operates a 6-inch water main along NC 191 (Brevard Road) from Sardis Road to the Blue Ridge Parkway under the policies of the Regional Water Authority, which is owned by the City of Asheville. According to the 1996 Master Plan, this line needs to be upgraded to a 24-inch line. Under State law, NCDOT is requiring the owner, the City of Asheville, to relocate this water main during roadway construction. The NCDOT and the City staff agreed to relocate the 6-inch water line and upgrade it to a 24-inch main to meet the requirements of the 1996 Master Plan. The NCDOT has estimated the construction cost of this

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relocation at \$1,200,242. An additional 10% needs to be added to include contingency and inspections, so the total amount that needs to be budgeted is \$1,320,266.

The Utility Agreement will authorize NCDOT to include the water main relocation in the highway construction project, with NCDOT administering the construction and invoicing the City of Asheville upon completion of the project. The City will not have to pay for this until the project is completed, which is estimated at least 2 years. The City will make three equal annual principle installments. Funding will be included in the Fiscal Year 2004/05 budget.

City staff recommends City Council approve a resolution authorizing the Mayor to execute a Utility Agreement with NCDOT and a budget amendment to provide funding for the NC191 relocation project.

Upon inquiry of Vice-Mayor Bellamy, City Manager Westbrook explained betterment vs. non-betterment costs.

Budget Amendment to Water Bond Fund (Water 29 Fund) for N.C. Dept. of Transportation US 74 Phase I Relocation Project

Summary: The consideration of a budget amendment to reprogram funds to increase funding for N.C. Dept. of Transportation (NCDOT) US 74 Phase I relocation project.

There is currently \$1,108,600 in 2001 Revenue Bonds budgeted in the 29 Fund (Water Bond Fund) for US 74 Phase I. The total cost of the project including construction, engineering, and inspections is \$1,579,869, which results in a shortfall of

\$471,269.

There are several projects that are being funded with 2001 Revenue Bonds that came in under budget, so these excess funds will be reprogrammed as follows to provide adequate funding for US 74 Phase I: Bee Tree Crossing decreased \$17,515, Biltmore Viaduct decreased \$66,300, US 74 Phase II decreased \$220,694, Master Plan Improvements decreased \$22,929, and Bee Tree Spillway decreased \$143,831. The total amount of funds to be reprogrammed is \$471,269.

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Staff recommends that City Council approve a budget amendment to reprogram funds to increase funding for NCDOT US 74 Phase I relocation project.

Federal Representation Services

Summary: The consideration of a resolution granting authority to issue a Request for Proposals soliciting federal representation services for the City of Asheville; and, approval of a budget amendment, in the amount of \$30,000, to cover anticipated costs for associated fees for the remainder of Fiscal Year 2002-03.

A growing trend among local governments seeking increased federal funding to support major local projects is to position those projects within federal appropriations bills. The practice is referred to as "earmarking". Earmarking is growing in popularity because, as a funding source, it differs from grants in several important ways. First, the amount of money available through earmarks can, potentially, be significantly greater than that available through grants. Second, grants may have eligibility criteria that can limit access to the program, particularly by small urban areas like Asheville whose demographic and economic statistics reflect a relatively prosperous area. As example, City staff recently identified 14 state and federal grant programs for which Asheville did not qualify. Further, with both approaches may come the requirement of matching funds. The amount and source of matching funds can be less of an issue with earmarks with the additional benefit of the return being, potentially, much greater.

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A third distinction between the two approaches is the process used for obtaining funds. Earmarks are obtained directly through the appropriations process whereas a grant is secured indirectly, via a competitive process, through a federal agency program or other federally funded source. While earmarking is, in some ways, a simpler approach than grants, in that it avoids lengthy forms and bureaucratic processes, it is also more complex. Securing funds for a specific multi-million dollar local project within a larger appropriations bill requires knowledge and familiarity with the "technical mechanics" of the federal appropriations process, the agencies and their personnel involved, diligent and persistent project tracking, and, most importantly, a relationship with Members of Congress and their staff.

Often, though not always, lobbyists are retained for this purpose – to work within the system to position communities to more readily succeed within the earmarking process and, to represent that and other interests of their client within the federal system. Those other interests could include technical assistance with grants as well as expertise with legislative and regulatory matters.

A recent local example of a project receiving earmarked federal funds (without a lobbyist involved) would be Congressman Charles Taylor's securing \$4.3 million to help build a regional fiber optic network – an infrastructure project deemed critical for advancing the region's ability to retain and attract high technology businesses. A recent North Carolina example where a lobbyist has been successfully employed is in Brunswick County. There, a group of local governments called the Brunswick Beaches Consortium, using a Washington D.C. based lobbyist, in concert with their Congressman, secured \$58 million for North Carolina beaches, the Wilmington Port, and Intracoastal Waterway projects through the House Appropriation Committee on Energy and Water.

Whether a lobbyist is used or not, the involvement of the district representative and staff in support of an appropriation are critical for success.

That said, entities interested in aggressively pursuing earmarking as part of a consistent long-term strategy typically do retain representation. Raleigh and Greenville are two examples of North Carolina municipalities that have recently contracted with a lobbying firm and are pursuing this strategy.

In the year 2000, the Office of Management and Budget reported nearly 6200 earmarked projects. For 2001, another group that tracks federal spending identified over 6300 projects for that budget year. The trend continues to grow among state and local governments seeking help for major public investments in infrastructure, community and economic development, housing, environmental and transportation related projects.

City staff recommends authorization for issuing the Request for Proposal for Federal Representation Services and a corresponding budget amendment to cover the estimated fees associated for the service for the remainder of Fiscal Year 2002-03.

Councilman Mumpower said that the concept makes sense, but felt that since City Council is now making efforts to open up communication with other resources, we should first explore those options, especially since we will be setting ourselves up to possibly funding the lobbyist for three years at an approximate \$250,000 cost.

Councilman Dunn lead the discussion about communication with Congressman Taylor and it was his understanding that Congressman Taylor doesn't want the City to get a lobbyist. He wants us to submit to him a menu of projects from the City and County to see what he can do for us. Economic Development Director Mac Williams felt that a lobbyist would enhance the City's ability to communicate with Congressman Taylor on what we need and the best way to do it.

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Since Congressman Taylor's staff is not available to scour the various sources and agencies for funding opportunities, the lobbyist can help us do that research. He agreed that good communication with Congressman Taylor is a key and vital component of the entire process. He felt that employing a lobbyist is to make our relationship with Congressman Taylor's office more effective.

Councilman Mumpower said it was his understanding that Congressman Taylor's office doesn't work strongly with a lobbyist but that the Congressman's staff would take a facilitator roll on Congressman Taylor's behalf.

Mayor Worley said that earmarking is important and that it's the prevalent way of obtaining federal money. We know what our needs are but what we don't know is where these needs fit in on the intricate federal budget process. He got no indication from Congressman Taylor that the City should not hire a lobbyist, but he was clear that he wants to be a direct conduct for us during the budget process. He felt that hiring a lobbyist would compliment the relationship with Congressman Taylor, not threaten it.

It was the consensus of Council to have this item as new business on the next formal meeting agenda.

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, if not otherwise instructed.

WNC HISTORICAL ASSOCIATION ACHIEVEMENT AWARD

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Mr. Stephen Jones, President of the WNC Historical Association, spoke about the importance of the Asheville-Buncombe Historic Resources Commission and presented Ms. Martha Fullington, Chair of the Commission, an achievement award.

On behalf of City Council, Mayor Worley agreed that the Asheville-Buncombe Historic Resources Commission has done an outstanding job and this recognition proves that.

UPDATE ON THE FEASIBILITY STUDY OF TRAFFIC SIGNAL SYSTEM

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City Engineer Cathy Ball said that this presentation is provided as an update on the feasibility study for the Traffic Signal System in the City of Asheville, which includes both City owned and maintained signals as well as N. C. Dept. of Transportation (NCDOT) signals and which study evaluates Intelligent Transportation Systems (ITS), which can reduce traffic congestion.

Asheville has benefited from coordinated traffic signal control for a little more than 30 years. Installed in the late 1960s, the first coordinated system was confined to the heart of the Central Business District (CBD). Connected by hardwire cable, the controllers' capabilities were very limited by current standards, but the system served the City well for nearly 20 years. Computerized traffic signal control was introduced to Asheville in 1988. Like its predecessor, the existing system is essentially a CBD system controlling the signals at 45 intersections. Additionally, the NCDOT operates three arterial signal systems within the Asheville city limits.

HNTB was retained by the NCDOT to conduct a Traffic Signal System Feasibility Study for the City of Asheville. The purpose of the study was to evaluate the existing computerized traffic signal systems being operated in Asheville both by the City and the NCDOT. The study was to also make recommendations concerning the eventual replacement of the City's system and the feasibility of consolidating all the various, smaller systems into one. Additionally the

study evaluated the need for expansion of the traffic control system to include the entire urbanized area.

Staff will be requesting funds to pay for the City's portion of the upgrades in the Fiscal Year 2004 Capital Improvement Budget, which portion will be approximately 15-20% of \$13 Million. The funds for the project will be requested over a three-year period.

Mr. Bo Winstead, with HNTB North Carolina who is under contract with the NCDOT to prepare the study, summarized the feasibility study into nine major tasks which: analyzed existing traffic conditions, inventoried and analyzed existing traffic signal equipment, defined traffic control system configuration needs, defined control system functional requirements, reviewed alternative candidate systems, defined communications needs for the candidate systems, reviewed communications alternatives, developed detailed cost estimates for the candidate systems and performed a Congestion Mitigation and Air Quality funding analysis, and developed an implementation plan. He then explained the development of the candidate system configurations, the candidate system evaluation, the design and construction cost estimates and outlined the anticipated benefits, which include reduced travel time and lower fuel consumption.

Mr. Winstead said a final report was prepared, which detailed the results of the Signal System Feasibility Study and which presented a recommended plan for proceeding with the detailed design and implementation of the system.

The candidate system recommended for implementation is System C, the Distributed Control System, with a capacity to control up to 500 intersections. It is anticipated that system design will require approximately 15 months. Following design, the NCDOT will advertise and award the contract for system implementation and provide construction administration with assistance from the City. The City's responsibility in the implementation phase will include participation in tests of all equipment and an active role in inspecting equipment installations. The City must play a key role in the coordination of the contractor's activities with utilities and with other City agencies.

The recommended system will use a combination of local intersection controllers with internal communications, a master computer system located at the traffic control center, and a communications network of fiber optic cable. The master computer will store all coordinated signal timing patterns, which will be downloaded to the local controllers for implementation. The master computer will instruct the local controllers as to which timing pattern should be implemented for each of the various control sections. Control sections will be easily configured by system operators to achieve optimum timing strategies totally independent of fiber optic cable routes and communications channel assignments. Timing plan changes will be implemented either on a time of day basis or on a traffic responsive basis to accommodate unpredictable variations in traffic flow. The master computer system will continuously monitor the operation of all intersections once each second and immediately report any detected malfunctions to system operators.

At some point prior to the completion of a new system, the City and NCDOT will need to reach an agreement on how the system and its signals will be maintained. It is recommended that the City assume total responsibility for all signals interconnected to the proposed system, including any outside the City limits.

Based on an ideal ratio of 35 traffic signals for each technician, the City would need approximately six technicians to maintain 220 signalized intersections. It is recommended that at least initially, these six technicians consist partially of permanent City staff and the remainder to be electrical contractor employees. Using contract employees will give the City the opportunity to better manage costs as maintenance needs fluctuate.

To help offset the City's added costs for maintaining some 220 traffic signals is the NCDOT's long-standing policy of reimbursing municipalities for costs associated with signal maintenance on state-system roadways. The reimbursement rates have recently been revised to more closely represent current costs and became effective October 1, 2002.

Timing plan development work is a crucial element of any traffic signal system; so crucial in fact, that the NCDOT requires regular timing plan refinements by all municipalities receiving funds for system maintenance. The City could have this work performed in-house by either the Operations Manager or one of the System Operator/Technicians, or choose to have the work performed by a private engineering firm.

Mr. Winstead and Ms. Ball answered various questions from Council, some being, but are not limited to: who will monitor the system, what will the cameras be used for, does the City have a dedicated maintenance schedule, are there any percentages

available for reducing air pollution, what is the percentage of total cost for camera equipment, and is there a timeframe for installation.

Councilman Mumpower suggested that at the next update the numbers be translated into percentages on all figures.

Mr. Dan Baechtold, Metropolitan Planning Organization Coordinator, responded to various questions from Councilman Peterson about how this project fits in with the Transportation Improvement Plan.

Councilwoman Jones requested that the Capital Improvement Process be reviewed separately during the budget deliberations.

Mayor Worley said that no action is needed by City Council for this update.

ORDINANCE NO. 2988 – ORDINANCE TO REZONE PROPERTY ON THE BROADWAY CORRIDOR NORTH OF MAGNOLIA STREET TO NEIGHBORHOOD CORRIDOR DISTRICT

City Attorney Oast said that because this ordinance failed to pass by 2/3 of the City Council at it's first reading (which was held on January 14, 2003), a second reading is required.

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

The second and final reading of Ordinance No. 2988 to rezone property on the Broadway Corridor north of Magnolia Street to Neighborhood Corridor District carried on a 4-3 vote with Mayor Worley, Councilman Dunn, Councilman Ellis and Councilman Mumpower voting "yes" and Vice-Mayor Bellamy, Councilwoman Jones and Councilman Peterson voting "no."

ORDINANCE BOOK NO. 20 – PAGE

DOWNTOWN SOCIAL ISSUES TASK FORCE

- Councilman Ellis, liaison to the Downtown Commission, said that at the January Downtown Commission meeting, they put together a list of proposed members of the Downtown Social Issues Taskforce as requested by City Council. The goal of this group will be to look at the issues, do any necessary research and develop a comprehensive plan to address the full range of social problems in downtown Asheville. The Commission's intent is to have representation from the full spectrum of affected parties.

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He presented City Council with the following proposed members: K. Ray Bailey, A-B Technical College; Phyllis Fiscus, Asheville Area Chamber of Commerce; Jim Ellis, Asheville City Council, Holly Jones, Asheville City Council; Kim MacQueen, Asheville Downtown Association; Dwight Butner, Asheville Downtown Association (also Restaurateur); Appointee from Asheville First; Larry Thompson, Blue Ridge Mental Health; David Gantt, Buncombe County Commissioners; Mary Geitner, Downtown Business; Pat Whalen; Downtown Commission; Bill Byrne; Downtown Commission; Richard Fort, Downtown Commission; Mike McCreary; Downtown Resident, Jessica Brower, Downtown Resident; Patricia Kaufman, District Court Judge; Al Williams; Asst. District Attorney; Appointee from Eagle Market Streets Development Corp.; Pete Peery; First Presbyterian Church; Martha Are; Homeless Coalition/Hospitality House; Appointee from Malaprops; Breana Leslie, Mosaic Vortex; Rodney Swink, NC Office of Urban Development (to serve as a resource); Jim Van Hekke, Pavillon International Drug Treatment Center; Jim Mullen or Appointee from UNC-Asheville; Doug Orr or Appointee from Warren Wilson College; Vic Howard, Western Carolina Rescue Mission; and Mickey Mahaffey. With staff support from: Asheville Police Department, City Development Office and City of Asheville Legal Division.

Councilman Ellis said that Mr. Pat Whalen has volunteered to chair the first few meetings until the Task Force appoints a chair.

After discussion of additional members, it was the consensus of Council to send back to the Downtown Commission a strong recommendation to include an appointee from the affordable housing community, an appointee from Asheville-Buncombe Community Christian Ministry, two representatives from the homeless community (by asking Martha Are and Vic Howard), and a representative from the Council of Independent Business Owners.

Councilwoman Jones stressed that when Council changes a group that they understand that City Council has full authority to make other changes and recommendations to their final outcome.

Councilwoman Jones also recommended that the entire Task Force could be subdivided into sub-groups to work on different issues, like panhandling, or sleeping on public property.

Councilman Ellis said that the Task Force will be setting up their own guidelines and was sure that other individuals not on the Task Force would be called into service as different needs arise.

Councilman Ellis said that Commission intends for the Task Force to begin meeting, possibly in February, and that he would report back to Council on when an update report will be forthcoming from the Task Force.

BOARDS/COMMISSIONS

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It was the consensus of City Council to have the Mayor write a letter to each of the four members whose terms on the Board of Adjustment expire on January 21, 2003, to ask if they would be willing to serve an additional 90 days until we have a clearer picture on how the proposed joint planning area will affect the Board of Adjustment and its makeup.

It was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to (1) appoint Angela Heitter, John E. Cram and Keith Hargrove to the Asheville-Buncombe Historic Resources Commission; and (2) reappoint Cathy Ball to the Metropolitan Sewerage District Board.

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MISCELLANEOUS

Councilman Dunn said that the firefighters have asked to make a presentation at City Council's retreat on the firefighters supplemental pension. City Manager Westbrook said that it would be up to Council if they wanted it on the retreat agenda, but he would prefer to see the material first. After discussion, Councilman Dunn asked that the City Clerk review the minutes of the past year to find out the status of the firefighters' actuarial study because he recalled that the City Manager was instructed to have the study performed. City Manager Westbrook didn't recall being instructed to have the study performed and that it was his understanding that it would be brought up as part of the upcoming budget process and that the cost for the study was between \$1,000 to \$5,000. It was the consensus of Council to review the minutes for clarification. Also, it was the consensus of Council to instruct the firefighters to submit any information or presentation material to the City Manager first so he will be prepared to respond to Council's questions.

Councilwoman Jones said that she would be absent from the January 28, 2003, City Council formal meeting.

CLOSED SESSION

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At 6:02 p.m., Councilman Mumpower moved to go into closed session for the following reasons: (1) To establish or to instruct the City's staff concerning the position to be taken by or on behalf of the public body in negotiating the price or other material terms of a contract for the acquisition of real estate. The statutory authorization is contained in N. C. Gen. Stat. 143-318.11(a)(5); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including lawsuits involving the following parties: Betty Donoho, County of Buncombe, Western North Carolina Air Pollution Control Agency, City of Asheville, and Buncombe County Schools. The statutory authorization is contained in G.S. 143-318.11(a)(3). This motion was seconded by Councilman Ellis and carried unanimously.

At 6:20 p.m., Councilman Dunn moved to come out of closed session. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

ADJOURNMENT

Mayor Worley adjourned the meeting at 6:20 p.m.

CITY CLERK

MAYOR