

Regular Meeting

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: Councilwoman Diana Hollis Jones

INVOCATION

Councilman Mumpower gave the invocation.

ADDITION TO THE AGENDA

- Councilman Mumpower asked that the Housing Authority funding issue be added under "Other Business."

I. PROCLAMATIONS:

II. CONSENT:

- A. **APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 14, 2003, AND THE WORKSESSION HELD ON JANUARY 21, 2003**

- B. **RESOLUTION NO. 03-15 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH DEE WILLIAMS AND COMPANY INC. FOR THE CHESTNUT STREET SIDEWALK REPLACEMENT PROJECT**

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.

-2-

RESOLUTION BOOK NO. 27 – PAGE 304

- C. **RESOLUTION NO. 03-16 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A UTILITY AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO RELOCATE A WATER LINE ON NC 191 FROM THE PARKWAY TO SARDIS ROAD**

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 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.

RESOLUTION BOOK NO. 27 – PAGE 305

D. ORDINANCE NO. 2991 - BUDGET AMENDMENT AMENDING THE WATER MAJOR CAPITAL PROJECTS FUND (WATER 35 FUND) TO PROVIDE FUNDING FOR THE WATER LINE ON NC 191 FROM THE PARKWAY TO SARDIS ROAD

Summary: See Consent Agenda Item "D" above.

ORDINANCE BOOK NO. 20 – PAGE

E. ORDINANCE NO. 2992 - BUDGET AMENDMENT TO THE 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.

-3-

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.

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

ORDINANCE BOOK NO. 20 – PAGE

F. RESOLUTION NO. 03-17 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Summary: The consideration of appointing members to the Asheville-Buncombe Historic Resources Commission.

The terms of Jody Kuhne and Fred Eggerton, as members on the Asheville-Buncombe Historic Commission, expired on July 1, 2002. In addition, Laurie Tollman has resigned her position, thus leaving an unexpired term until July 1, 2004.

On January 21, 2003, it was the consensus of City Council (1) to appoint Angela Heitter and John E. Cram to each serve until July 1, 2005, or until their successors have been appointed; and (2) to appoint Keith Hargrove to serve the unexpired term until

July 1, 2004, or until his successor has been appointed.

RESOLUTION BOOK NO. 27 – PAGE 306

G. RESOLUTION NO. 03-18 - RESOLUTION APPOINTING A MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT BOARD

Summary: The consideration of appointing a member to the Metropolitan Sewerage District Board to serve a three year term.

The term of Cathy Ball, as a member on the Metropolitan Sewerage District Board, expired on January 19, 2003.

On January 21, 2003, it was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to reappoint Cathy Ball to serve a three year term, term to expire January 19, 2006, or until her successor has been appointed.

RESOLUTION BOOK NO. 27 – PAGE 307

H. RESOLUTION NO. 03-19 - RESOLUTION SETTING A PUBLIC HEARING ON FEBRUARY 11, 2003, ON AMENDMENT TO CONTRACT FOR PURCHASE OF ROYAL PINES PROPERTY

Summary: The consideration of a resolution setting a public hearing on February 11, 2003, for proposed amendment to installment purchase contract for Royal Pines property.

Back in 1999, the City received an opportunity to acquire the Royal Pines Pool and Park properties from Jake Rusher, the man who had owned and operated the facility for many years.

-4-

Mr. Rusher wished for the property to be used as a park, and agreed to provide some financial incentives if the City would purchase the Royal Pines property subject to this restriction.

For legal reasons, it was necessary to involve a third party in this transaction, and the Trust for Public Land (herein "TPL"), a park land acquisition and conservation organization that the City had worked with extensively on other acquisitions, became that third party. Essentially, Mr. Rusher has conveyed the property to TPL, and TPL holds title to the property for the benefit of the City. The City is paying for the property pursuant to an installment contract, and the purchase will be complete in 2004, at which time the City will acquire title to the property. The total purchase price was \$925,000. The City is responsible for maintenance, upkeep and taxes on the property while this contract is in operation.

Recently, the City has been presented with an opportunity, working through TPL, to acquire some property adjacent to the Royal Pines property that will provide for a better configuration of the park lands. In exchange for that acquisition, the City proposes to convey some of the Royal Pines property not needed for the park to the owner of an adjacent shopping center which needs the property for parking.

The appraised value of the Somerville Parcel is \$93,500; the appraised value of the Park Outparcel is \$127,000. The difference of \$33,500 is proposed to be credited against the City's remaining obligation in its contract to purchase the Royal Pines Property, less one half the cost (estimated at \$12,500) of repairing a collapsed storm drain on the Park Outparcel.

In sum, this transaction would give the City a better configuration for its park, enable the adjacent shopping center to expand its parking, and reduce the overall cost to the City.

Even though TPL holds title to the property, since the City will ultimately be the owner, we have suggested that we amend our installment contract with TPL to allow for this transaction, following 10 days notice and a public hearing as required by law for secured transactions involving land. This was the process followed when we entered into the contract in 1999.

The action needed from Council at this time is to establish the date for the public hearing, which we recommend for your February 11 meeting. Provided Council approves this transaction, we will amend our contract, and TPL will proceed with the closing, which must occur on or before February 28.

If Council wishes to set the date for the public hearing on this proposed amendment, adoption of the resolution is recommended.

RESOLUTION BOOK NO. 27 – PAGE 308

I. RESOLUTION NO. 03-20 – RESOLUTION AUTHORIZING THE CITY TO APPLY FOR AND ENTER INTO AN AGREEMENT WITH THE GOVERNOR’S CRIME COMMISSION FOR A MOBILE DATA TERMINALS GRANT TO IMPROVE FIRE OPERATIONS

Summary: The consideration of a resolution to apply for and enter into an agreement with the North Carolina Department of Crime Control and Public Safety for funds through Governor’s Crime Commission to assist with the purchase and installation of Mobile Data Terminals for Asheville Fire Rescue.

Mobile Data Computers are a useful tool for public safety agencies for many reasons. In North Carolina, several public safety agencies use them to interface with the State’s Criminal Justice Data Information Network. They will help Asheville Fire Rescue operate more efficiently

-5-

by allowing them to write incident reports on the scene and by enabling them to download pre-emergency plans on their way to an emergency call. This will improve the safety of the fire personnel and will help reduce the property damage of structures involved.

Asheville Fire Rescue is requesting \$120,000 in grants from the Governor’s Crime Commission for twenty Mobile Data Terminals. The grant requires a \$2,000 match per terminal, or \$40,000 total. The match is available from the Fiscal Year 2003-2004 Operating Budget of Asheville Fire Rescue.

The Fire Rescue Department recommends the City to apply for and enter into an agreement for grant funds to assist with the purchase and installation of Mobile Data Computers.

RESOLUTION BOOK NO. 27 – 309

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

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

III. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO INITIALLY ZONING RECENTLY ANNEXED PROPERTY KNOWN AS THE ARDEN AREA RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT, COMMUNITY BUSINESS II DISTRICT, COMMERCIAL INDUSTRIAL DISTRICT, INDUSTRIAL DISTRICT, INSTITUTIONAL DISTRICT AND HIGHWAY BUSINESS DISTRICT

ORDINANCE NO. 2993 - ORDINANCE ZONING THE RECENTLY ANNEXED PROPERTY KNOWN AS THE ARDEN AREA RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT, COMMUNITY BUSINESS II DISTRICT, COMMERCIAL INDUSTRIAL DISTRICT, INDUSTRIAL DISTRICT, INSTITUTIONAL DISTRICT AND HIGHWAY BUSINESS DISTRICT

Mayor Worley opened the public hearing at 5:05 p.m.

Urban Planner Carter Pettibone said that this is the consideration of an ordinance establishing the initial zoning of the area known as the Arden Annexation Area to RS-8 Residential Single-Family High Density District, Community Business II District, Institutional District, Highway Business District, Industrial District, and Commercial Industrial District. This public hearing was advertised on January 17 and 24, 2003.

The Arden Annexation Area, which consists of 128.3 acres and 114 properties, was annexed by the City on June 30, 2002. The area is one bounded by Royal Pine Drive to the north, Sweeten Creek Road to the east, Buck Shoals Road to the south, and Hendersonville Road to the west. The area is located south of existing zoned City limits.

Currently, there is Highway Business zoning to the north of the area along Hendersonville Road and within pockets of individual parcels further south along Hendersonville Road. RS 4, RM 8, and RM 16 constitute the remainder of the southern

portion of the existing zoned City jurisdiction.

Land uses in the area include single-family residential in the northern part of the area, a variety of commercial uses along Hendersonville Road, a place of worship and commercial uses

-6-

along the northern section of Sweeten Creek Road and a mix of industrial and commercial uses to the south along Sweeten Creek Road.

The Planning and Development Staff recommends approval of the proposed initial zoning for the area for a number of reasons. In the northern section of the annexation area the RS-8 District provides for the smaller lot single-family residential development, while Commercial Business II allows the smaller scale commercial uses located at the intersection of Royal Pine Drive and Sweeten Creek Road as well as the commercial properties that follow south down Sweeten Creek Road. Commercial Business II also provides a good fit for the smaller commercial properties along Hendersonville Road, especially for those long but shallow properties toward the south of the area that would benefit from the reduced front and rear setbacks that CB II allows compared to other commercial districts. Highway Business would allow the continuance and possible expansion of commercial businesses for two parcels near the intersection of Hendersonville Road and Sycamore Drive.

The Institutional District would allow the existing place of worship located on the 7.5-acre parcel on Sweeten Creek to continue and expand as needed while the proposed Commercial Industrial zoning on the parcel to the west and south would allow for the continuation and expansion of the variety of commercial and industrial uses presently located on it. Further south, Industrial zoning is proposed for six parcels, which either contain uses permitted in the Industrial District or are large parcels that are wholly or mostly vacant, providing promising tracts for future industrial development. The remaining parcels located at the southeastern section of the annexation area are proposed to be zoned Commercial Industrial, which would accommodate the current mix of commercial and industrial uses which include a gas station/convenience store, an office, mini-storage, and warehousing.

The Planning and Zoning Commission voted 5-0 to recommend approval of the proposed initial zoning for the Arden Annexation Area to RS-8 Residential Single-Family High Density District, Community Business II District, Institutional District, Highway Business District, Industrial District, and Commercial Industrial District. The Planning and Development staff also recommends the initial zoning.

Mr. Karl Koon spoke in support of the initial zoning to the Highway Business District.

Mayor Worley closed the public hearing at 5:12 p.m.

Mayor Worley said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Peterson moved for the adoption of Ordinance No. 2993. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

ORDINANCE BOOK NO. 20 - PAGE

B. PUBLIC HEARING RELATIVE TO INITIALLY ZONING RECENTLY ANNEXED PROPERTY KNOWN AS REYNOLDS MOUNTAIN AS RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT

ORDINANCE NO. 2994 - ORDINANCE ZONING THE RECENTLY ANNEXED PROPERTY KNOWN AS REYNOLDS MOUNTAIN AS RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT

Mayor Worley opened the public hearing at 5:13 p.m.

-7-

Urban Planner Carter Pettibone said that this is the consideration of an ordinance establishing the initial zoning of the unzoned portions of the area known as the Reynolds Mountain Annexation Area to RS-2 Residential Single-Family Low Density District. This public hearing was advertised on January 17 and 24, 2003.

The unzoned portions of the Reynolds Mountain Annexation Area, which consist of 10.75 acres and 27 lots or portions of lots, were annexed by the City on June 30, 2002. The areas are located directly north of existing zoned properties that comprise the Reynolds Mountain Subdivision.

The remainder of the Reynolds Mountain annexation area is zoned RS 2 and is currently being developed as a residential subdivision. Properties to the north are unzoned parcels that are under Buncombe County jurisdiction.

RS-2 reflects the existing zoning to the south that comprises the zoned portion of the Reynolds Mountain Subdivision and allows for the further development of the subdivision as planned. The existing RS-2 zoning boundary corresponds to previous property lines that existed prior to the subdivision of parcels for the Reynolds Mountain development. RS-2 zoning would fill in the unzoned portion of the development that was annexed to the City earlier this year.

The Planning and Zoning Commission voted 5-0 to recommend approval of the proposed initial zoning for unzoned portions of the Reynolds Mountain Annexation Area to RS-2 Residential Single-Family Low Density District. The Planning and Development staff also recommends establishing the initial zoning of RS-2 for the unzoned portions of the Reynolds Mountain Annexation Area.

When Councilman Dunn inquired about the ridge law, City Attorney Oast said that he would provide Council with a report regarding the Mountain Ridge Protection Act and how it applies to Asheville. Planning & Development Director explained the hillside development ordinance.

Mr. Fred English was disappointed in the development on Reynolds Mountain.

Mayor Worley closed the public hearing at 5:22 p.m.

Mayor Worley said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Ellis moved for the adoption of Ordinance No. 2994. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

ORDINANCE BOOK NO. 20 - PAGE

C. PUBLIC HEARING RELATIVE TO INITIALLY ZONING RECENTLY ANNEXED PROPERTY KNOWN AS THE BEST INNS ON TUNNEL ROAD AS HIGHWAY BUSINESS DISTRICT

ORDINANCE NO. 2995 - ORDINANCE ZONING THE RECENTLY ANNEXED PROPERTY KNOWN AS THE BEST INNS ON TUNNEL ROAD AS HIGHWAY BUSINESS DISTRICT

Mayor Worley opened the public hearing at 5:22 p.m.

-8-

Urban Planner Carter Pettibone said that this is the consideration of an ordinance establishing the initial zoning of the area known as the Best Inns Annexation Area to Highway Business District. This public hearing was advertised on January 17 and 24, 2003.

The Best Inns Annexation Area, which consists of a 4.3-acre property, was annexed by the City on June 30, 2002. The area is located directly east and south of existing zoned properties at the intersection of Tunnel Road (US 70) and Porter Cove Road.

Surrounding zoning includes Highway Business zoning to the north across Tunnel Road/US 70 and River District to the west across Porter Cove Road. Unzoned properties in Buncombe County's jurisdiction are located to the east and south. The property is currently used as a lodging facility/motel.

The Planning and Development staff recommends Highway Business zoning for the annexation area because it allows for the continuation and possible expansion of the existing lodging facility and mirrors the existing zoning across US 70, which accommodates similar automobile-oriented commercial uses.

The Planning and Zoning Commission voted 5-0 to recommend approval of the proposed initial zoning for the Best Inns Annexation Area to Highway Business District. The Planning and Development staff also recommends establishing the initial zoning of Highway Business District for the Best Inns Annexation Area.

Mayor Worley closed the public hearing at 5:23 p.m.

Mayor Worley said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Mumpower moved for the adoption of Ordinance No. 2995. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

ORDINANCE BOOK NO. 20 – PAGE

D. PUBLIC HEARING RELATIVE TO ANNEXING PROPERTY LOCATED EAST OF PISGAH VIEW ROAD AND IDENTIFIED AS THE PISGAH VIEW ROAD AREA

ORDINANCE NO. 2996 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE THE ANNEXATION OF PROPERTY LOCATED EAST OF PISGAH VIEW ROAD AND IDENTIFIED AS THE PISGAH VIEW ROAD AREA

Mayor Worley opened the public hearing at 5:23 p.m.

The consideration of an ordinance extending the corporate limits to include property located east of Pisgah View Road and identified as the Pisgah View Road Area. This public hearing was advertised on January 17, 2003.

The applicant, Lynda Rerych, has submitted an annexation petition for the Pisgah View Road Area, which is located on the eastern side of Pisgah View Road near the intersection of Pisgah View Road and Deaverview Road. This area is contiguous to the existing corporate limits, being bordered to the south by the city.

-9-

The area proposed for annexation consists of 8.624 acres and is currently mostly undeveloped except for a house located in the northwest corner of the area along Pisgah View Road. The area is a portion of 9.806-acre property that is owned by the applicant, 1.182 acres of which are already located within the corporate limits. This area is within the extraterritorial jurisdiction and currently zoned RM-8 Residential Multi-Family Medium Density District.

City services will begin on the effective date of the ordinance. The effective date of the ordinance will be May 28, 2003, per the applicant's request.

City staff recommends City Council adopt an ordinance annexing property located east of Pisgah View Road and identified as the Pisgah View Road Area.

Mayor Worley closed the public hearing at 5:25 p.m.

Mayor Worley said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Bellamy moved for the adoption of Ordinance No. 2996. This motion was seconded by Councilman Ellis and carried unanimously.

ORDINANCE BOOK NO. 20 – PAGE

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. RESOLUTION NO. 03-21 - RESOLUTION GRANTING AUTHORITY TO ISSUE A REQUEST FOR PROPOSALS SOLICITING FEDERAL REPRESENTATIVE SERVICES

ORDINANCE NO. 2997 - BUDGET AMENDMENT FOR FEDERAL REPRESENTATION SERVICES

Economic Development Director Mac Williams said that this is 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.

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

-10-

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 Ellis felt that a lobbyist is more in line of a research analyst which can provide us with information that we can go to our representatives with to make sure Asheville gets its share of the federal dollars available. He felt that even though there was no guaranteed potential return that we do guarantee ourselves a better chance at success.

Mayor Worley envisions not pure lobbyist efforts because we have a good and growing relationship with Congressman Taylor. He does not envision using any federal representation services to lobby our Congressman because Council will do that, and Council needs to have the information to say this is where something fits in the federal budget and this is our need that fits in that budget. He felt we can't ask Congressman Taylor's staff to do that heavy-duty research for us. The Congressman and his staff is very receptive for us to bring specific things to them and we can help them by finding those things that best fit the federal/national priority. He felt this investment will bring returns many times over.

-11-

Mr. Williams felt hiring a lobbyist will certainly not replace Council's personal contact with Congressman Taylor but will just

better prepare Council for when they do meet with him. The lobbyist can also help us with the relationships of other congressmen and senators that have a part to play in getting something approved.

Upon inquiry of Councilman Peterson, Mr. Williams explained that trend that is moving away from straight grant programs to more earmarking. He said that Asheville is challenged to get access to typical grant funds. He felt that this strategy is more gaining in popularity is that the amount of money from a grant, relative to the need that the money is needed for, is small. Asheville has needs that require more significant funding more quickly. The earmarking fund of funds tend to address a higher level of needs.

Councilman Peterson asked if the lobbyist we hire can guide us on applying for grants too. Mr. Williams said we can ask them to provide that service as well. What they will do for us is what we ask them to do in the contract. The level of service that we have will be a direct result of what you want to include in the proposal and that would be what we ask them to price their service for.

Mr. Williams pointed out an instance in Napa Valley, California, where earmarking of funds for a flood control project resulted in \$140 Million in private investment.

When Councilman Mumpower asked if there were any downsides to hiring a lobbyist, Mr. Williams said that we can obtain earmarking of funds without a lobbyist and while a lobbyist significantly increases our ability to be successful, a lobbyist cannot guarantee anything.

Upon inquiry of Councilman Mumpower, City Manager said the \$30,000 for the remainder of this fiscal year will come from General Fund Contingency. Along those lines, Mr. Williams said that this is a three-year recommendation so we can establish a relationship with a lobbyist and for the lobbyist to understand our needs and begin to work our needs into the federal agenda for appropriate sources, and also to judge whether the approach is an effective approach and whether or not results are substantial enough to do it. Cost estimates for the coming year are between \$60-100,000 but he stressed this will be a Council decision each year, not a three-year commitment.

Mr. Fred English felt that City Council did not need to hire a lobbyist, but just to communicate with Congressman Taylor.

Mr. Edwin Crisp, resident in Malvern Hills, spoke in opposition of the City hiring a lobbyist.

Ms. Lynda Rerych spoke in support of the City hiring a lobbyist in that there is money available and we need knowledgeable people to speak on our behalf. Congressman Taylor will also be advocating for us as well.

When Councilman Peterson asked if our funds would be used campaign contributions or passed onto the elected officials in some way, Mr. Williams responded that they would be for a contract that is written to provide specific services and specific deliverables. He couldn't image that that would be part of what we would expect our funding to be supporting.

When Vice-Mayor Bellamy asked about benchmarks, Mr. Williams said Council can set their own benchmarks. He said that in working in consultation with the lobbyist, it will be determined what our needs are, what the potentials are, what to expect and then to set a goal for achieving that.

-12-

Vice-Mayor Bellamy asked what a feasible timeframe would be to reassess this issue. Mr. Williams said that in most contracts there is a reporting process set up where the vendor is required to come in at intervals during the term of the contract and provide progress reports. Also, the way a contract is structured is that there are certain activities that they need to arrange with us and those kinds of things are all benchmarks that we can use to determine if the relationship is a good one and if they are being effective on our behalf.

Upon inquiry of Vice-Mayor Bellamy, Mr. Williams said there is no predetermined agreement with anyone to work with any specific firm or individual at this point. This action will allow a Request for Proposals to be sent out. Then we will receive responses and then select some firms or individuals for interviews and eventual hire. The timeframe for the federal appropriations process is already underway and time to be effective in this cycle is pressed.

Vice-Mayor Bellamy felt the City needed to hire someone who has experience, who has knowledge in our subject areas, who has experience with cities our size, and who has proven results.

Councilman Mumpower asked if we can contract with a firm to specifically address one need, which would result in a much

lower cost factor. Mr. Williams said that is possible and it will be left up to Council to make that determination. Whether our agenda is a single issue or more, our Request for Proposals will be multi-faceted to gauge what their broad capabilities are.

Councilman Ellis moved to adopt Resolution No. 03-21. This motion was seconded by Vice-Mayor Bellamy.

Councilman Peterson said that we do need to look at this also in a regional approach.

City Manager Westbrook said that one of the things staff hopes is to be able to talk with our representatives, both congressmen and a lobbyist, about what all our needs are and then let them help us select what may line up with federal priorities. One of the needs that we hope that lines up strong is economic development. He doesn't feel like we, as an area, receive what may other areas that have hired lobbyists, in term of economic development, have received. We have so many attributes in Asheville that would tend to lead that way. We are a hub city for the area, we have challenges in terrain, and we have a river that runs through the center of the City. We have many of the things that those types of programs are designed to boost economic development and take the negative and turn it around.

Councilman Peterson would like to see Council explore the option of putting street car lines back down Haywood Road going out to west Asheville and maybe other areas. Public transit, road improvements, technology and infrastructure are some of the areas that a great deal of federal funds have gone to and we aren't getting our share of that.

Councilman Dunn said that he could not support the motion at this time. He felt that Congressman Taylor is a "heavy-hitter" and he can do a lot for us. He felt we didn't need to hire someone to tell us what our needs are when we have two Economic Development Commissions, the Chamber of Commerce, the Land-of-Sky Regional Council, UNC-Asheville and Western Carolina, etc. He felt we needed to get those groups involved to help us develop a menu of items and take that list to Congressman Taylor first. Then he can review it and give us his advice. He felt strongly that that is the first thing Council should do before hiring a lobbyist. Then, after that, he may be willing to support hiring a lobbyist. But, he felt it was unrealistic for us to get millions of dollars from the federal government, especially when our economy is struggling. He said Buncombe County had a lobbyist but fired him because all they needed to do was meet with Congressman Taylor and he obtained several million dollars for them. He felt spending \$300,000

-13-

was too much when we can't even pave streets in Haw Creek. He felt that if Council does allocate this money, then something else in the budget needs to be cut.

Councilman Mumpower felt this is a hazy issue. He does understand timing is an issue. He likes the idea of supporting positive staff initiatives and he likes the idea of the City being pro-active. He understands that hiring an advocate for us can help us get grants and get earmarked funds. However, we are talking about \$200-250,000. He felt this is a fairly distasteful system as it circumvents our existing system. That's why we have representatives and why we have the system of government that we have. Just because this is the way the system works doesn't mean it's a good system. He said that he is struggling with the pragmatics of it and the principal aspect of it. He also felt Council was getting the "cart before the horse" in that we just recently opened the door for a closer relationship with Congressman Taylor and he has responded in good and encouraging fashion. We have not opened those doors with our two senators and those are the people we elected to represent us. He wished we had more time to stimulate those relationships before we add on another layer. We have a responsibility to be careful with people's money and he has a personal concern that we do everything we can to increase people's confidence in City government.

Vice-Mayor Bellamy felt the City should work on a dual track, which is continue to work with Congressman Taylor and hire a lobbyist. We may not like the way the system works, but earmarking is how the government is running their business now. Since grants are becoming scarce, we need to find creative ways to meet housing needs, etc.

When Councilman Dunn asked if we would be contacting Congressman Taylor, Mr. Williams said that as has been the case through this entire process, we are very sensitive to Congressman Taylor and his needs. We want to work with him in a way that he is comfortable with and happy with. It's very important that the lobbyist has a good relationship with Congressman Taylor and members of his staff.

Upon inquiry of Councilman Dunn, City Manager Westbrook said that City staff will send out the Request for Proposals; get the responses back; try to evaluate those on behalf of the Council; interview the firms, along with those on Council who want to be a part of it; and then make a recommendation to Council on who to award the contract to. We will be paying a sum of money to a firm for a specific service.

Mayor Worley said that members of Council have been previously furnished with a copy of the resolution and ordinance

and they would not be read.

The motion made by Councilman Ellis and seconded by Vice-Mayor Bellamy carried on a 4-2 vote, with Mayor Worley, Vice-Mayor Bellamy, Councilman Ellis and Councilman Peterson voting "yes" and Councilman Dunn and Councilman Mumpower voting "no."

RESOLUTION BOOK NO. 27 – PAGE 310

Councilman Ellis moved for the adoption of Ordinance No. 2997. This motion was seconded by Vice-Mayor Bellamy.

Upon inquiry of Councilman Dunn, Mr. Williams explained that the \$30,000 is the contract amount usually paid in monthly installments.

The motion made by Councilman Ellis and seconded by Vice-Mayor Bellamy carried on a 4-2 vote, with Mayor Worley, Vice-Mayor Bellamy, Councilman Ellis and Councilman Peterson voting "yes" and Councilman Dunn and Councilman Mumpower voting "no."

-14-

ORDINANCE BOOK NO. 20 – PAGE

VI. OTHER BUSINESS:

Housing Authority

At the request of Councilman Mumpower and by Council consensus, Mayor Worley said that he would write a letter to our representatives supporting a \$3.3 million appropriation from the federal government to the Housing Authority. It was Vice-Mayor Bellamy understanding that the Housing Authority has been contacted to say that they will receive 90% of the requested amount.

City Employee Commendations

Councilman Ellis read a letter from Becky Anderson, Director of Handmade in America, commending the City's sidewalk crew that has been working on the sidewalks on Central Avenue. In addition, words of praise were given to police officers, street crews, waterline repair crews, firefighters, and sanitation workers.

Claims

The following claims were received by the City of Asheville during the period of January 3-16, 2003: Ruth Farmer (Streets), Hobart Whitman (Water), Jeremy Ballard (Water), Jordan Lance (Water), Catherine Taylor (Water), Michael C. Clymer (Water), Robert Jones (Water), Bernard Cumings (Water), Fidelity Risk Sol. (Water), Betty B. Williams (Water) and Robert Davis (Water).

The following claims were received by the City of Asheville during the period of January 17 – 23, 2003: William J. Brown (Water), James H. Finley (Water), Joyce Boone (Water), Laura Samal (Water) and BellSouth (Water).

These claims have been referred to Asheville Claims Corporation for investigation.

Lawsuits

The City filed a Complaint on January 8, 2003, which is generally described as follows: City of Asheville v. Beers Construction Co. of Winston-Salem, Inc. The nature of the proceeding is money owed for damage to water line. This matter will be handled in-house.

The City was served with a Petition for Certiorari on January 14, 2003, which is generally described as follows: Texas Roadhouse Holdings, LLC, Paul M. Young v. City of Asheville. The nature of the proceeding is to reverse the ruling by the Board of Adjustment related to remote parking provisions under Section 7-11-1 (e) (2) of the UDO. This matter will be handled in-house.

The City filed the following lawsuit on January 15, 2003, which is generally described as follows: City of Asheville v. Bernard Coates and Katheryn Coats. The nature of the proceeding is violation of Section 7-18-2 of the UDO regarding mandatory injunction to cease operating a lumber/salvage yard as a nonconforming use; order of abatement; money owed for civil penalties;

and lien on property. This matter will be handled in-house.

The City was served with a Petition for Certiorari on January 21, 2003, which is generally described as follows: CC&J Enterprises Inc. and James O. Efland, President v. City of Asheville and the Board of Adjustment. The nature of the proceeding is to review the decision of the Board of Adjustment.

-15-

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Avram Friedman, Executive Director of The Canary Coalition, presented City Council with a packet of information and said that City Council voted unanimously on July 10, 2001, in support of the passage of the North Carolina's Clean Smokestacks Act, but the Clean Smokestacks Act is now in danger of being severely undermined. He asked City Council to adopt a resolution to intervene in favor of a Petition for Review, in the federal Court of Appeals, District of Columbia, against the recent decision by the EPA to revise the New Source Review provision of the Clean Air Act. Ten states and many municipalities have now joined this lawsuit and the deadline for joining the lawsuit is January 30, 2003. He said an independent Petition for Review can be filed as late as March 3, 2003. The addition of Asheville and hopefully the State of North Carolina, would enhance the chances of success against this damaging EPA decision. Vice-Mayor Bellamy felt that it was very important to continue the initiative and doesn't want to see Council's direction be lessened in any way. City Attorney Oast said that he would try to find out what the State of North Carolina is doing since it is a state law.

Mr. Fred English spoke against using red light cameras at intersections.

Mr. Christopher Fielden, representing Community Supported Development, shared with Council several observations regarding the old Sayles Bleacheries site where the proposed Riverbend Marketplace development is to be built. In summary, he felt the Unified Development Ordinance (UDO) has been violated. They requested an immediate halt to all work on all phases of the project until the appropriate City departments have evaluated the activity on this site and assured the public that all applicable articles of the UDO are being enforced. Mayor Worley briefly responded that after a site visit with the City Engineer, he was assured that the developer is in compliance with the conditional use permit issue.

Ms. Betty Lawrence, Asheville resident, congratulated Mayor Worley on being named to Governor Easley's new Transportation Demand Management Committee, which will look for ways to use transportation to improve air quality.

VIII. ADJOURNMENT:

Mayor Worley adjourned the meeting at 7:20 p.m.

CITY CLERK

MAYOR