

Tuesday - May 16, 1995 - 2:00 p.m.

Room 623 - City Hall

WORKSESSION

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, and Councilman Joseph Carr Swicegood (arrived at 3:23 p.m.); City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Herbert J. Watts - knee problems

JOINT BUDGET MEETING WITH THE ASHEVILLE TRANSIT AUTHORITY

The Asheville Transit Authority presented their proposed budget to the City Council. Questions and answers were addressed throughout the worksession. Questions which could not be readily answered would be followed up on by the Authority and answers made available to the Council.

Discussion surrounded the Authority's request for the City to establish a mass transit fund, the use of big buses vs. smaller vans, the actual number of people riding the buses vs. available seats, and the fee of the Management Company for administrative costs.

The City Manager stated that the recommended Fiscal Year 1995-96 budget will be adjusted to include the Transit Authority's requested funding.

JOINT BUDGET MEETING WITH THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

The Asheville-Buncombe Water Authority presented the Fiscal Year 1995-96 Water Fund budget, which balanced budget was unanimously adopted by the Authority on May 16, 1995.

Some highlights include: (1) a reduction in this year's approved staffing levels of five full-time positions for a total of 140 authorized positions; (2) adjustments to the six year Capital Equipment Plan to defer (for one year) certain items; (3) full implementation of the Authority's Management Information Infrastructure including Automated Mapping/Facility Management system, Supervisory Control and Data Acquisition, and the new Water Billing System; (4) debt service for the remaining (\$3 million) of the 1991 "Fix it First" General Obligation Bonds for pipeline replacement and for the \$3 million State loan or the regional finished water transmission main from the Mills River source; (5) a comprehensive program of distribution system flushing; and (6) continued emphasis on safety in the workplace, enhancement of fire protection, water efficiency, and empowerment of workers through Total Quality Management.

Councilwoman Sitnick asked that the Authority to make sure that the rate structure will be fair to small and large customers. She also said that she knows that there have been some cuts to the Water Efficiency Task Force budget that had to be made, but she hoped that the cuts are not an indication of any less of a priority given to water efficiency and that that is still a major priority for the Water Authority.

PAYROLL DEDUCTIONS

Ms. Pam McGrayne, Personnel Director, said that the City currently provides

payroll deductions for City-sponsored fringe benefit programs (i.e., health insurance, dental insurance, retirement, 401 (k), 457, -2-

credit union, etc.) United Way, Colonial Insurance (which is no longer a part of the City's sponsored fringe benefit program), the Fraternal Order of Firefighters (FOF) and Fraternal Order of Police (FOP). The Police Benevolent Association (PBA) and the Asheville-Buncombe United Public Workers (ABUPW) have recently requested dues check-off through payroll deduction.

Ms. said the City's current policy does not provide guidance on how to respond to the pending requests. Staff has researched the legalities of a payroll deduction policy and the administrative costs of processing deductions. After discussing these matters with the City Manager, a policy has been developed which allows payroll deductions for (1) where required by law (i.e., FICA, taxes, retirement); (2) for City-sponsored fringe benefit programs (i.e., health, life and dental insurance, 401 (k), credit union); (3) for 501 (c) (3) charitable organizations which are part of a "federation" (a group of ten or more voluntary charitable organizations) that meet certain requirements; and (4) for 501 (c) (3) "employee organizations" (an organization whose active members are current and retired City employees) that meet certain requirements. Payroll deductions for organizations which do not fall into any of these categories (i.e., Colonial Insurance) will be discontinued as of January 1, 1996. In addition, no other organizations (i.e., PBA and ABUPW) will be allowed unless the above criteria is met. The credit union, however, can provide a similar service for paying dues and is currently providing it to the AFA and ABUPW.

She said the FOF and the FOP currently have payroll deductions now but she is unsure if they will meet the criteria under the new policy; the PBA has requested payroll deductions; the AFA and ABUPW have requested payroll deductions and they are now going through the credit union for a similar service; the United Way currently has payroll deduction and is now a 501 (c) (3) organization; and Colonial Insurance currently has payroll deductions, but does not fall into any of the above mentioned categories and will be discontinued as of January 1, 1996.

She said that the City Council has already authorized the City Manager to execute an administrative policy dealing with payroll deductions through the City's Personnel Policy.

Upon inquiry of Councilwoman Field, Audit/Budget Director Bob Wurst said that based on estimates received from Finance and Personnel, direct costs for each payroll deduction is approximately \$15,000 per year. This would include clerical time for preparing paperwork, data entry time, and time required for various accounting functions involved with the deduction.

Vice-Mayor Peterson stated that the ABUPW has offered to pay for any administrative costs associated with the payroll deduction.

It was determined that the current organizations (FOF, FOP, PBA, AFA, ABUPW and the United Way) can open up a \$5 account with Premier Credit Union and have a similar payroll deduction withdrawn through that agency. The AFA and the ABUPW already are using that system.

Mr. Kevin West, representative of the PBA, urged Council to allow his professional organization be able to take advantage of the City's payroll deduction system. He feels that the benefit should be applied equally. He didn't think the PBA would have any problem in paying the administrative costs associated with the payroll deduction but would have to have that verified. He stated that his organization consisted of approximately 51 members, 31 of which

are City employees.

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Mr. Bob Warren, attorney representing the ABUPW, urged Council to give the ABUPW, which is not a political organization, the same service currently being offered to the FOP and FOF.

Mr. Carroll Williams, President of the ABUPW, read a prepared statement and said that this proposed policy excludes them from even being considered for payroll deduction. He feels that City management is unwilling to work with this organization. He asked that "the City Manager and the Assistant City Attorney to stop looking for ways to discredit and fight us and rather to begin to work with us in a responsible and respectful manner." He asked that they be offered the same payroll deduction service currently being offered to the FOP and FOF. He said that his organization consisted of approximately 90 members, approximately 70 of which are City employees.

Vice-Mayor Peterson and Councilwoman Sitnick stated that the only fair way to handle this was to either let all the organizations have payroll deductions or not.

Councilman Swicegood felt that the payroll deduction policy should only be where required by law and for City sponsored fringe benefit programs.

Councilman McClure agreed with Councilman Swicegood stating that if there were no other alternative for these organizations he might feel differently; however, the credit union service is available for only \$5 to open an account.

When asked for the City Manager recommendation, City Manager Westbrook recommended Council concur in the policy as outlined above by Ms. McGrayne, allowing for four categories of payroll deductions.

Vice-Mayor Peterson moved to allow payroll deductions only for items required by law, for City sponsored fringe benefit programs, and any other organization of 35 or more members if the group is willing to pay a fair amount for administrative costs. This motion was seconded by Councilwoman Sitnick.

Councilman Swicegood suggested amending the motion to allow payroll deductions only for items required by law and for City sponsored fringe benefit programs, allowing 90-120 days for transition.

Vice-Mayor Peterson and Councilwoman Sitnick accepted Councilman Swicegood's suggestion to amended their motion.

Ms. McGrayne said that during this 90-120 time period she would notify the affected organizations in writing, check with the credit union to see if they can and are willing to handle this service.

Councilwomen Field and Sitnick wondered if this matter needed to be tabled in order to get some clarification from the Assistant City Attorney as to allegations by the ABUPW and in order to give the other organization not present at the meeting today an opportunity to be heard. It was determined that the organizations were notified and if they had any comments, they could always submit them to the Council in writing.

It was the consensus of Council to direct the City Manager to allow City payroll deductions for only items required by law and City sponsored fringe benefit programs.

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RESERVOIR ROAD SAFETY ISSUES

Mr. James Cheeks, Traffic Engineer, said that the Traffic Engineering Division has performed an additional safety analysis on Reservoir Road. Our analysis indicate that Reservoir Road varies in width from 11 feet 6 inches to 12 feet 3 inches and is a residential road that serves as a connector between the Windswept Apartments, Wind in the Oaks Condominiums, residential properties and Biltmore Avenue. Motorists are currently using this connector for trips home from school, to work, to shopping, to eating and entertainment.

Traffic counts indicate that in 1994, Reservoir Road had an average daily traffic volume of 347; 1995 traffic counts indicated that the average daily traffic has dropped from 214 vehicles.

Reservoir Road has a steep grade and limited sight distance at the sharp curve near the intersection of Buchanan Road. To mitigate the impact of this situation, Traffic Engineering has reduced the speed limit on Reservoir Road and Buchanan Road to 15 miles per hour, installed "Slow, Curve" warning signs, installed "Slow, Children at Play" signs, installed additional street lighting in the curved portion of the roadway, installed raised pavement rumble strips and roadside delineators.

The Traffic Engineering Division has reviewed the operation of this roadway and determined that sufficient measures have been taken to guarantee the safety of motorists and residents along this roadway. To make this roadway safer and to increase the visibility at the intersection of Reservoir Road and Buchanan Road, the bushes at the edge of the roadway located on private property must be removed or cut down and the intersection converted to a 3-way stop location. The property owner has indicated that they will not remove or cut down the bushes. The location of these bushes are in violation of Section 30-3-10 of the Code of Ordinances which prohibits anything from being erected, placed, or allowed to grow in such a manner to materially impede vision, etc. If this new multi-way stop is installed, it will provide the necessary control to regulate the movement of traffic through this intersection.

Ms. Jan Howard, property owner of the bushes, gave several reasons why she felt the bushes should not be cut down to 2 feet.

Upon inquiry of Councilman Swicegood about the City's liability if they know the bushes are in violation but does nothing about it, City Attorney Slawter said that if the Traffic Engineer feels that the obstruction of the bushes will not cause a safety hazard (and he does) that the City's liability should be reduced.

Councilwoman Sitnick felt that Reservoir Road is just not a safe road. The real issue is enforcement on the Road. She suggested staff come back with a report to Council in about six months to report on how the safety issues are working.

Mayor Martin instructed Ms. Howard to keep the bushes maintained in order to avoid any safety problems.

Mr. Ken Myrick, 1 Buchanan Road, asked that raised pavement rumble strips be located on all three sides of the intersection.

ANIMAL CONTROL ORDINANCE

Major Jay Breedlove said that on October 11, 1994, the Buncombe County Board of Commissioners adopted and enacted a comprehensive animal -5-

control ordinance. The comprehensive ordinance provides, among other things, for the termination of an owner's rights to his/her animal under certain circumstances, mandatory confinement of dogs or cats that bite human beings, euthanasia of an animal under certain circumstances, specific requirements that animal owners provide humane care for their animals and authorization to impose certain additional protective and preventive measures against animal owners so as to minimize the risk such animals may pose to the public.

Members of City Council expressed an interest in the City amending its animal control ordinance so as to be identical or comparable to Buncombe County's ordinance. While this ordinance is not identical, it is comparable. The comparability and significant amendments are as follows:

1. The owner is provided with specific guidelines regarding the confinement and care of their animals and a failure to abide by those standards may result in the animal control officer seizing the animal or the animal being euthanized.
2. An appeal appeals board consisting entirely of City staff.
3. Addition of a civil penalty for the owner's failure to install protective and preventive measures for confinement of dogs when requested to do so by the animal control officer.
4. Clearly defined duties and responsibilities for animal control officers, including a requirement that they canvas the City to ascertain that dogs and cats are currently inoculated for rabies; investigation of reported animal bites by rabid animals and issuance of permits to keep more than six animals per lot.

Certain significant items included in Buncombe County's ordinance that are not in the City's draft ordinance are as follows:

1. An escalating civil penalty for violation of the County's ordinance ranging from \$50 to \$500 depending upon whether it is a first offense, second offense or third offense, etc.
2. A policy of the County that provides for, among other things, the issuance of a criminal summons if civil penalties are not paid.
3. A provision that makes it unlawful to fail to have a dog or cat vaccinated for rabies.
4. Immediate destruction of wounded or diseased animals that re suffering.
5. No additional staff or operational costs are anticipated.

Councilwoman Sitnick moved to proceed with the appropriate action at the Council's next formal meeting. This motion was seconded by Councilman McClure and carried unanimously.

#### PENALTY PROVISIONS RELATED TO SOLID WASTE MANAGEMENT

City Attorney Slawter said that the City's solid waste ordinance, which includes provides for enforcement of littering, currently provides -6-

for enforcement only by prosecution as a misdemeanor for any violation. Pursuant to a long-standing agreement with the County, this City ordinance is enforced within the City by an environmental control officer who is paid by the County. The person currently in that position is Rick Ramsey. Mr. Ramsey feels that the best means of enforcement of the ordinance would be through a method

of civil penalties, with a misdemeanor warrant to then be taken out if the civil penalties do not get the problem resolved. This action would amend the penalty provisions of Chapter 15 of the Code of Ordinances related to solid waste management. Also, this ordinance will allow the Public Works Director to designate persons in the Public Works Department, who have had proper training, to enforce this ordinance along with the environmental control officer.

Councilman McClure moved to proceed with the appropriate action at the Council's next formal meeting. This motion was seconded by Councilman Swicegood and carried unanimously.

#### CITY POLICY REGARDING LEGAL CLAIMS AGAINST EMPLOYEES

City Attorney Slawter said that on November 29, 1979, the City Council adopted Resolution No. 79-253 establishing a policy relating to claims and judgments sought or against City officers and employees. The policy provides for defense of claims made against employees who are acting in the course of their employment and the payment of such claims unless the employee is the cause of the claim by some wrongful act and set forth in the resolution. That policy currently provides for full payment of any claim or judgment against the employee.

This policy has recently been reviewed in connection with the City's current program of self-insurance. It is recommended that the policy be amended so as to limit the amount that would be paid on behalf of any employee to the amount that any claimant could realistically expect to obtain from the employee himself.

Councilman Swicegood moved to proceed with the appropriate action at the Council's next formal meeting. This motion was seconded by Councilman McClure and carried unanimously.

#### PRIVATIZATION

Mr. John Miall, Director of Risk Management, said that the review to date of the service level and efficiency of the Health Services function has shown that it's operation represents a significant cost savings to the City. It is estimated that privatization could result in additional savings of as much as \$40,000 annually.

A Request for Proposal needs to be prepared and sent out to the local medical community. Preparation of this RFP and evaluating responses to it will require a level of expertise and knowledge of medical services not available to City staff or the City Operations Advisory Commission. The Commission has reviewed both the scope of this project and the consultant recommended by staff and have concurred in the recommendation to ask the City Manager to sign an agreement with Mike McManus for a total project cost not to exceed \$15,000.

The scope of the project will include development of a Request for Proposal on behalf of the City, distribution to the local medical community, evaluation of responses from the local medical community, negotiations with service providers on behalf of the City of Asheville, -7-

preparation of a contract document for services, and a follow-up evaluation of the program after it is in place. This project would begin immediately and conclude on or before September 1, 1995.

Councilman Swicegood moved to have the City Manager proceed with this project. This motion was seconded by Councilwoman Field and carried unanimously.

JOINT COOPERATION AGREEMENT WITH THE ASHEVILLE REGIONAL HOUSING CONSORTIUM

Mr. Marvin Vierra said that the City entered into a Joint Cooperation Agreement with 12 governmental units within Region B and formed the Asheville Regional Housing Consortium on March 31, 1992. The agreement states in Section 16 that "the Lead Entity and the Cooperating Units agree the remain in the Consortium at least through March 31, 1995. Thereafter, each party shall continue to participate in the Consortium to the extent required by HUD regulations and other applicable law."

The City received a letter from HUD dated April 17, 1995, stating that a new Cooperation Agreement and authorizing resolutions must be submitted to HUD by June 30 to continue to receive an annual formula allocation as required in HUD Notice CPD 95-02.

Since formation of the Consortium in 1992 the region has received formula allocations totally \$2,696,837. The City of Asheville has received an allocation of \$657,904 for its affordable housing program and administrative cost as Lead Entity since inception of the program.

Councilwoman Sitnick moved to proceed with the appropriate action at the Council's next formal meeting. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

CONSENT:Intent to Close a Portion of Water Street

Summary: This resolution will set a public hearing for June 27, 1995, to consider a resolution to close a portion of Water Street.

Intent to Close Alley off Elizabeth Street

Summary: This resolution will set a public hearing for June 27, 1995, to consider a resolution to close an alley off Elizabeth Street.

Intent to Close Alley between Euclid Boulevard and Riverside Drive

Summary: This resolution will set a public hearing for June 27, 1995, to consider a resolution to close an alley between Euclid Boulevard and Riverside Drive.

Intent to Close Alley off Annie Street, portion of Westwood Place between Hazel Mill Road and its Dead-end and portion of Toxaway Extension between Hazel Mill Road and Toxaway Street

Summary: This resolution will set a public hearing for June 27, 1995, to consider a resolution to close an alley off Annie Street, portion of Westwood Place between Hazel Mill Road and its dead-end and portion of Toxaway Extension between Hazel Mill Road and Toxaway Street

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Intent to Close a portion of Dell Street, an unnamed alley off Dell Street, a portion of Davenport Road, a portion of Vermont Court and a portion of Russell Avenue

Summary: This resolution will set a public hearing for June 27, 1995, to consider a resolution to close a portion of Dell Street, an unnamed alley off Dell Street, a portion of Davenport Road, a portion of Vermont Court and a

portion of Russell Avenue.

### Amboy Road Riverfront Park

Summary: The Parks and Recreation Department is seeking authorization to proceed with the planning and design process for the Amboy Road River Park, part of the French Broad River Greenway. This would include obtaining a grant and entering into a lease agreement with the North Carolina Wildlife Resources Commission to start the design and development of the park through the services of a consultant.

Staff from the City of Asheville Parks and Recreation Department and RiverLink have met with the North Carolina Wildlife Resources Commission for over a year to develop the next major phase of the French Broad River Park which includes such features as a boat launch, fishing sites, and a parking lot in accordance with local, state, and federal regulations. The land along Amboy Road which is owned by the city is an ideal site to consider for this unique facility since the charette team found it a potentially attractive and functional location. A boat launch especially along a river bank provides a rare and innovative opportunity for recreation users and research.

The NCWRC would like to enter into an agreement with the City of Asheville which would provide to the City up to \$20,000 to hire a consultant to develop a site design, contract plans and specifications for construction, and opinion of probable cost for the project. Thereafter the NCWRC plans to fund (which would probably not exceed \$100,000) the construction of the site design. The NCWRC would maintain all of the major features after construction.

In order to start this process the NCWRC requires a lease agreement with the City to access the site and work with them and a consultant to develop a mutually satisfying design for the park which is sensitive to the greenway master plan. Authorizing these agreements would initiate the NCWRC \$20,000 grant to the city for consultants. The only expenditures on the City of Asheville's behalf during this project would be staff time working with the NCWRC and consultants to plan and design the park, additional site maintenance for trash pick-up, and a more frequent mowing schedule.

The development of future phases of this project to establish trails, boardwalks, landscaping and other features are also being investigated and other grant funding is available.

### ENDORSE CONTRIBUTION TO SUPPORT RECYCLING COOPERATIVE GRANT PROPOSAL

Summary: Buncombe County has submitted a grant proposal to the North Carolina Office of Waste Reduction to develop a public/private recycling processing and marketing cooperative project for blue bags and other materials in the community. The County is asking the City of Asheville to provide a token match of \$500 for this \$30,000 request, if the grant is approved. Appropriation would only be necessary if the grant is awarded.

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Councilman McClure moved to proceed with appropriate actions regarding the Consent Agenda items at the next formal meeting. This motion was seconded by Councilwoman Field and carried unanimously.

### OTHER ITEMS

Appointment of Althea Goode to the Asheville Transit Authority

Vice-Mayor Peterson moved to proceed with appropriate action at the next formal meeting to appoint Althea Goode to the Asheville Transit Authority to fill the unexpired term of Myra Grant, term to expire December 31, 1997, or until her successor has been appointed and qualified. This motion was seconded by Councilwoman Sitnick and carried unanimously.

Civil Service Board Vacancy

City Council instructed City Clerk Burleson to arrange for an interview of Nancy Kauffman for a vacancy on the Civil Service Board. The interview of Johnny Lloyd for this vacancy has already been set up.

Day Care Centers

At the request of Vice-Mayor Peterson, Fire Chief John Rukavina updated the Council on the issue of State Building Code enforcement at day care centers and the City's role in the state regulatory process.

Closed Session

At 5:40 p.m. Councilman McClure moved to go into closed session to discuss an matter related to real estate. This motion was seconded by Councilwoman Field and carried unanimously.

At 6:15 p.m. Councilman McClure moved to come out of closed session. This motion was seconded by Councilwoman Field and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:15 p.m.

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CITY CLERK MAYOR

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