

Tuesday - June 6, 1995 - 2:00 p.m.

Room 623 - City Hall Building

WORKSESSION

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure (arrived at 2:15 p.m.), Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood (arrived at 2:33 p.m.) and Councilman Herbert J. Watts (arrived at 2:15 p.m.); City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

HOLOCAUST MEMORIAL SERVICE

Reverend Ralph Sexton asked City Council to designate Thursday, June 15, 1995, at 7:00 p.m. as the Holocaust Memorial Service at Trinity Baptist Church. He stated that the world renowned violinist Shony Alex Braun will be present.

Councilwoman Sitnick, as well as the entire City Council, thanked Reverend Sexton for his continuing efforts in Oklahoma City.

Mayor Martin instructed the City Clerk to place this item on the next formal meeting agenda.

MEETING WITH THE CHAMBER OF COMMERCE REGARDING THE VISIONING PROCESS

Mr. Henry Luke made a presentation to the City Council relative to the visioning process and how it may work for Asheville and Buncombe County.

Mr. Luke answered various questions from Council as they related to the tentative schedule, the activities to take place, the number of people on various committees, how he envisioned reaching consensus with the groups, the need for the long-range planning, the number of public hearings, the media advertising, the need for commitment, etc.

The funding for the project is on a shared participation basis with \$10,000 from Buncombe County, \$10,000 from the business community, \$5,000 from the Community Foundation, and \$5,000 from the City of Asheville.

Vice-Mayor Peterson felt that this request should go through the Council committee set up for funding outside agency requests.

Councilwoman Field moved to proceed with appropriate action at the next formal Council meeting to appropriate \$5,000 to move forward with the visioning process. This motion was seconded by Councilman Watts and carried unanimously.

OUTSIDE AGENCY FUNDING

Mr. Bob Wurst, Audit/Budget Director, outlined the various funding options for the outside agencies. He noted that the Council's committee on outside agency funding met with the Chamber of Commerce, the Community Arts Council and RiverLink individually. He then went over each agency's request and the amount recommended by staff.

Councilman McClure noted that he still has not received the information from the Transit Authority relative to the percentage of ridership vs. 100%

capacity. The City Manager assured Councilman McClure that he would have that information to him. -2-

Councilman Swicegood expressed concern over the amount of money recommended for the Community Arts Council since part of the funding for this year came from the Festivals Fund.

Mr. Vaughn Ownbey, Executive Director of the Buncombe County Drug Commission, answered questions from Council as they related to the services offered by the Drug Commission.

Vice-Mayor Peterson asked for specific information regarding the Community Loan Fund allocation and the program's effectiveness. Councilman McClure said that the program has been successful and he had the information requested and would furnish it to Council.

Vice-Mayor Peterson also asked for information on how much Buncombe County is contributing, if any, to these outside agencies.

Councilman McClure suggested, and it was the consensus of Council, that the City Council develop a policy for outside agency requests to be grants rather than annual on-going budgets.

Councilman Swicegood said that all the outside agencies were good projects but if for some reason the requests were cut, he would like to see the money dedicated for street and sidewalk work.

It was the consensus of Council for the Council's committee on outside agency funding meet again to formalize their recommendations.

HAYWOOD ROAD CORRIDOR PROJECT

Mr. Tommy Sellers presented City Council with a list of priorities as set by the West Asheville community for Haywood Road on May 18, 1995.

He asked City Council to fund \$7,000 for Christmas decorations to be placed on Haywood Street. For the past two years, Haywood Road has had no decorations since the earlier ones which are now too dilapidated to use. He said the \$7,000 would be used to buy as many wreaths and brackets as possible.

Councilwoman Field said that given the length of Haywood Road and the number of decorations that would be needed, the program may take several years to complete.

Mr. Sellers answered questions about building facades on Haywood Road and how the work will be overseen by the Preservation Society. He stated that the work is not being done for an historic district designation.

Ms. Julia Cogburn, Planning Director, answered questions from Councilman Swicegood as they related to residences located above the stores on Haywood Road. She suggested perhaps a wording amendment might be necessary to address the upper story residences.

Vice-Mayor Peterson suggested that this \$7,000 request be reviewed by the Council's committee on outside agency funding.

Councilwoman Sitnick commended Mr. Sellers for working the West Asheville community so well to develop the priority list which many items do not need money to be accomplished.

Councilwoman Sitnick moved to adjust the 1995-96 budget to appropriate \$7,000 for Christmas decorations in West Asheville. This motion was seconded by Councilwoman Field and carried unanimously. -3-

UPDATE ON THE MONTFORD STEERING COMMITTEE REPORT

Ms. Julia Cogburn, Planning Director, gave Council on update on the progress of the reevaluation of the Head of Montford Redevelopment Plan. She briefed Council on the committee meetings that have taken place.

She highlighted some of the following recommendations from the Committee: (1) no more CD funds used for additional street and sidewalk work, (2) the property along Short Street be developed as a small park for this area, and (3) the remainder of the CD funds for the Head of Montford be spent for low and moderate income housing - in particular on the west side of Montford including the area known as "stumptown."

At the request of Council, she stated that the two controversial issues before the Committee are (1) the rezoning of the Dozier property (recommended Commercial General zoning for the west side of Montford Avenue including the Dozier property up to Pisgah Legal Services with the exception of a strip along Short Street which would be zoned R-3 - motion on April 6, 1995, passed on a 7-6 vote) and (2) the zoning for the Peddler property (recommended Office Institutional zoning for the Peddler property, north to the ravine and the area to the west including Isaac Dickson School - motion on April 6, 1995, passed on a 8-5 vote).

RFP APPROVAL REGARDING SALE OF CERTAIN CITY PROPERTIES

Ms. Patty Joyce, Senior Planner, said that in response to the desire of the City Council to develop a "short list" of available City-owned property for immediate sale or lease and to prepare a strategy for the advertising and transfer of City property using staff resources and/or a real estate firm, staff proposes the following steps to be accomplished according to the schedule below:

Steps Completion Date

Propose strategy for sale of City June 6

property; City team approach and/or real

estate firm. Identify short list of

properties to sell first.

Advertise and distribute Request for June 14

Proposals (RFP) to Real Estate firms.

Investigate and complete "field" reports

on remaining 96 properties owned by the

City and selected "tax lots".

Present returned RFP's to City Council July 5

Select Real Estate firm(s) and begin July 28

contract negotiations

She said staff recommends that Council authorize the advertisement of the RFP to sell City properties. Appraisals of some properties will be part of the contract with the real estate firms and may require the payment of appraisal fees up front. Selection of the firm is expected to be completed by July 28, 1995. The sale of certain properties near the Asheville Regional Airport will be handled outside of this agreement by the City Attorney's Office. All other properties will be sold under contract with a real estate firm(s). -4-

She then passed out to Council the "short list" containing 35 properties (three of which are City-owned property at the Airport which, if sold, will be handled by the City Attorney's Office).

City Manager Westbrook reminded the Council that the first \$350,000 realized from the sale of Airport property has been appropriated for the renovation of Stephens-Lee Recreation Center.

Councilman Swicegood suggested a meeting with the Airport Authority to see what their future needs might be with regard to the City-owned Airport property. He felt the City should not sell any of the property out at the Airport or lease it.

Councilwoman Sitnick suggested selling or donating some small remnants to neighborhoods for parks or greenspace, donating lots to Magic Community Gardens to grow food earmarked for low income residents, or perhaps sell some of the lots for \$1 to non-profit agencies. Ms. Joyce said that once those type lots are identified we can move in that direction.

Councilman Swicegood suggested some of the Richmond Hill property be retained for park use, perhaps 60-100 acres. City Manager Westbrook felt that perhaps whoever bought the 170 acres would donate a portion of it back to the City for a park.

Vice-Mayor Peterson felt that north Asheville still needed a park. He suggested not selling the Richmond Hill property but present it to the Recreation Advisory Board for their suggestion of possible ballfield or soccer fields.

Councilwoman Sitnick felt that perhaps the City shouldn't sell all our available property. She didn't want to see any builders come into Asheville, buy up all Asheville's prime land and develop the land over what Asheville's needs are.

Mayor Martin agreed with Councilwoman Sitnick by saying that all local developers will have the opportunity to participate in any land sales.

Councilwoman Sitnick wondered if a public meeting should be held to find out from the public how the City should use their available land.

Councilman Swicegood felt the City should begin getting appraisals on the top three pieces of property - 31 Haywood Street, the Richmond Hill property and the property on Asheland Avenue.

Councilwoman Field said that there might be several pieces of property on the list that might be good for residential development in addition to the Richmond Hill property. She was torn between holding it for a possible residential development with a park and selling it, which would bring in some money to the City. She was against selling 31 Haywood Street but didn't object to the City leasing the building. Since she felt the City needed to go slow in selling off their property, she didn't want to make any commitments to sell until she had

an opportunity to look at the location of each piece of available property.

Councilman McClure said that when we chose an appraiser for the properties, we need to tell them what the scope of their appraisal needs to be.

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Councilwoman Sitnick said that as we start out in this new process of getting appraisals and sending out RFP's to real estate firms, the Council must pay scrupulous attention to conflicts of interest and perceptions of conflicts of interest.

Mayor Martin also felt that 31 Haywood Street should not be sold.

Vice-Mayor Peterson moved to begin the process of obtaining appraisals on 31 Haywood Street, the Richmond Hill property and the Asheland Avenue property and for staff to begin developing an RFP on the remainder of the "short list". This motion was seconded by Councilman Swicegood.

City Attorney Slawter stated that all sales are subject to the statutes governing the sale of City-owned property. He noted that there is ample opportunity for upset bids.

Upon inquiry of Councilwoman Sitnick about the cost of the appraisals on the three properties, Councilman McClure said the cost would be approximately \$10,000. Ms. Joyce said that once the appraisal figure is known, she would have to come back to the Council for a budget appropriation.

It was the consensus of Council to have City staff pick the appraisal firm, come back to the Council with a budget amendment for those appraisals, and have the City Council pick the real estate firm after all the RFP's have been received.

Councilwoman Sitnick asked the City Manager to confirm the correct cost of the land at 31 Haywood Street. One document she has reads \$219,183 and another document reads \$151,600.

Councilman McClure suggested staff contact some commercial banks and they would give them a list of all their qualified appraisals in Asheville.

MESSAGE PARLOR ORDINANCE AMENDMENT

Ms. Deborah Crowder, Revenue Manager, said that the City's current massage parlors and health studios ordinance requires all requests for a privilege license to operate as a massage therapist to be approved by City Council before the Finance Director can issue same. Additionally, the current ordinance prohibits massage therapists from treating members of the opposite sex.

Recently there have been a number of requests from massage therapists for a privilege license. In December of 1994 City Council asked the City Manager to look into amending the current ordinance so as to exempt massage therapists from the provisions of the massage parlors and health studios ordinance or to include educational standards in the ordinance.

The attached ordinance amending the massage parlors and health studios section of the Code of Ordinances of the City of Asheville, sets forth specific educational standards that massage therapists must meet in order to be licensed as massage therapists in the City of Asheville. It also replaces the language, "massage parlors and health studios," with "massage therapy regulations." The amendment does not include the restriction prohibiting massage therapists from

treating members of the opposite sex; however, it does prohibit the massage of private parts for hire. Massage therapists must continue to provide certain data to the -6-

City of Asheville so that proper regulation of this profession can be maintained. A major new provision included in this amended ordinance provides for appointment, by the City Manager, of a three-member City staff Massage Therapy Appeals Board. That Board will hear various appeals. The Board's decision will be final and further appeal must be taken to the Buncombe County Superior Court. The City department responsible for gathering all of the necessary data in order to determine whether to issue a privilege license is the Finance Department. The City department responsible for enforcing the ordinance is the Police Department.

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

CITY COUNCIL RULES OF PROCEDURE AMENDMENT

City Attorney Slawter said that following the May 2, 1995, City Council meeting, a question arose regarding public comment during City Council worksessions. The current Rules of Procedure do not distinguish between worksessions and formal meetings of the Council. He said that he has reviewed Sec. 9 of the City Charter and the City Council Rules of Procedure. Sec. 9 of the Charter provides that "all meetings of the Council shall be open to the public..." and then provides "...and the Council, by rules, must provide for giving citizens reasonable opportunity to be heard at its meetings in regard to matters thereunder consideration."

He said that it has always been the policy of the Council to give the public an opportunity to comment before taking a vote on matters under consideration. The issue seems to have arisen due to the new procedure that the Council is following, with a worksession at which a discussion of topics is held in order to get some sense of direction of how the Council wishes to proceed, and then formal consideration at a regular session of the Council. Before the Council takes a formal vote on any matter, therefore, the public always has an opportunity to comment. Some members of the public apparently read Sec. 9 of the Charter to require that the City Council receive public comment on each matter that the Council discusses, each time that the Council discusses the matter. So long as the Council allows public input prior to a formal vote on an issue, it would seem to him that the requirements of Sec. 9 have been met.

The current Rules of Procedure of the City Council were extensively revised on December 22, 1992, and one additional amendment was made on August 3, 1993. This draft provides for an amendment to Sec. 1 regarding the meeting time (change from 4:00 p.m. to 5:00 p.m., consistent with Council's recent change) and an amendment to Sec. 25 so as to reference "closed" sessions, consistent with Council's recent change), rather than "executive" sessions (consistent with the recent change in the Open Meetings Law). In addition, this would be a good time to make any amendment that the Council would like to make to Sec. 7 of the Rules of Procedure regarding public comment. The Council Rules have never specifically provided for public comment at worksessions. An amendment to Sec. 7 could specify the extent to which public comment would be allowed at worksessions.

Sec. 7 of the Council Rules currently provides that any group or person wishing to address the Council on any matter may do so at the conclusion of regularly scheduled business. Since no distinction is made in the Rules between worksessions and other meetings, this could be -7-

read to apply to either type of meeting. In order to clarify matters, he recommended an amendment to Sec. 7 to provide specifically what is allowed at worksessions and specifically what is allowed at formal meetings. Since there appears to be some difference of opinion among Council members regarding the extent to which public input should be allowed at the worksessions, perhaps the following amendment to Sec. 7 would be acceptable:

1. Provide that at worksessions, public comment will be received on individual items for which the Council is concluding its consideration of the matter during that particular worksession. For other matters, which will be considered by the Council at a subsequent formal meeting, public comment will be received at the subsequent formal meeting.
2. Provide for public input at formal meetings on individual topics on the Council agenda prior to a vote on the matter, as is currently allowed, with the same time limitations.
3. Provide that at both worksessions and formal meetings, public comment will be received at the conclusion of regularly scheduled business, with the same time limitations as currently exist for presentations at formal meetings (ten minutes for the spokesperson for a group, three minutes for individuals).
4. Provide that the Mayor (or the Vice Mayor, in the absence of the Mayor) be authorized to allow such additional comments as may be deemed appropriate for the orderly conduct of business.

The Council has some flexibility in establishing rules for these proceedings, and the above suggestions are no more than suggestions. Some matters by law require a public hearing and may have specific formal requirements for the public hearing. Most matters that the Council considers do not require a public hearing. Even in instances where a public hearing is required, N. C. Gen. Stat. sec. 160A-81 authorizes the Council to adopt reasonable rules regarding the conduct of public hearings, including limiting the time allowed for public input. Sec. 9 of the City Charter also authorizes the Council to adopt rules providing for public input. Except for specific requirements for public hearings, any reasonable rules that allow public input prior to the vote of the Council should be sufficient.

The following are some items, from the Rules of Procedure of the Buncombe County Board of Commissioners, that Council might want to consider in the City's Rules:

1. County Rule IV.F provides for an individual or group to have an item placed on the County Commissioners' agenda. There is no specific provision in the City Rules which allows this. Under the County Rules, the presentation for such an item is limited to five minutes unless a majority of the Commissioners agree to allow more time.
2. County Rule IV.G allows public comment on all agenda items considered by the Commissioners. Both individuals and representatives are limited to three minutes unless a majority of the Board agrees to additional time.

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3. After consideration of the formal agenda, the County Rules provide for public comment, just as is allowed at the City Council meetings. County Rule XII limits the time for all such comments to 20 minutes. The County Clerk provides a sheet for persons interested in speaking to sign up to speak. Both individuals and representatives of groups are limited to five minutes, unless a majority of the Board agrees to additional time.

Councilwoman Field asked if anyone could pull something off the Consent Agenda. City Attorney Slawter responded by saying anyone could remove an item off the Consent Agenda with that item to be discussed individually.

Councilwoman Sitnick said that if people are truly interested in City government enough to leave work early, find a parking place, put money in the meter and take their time to sit until their topic is being discussed, they should be allowed to have input. If Council truly wants to understand the issues before them, Council needs to know from the public how they want to be represented. If the worksessions are going to not allow public comment on individual items, then she would prefer not to have worksessions but to handle everything at a formal meeting - no matter how long that formal meeting takes. She has no problem with setting time limits on speakers and agrees that the meetings need to be held in an orderly fashion; however, she is opposed to denying people the right to speak when they raise their hand. She also felt that there should be enough chairs for everyone who attends Council's meetings to sit down.

Mayor Martin stated that he, too, is in favor of public input, and that can be achieved at a formal meeting when he always asks if any member of the public has any comments on every item brought before the Council.

Councilman Swicegood agreed that the public does have a chance for comment at formal meetings.

Councilwoman Field agreed that it was very important for Council to get educated on issues brought before them and Council does invite the public to get their opinions. She felt that worksessions were valuable because it affords the Council a time to discuss the information gathering amongst themselves, get information from staff and input from the public. She agreed with Councilwoman Sitnick that Council members need to return phone calls from the public in order to listen to the public's concerns. However, the public informs the Council by not only attending the Council meetings, but by those telephone calls and by sending letters stating their opinions on different matters. She feels that the most appropriate time for public comment is at the formal meetings.

Councilman Watts stated that he feels this Council has been open to public comment and also has input from the public by phone calls and letters.

Upon inquiry of Vice-Mayor Peterson, City Attorney Slawter said that City Council was not breaking the law by not allowing the public to speak each time a topic comes before the Council. He said the public should be allowed to speak before final consideration, which is normally at a formal meeting.

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Councilwoman Sitnick felt the Council needed to do what is best for all the citizens and they need to make a decision based on all the information (not just information presented by staff). She stated that this is a government of, by and for the people!

Councilwoman Field felt that the people who elected her felt that she could make good, informed decisions to represent the community the best way she could.

Councilwoman Sitnick felt that the public did not abuse their speaking time and urged Council to allow public input during each worksession item.

Ms. Hazel Fobes asked Council to cooperate with the public. She suggested

making the meeting room more audience oriented, and making arrangements for the audience to hear the speakers and Council.

As a result of comments by Mr. Ralph Bishop, City Attorney Slawter said that he would furnish to Council a copy of a statute Mr. Bishop felt Council was violating.

Vice-Mayor Peterson suggested an amendment to the rules to have an item at the end of each worksession agenda for public comment on items taken up during that worksession, with a three minute time limit on each speaker. He also suggested an amendment providing that the Mayor (or the Vice Mayor, in the absence of the Mayor) be authorized to allow such additional comments as may be deemed appropriate for the orderly conduct of business.

Mayor Martin asked for a show of hands on Vice-Mayor Peterson's suggested amendments. The amendments passed on a 5-2 vote with Councilwoman Sitnick and Councilman Swicegood voting "no". Mayor Martin instructed the City Attorney to prepare the appropriate paperwork to amend the City Council Rules of Procedure for appropriate action at the next formal Council meeting.

RESOLUTION NO. 95-83 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO EXECUTE AN ASSIGNMENT AND MODIFICATION AGREEMENT REGARDING THE PURCHASE OF 16 BUSES FOR THE CITY OF ASHEVILLE/ASHEVILLE TRANSIT AUTHORITY

Ms. Patsy Meldrum, Assistant City Attorney, said that this resolution would authorize assignment of the purchase contract to another company, a delay in the delivery date and a delay in liquidated damages becoming accrued for the purchase of 16 buses for the Asheville Transit Authority.

In Resolution No. 94-123, adopted on June 21, 1994, the City Council awarded the purchase of 16 Orion V transit buses to Bus Industries of America, Inc. Bus Industries of America, Inc. has experienced financial difficulty in performing its obligations under the purchase contract awarded by the City of Asheville and under other bus purchase contracts awarded to it by various entities throughout the United States.

In order to avoid liquidation or bankruptcy and inevitable closure, Bus Industries of America, Inc., the Ontario Ministry of Economic Development and Trade (Ontario, Canada) and others have arranged for an asset purchase agreement. Certain assets of Bus Industries of America, Inc. would be purchased by Orion Bus Industries, -10-

Inc., which has offices in New York, New York and is an American subsidiary of Western Star Trucks Holdings, Ltd., a Canadian company located in British Columbia.

As part of that purchase agreement, outstanding orders with customers must be resolved. In order to provide the 16 buses under the existing purchase contract with the City of Asheville, Bus Industries of America, Inc. and Western Star Trucks Holdings, Ltd. have requested that the City of Asheville make certain changes to its bus purchase contract and consent to assignment of that bus purchase contract to Orion Bus Industries, Inc.

As of May 15, 1995, Western Star Trucks Holdings, Ltd. requested agreement from the City of Asheville as follows:

1. A revised delivery date from October 14, 1995, to March 4, 1996.
2. Waiver of all liquidated damages that would accrue between October 15, 1995, and the delayed delivery of March 4, 1996, with liquidated damages becoming

available again if the buses are not delivered by March 4, 1996.

3. Acceptance of the standard warranty provisions provided by Orion Bus Industries, Inc.

4. Consent to the assignment of the bus purchase contract from Bus Industries of America, Inc. to Orion Bus Industries, Inc.

Norwood Dunn, Purchasing Director; Carl Ownbey, Planner for the Asheville Transit Authority; Lonnie Blair, General Manager for the Asheville Transit Authority; Tom Tomlin, Chairman of the Asheville Transit Authority; Vic Buchanan, attorney for the Asheville Transit Authority; and Patsy Meldrum, Assistant City Attorney, conferred about the request made of the City of Asheville. As a reply was requested by May 24, 1995, this group reported to Western Star Trucks Holdings, Ltd. on that date that the City Council and the Asheville Transit Authority would need to determine whether or not to accept any or all of the terms proposed.

Since that date, numerous discussions have been held between City and Transit Authority staff and representatives of Bus Industries of America, Inc. and Western Star Trucks Holdings, Ltd. Despite requests by City of Asheville and Asheville Transit Authority staff, Bus Industries of America and Western Star Trucks Holdings, Ltd. could not consent to an earlier delivery date than March 4, 1996, and could not consent to paying any of the liquidated damages which would become due if the buses are not delivered by the original delivery date of October 14, 1995. They will, however, consent to terms as follows:

1. Provide the Asheville Transit Authority with one of our buses on or before February 5, 1996, for use by the Transit Authority so that bus drivers may be trained to operate the new buses prior to the March delivery date.
2. As this one bus would arrive on February 5, 1996, they have agreed to provide us with \$1,700 in credit for bus parts which represents the interest we might pay for an earlier payment for one bus. -11-
3. Use their best efforts to move up the delivery date for the other 15 buses should other orders be canceled.
4. Pay \$100 per business day in liquidated damages, on a per-bus basis, for each bus not delivered by March 4, 1996.
5. Provide us with an additional \$50,000 in credit for parts for the buses if we pay for the buses 15 days after acceptance, instead of 30 days after acceptance.
6. Secure consent by the holder of the performance bond to this Assignment and Modification.

The proposed closing date on the purchase asset agreement has been moved from May 31, 1995, to June 6, 1995. They need a response from the City of Asheville by that date in order that they may close the transaction.

Tom Tomlin, Chairman of the Asheville Transit Authority, has consulted with other members of the board of the Asheville Transit Authority.

Staff of the Finance Department, Planning Department and City Attorney's Office recommend adoption of the resolution and approval of the revised proposal of Western Star Trucks Holdings, Ltd.

Ms. Meldrum answered various questions from Council as they related to how much

the liquidated damages would be, the terms of the performance bond, if the City could go to the second lowest bidder, and the reasoning behind the time deadline.

Councilwoman Sitnick asked if we could take advantage of this delay and negotiate with the new company and get 16 natural gas buses which will not add to the pollution.

Mr. Lonnie Blair, General Manager for the Asheville Transit Authority, responded that nothing else in the City uses natural gas and it would cost approximately \$2-3 Million to build a fuel system.

Mr. Blair responded to Councilwoman Field's question about the difference between the different type fuels.

Councilwoman Sitnick wondered if there was another kind of bus fuel that would burn cleaner that would not require the City to build another fuel station. Mr. Blair was not aware of any other kind.

Councilman Swicegood felt that Public Service Gas could probably supply the fuel for the City at a price and might even be willing to help the City build the new station to fuel the buses.

Mr. James Cheeks, Traffic Engineer, explained to Council the advantages and disadvantages of buses with natural gas. He was uncertain as to whether the natural gas buses were safer than the others.

Vice-Mayor Peterson moved to adopt Resolution No. 95-83. This motion was seconded by Councilman Watts and carried on a 6-1 vote, with Councilwoman Sitnick voting "no".

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Councilwoman Field asked for some information on emission quality of the new buses and some of the reasoning why the City chose those specific buses.

Councilwoman Sitnick also asked for information on different buses in order to become more informed on future purchases. She suggested maybe a joint fuel station with Buncombe County.

RESOLUTION BOOK NO. 22 - PAGE 283

REVIEW OF AGREEMENT WITH METROPOLITAN SEWERAGE DISTRICT ("MSD")

Mr. Mike Holcombe, Water Resources Director and City representative on the MSD Board, briefed Council on the background leading up to the MSD Consolidation Agreement.

He then highlighted some issues that have arisen since the consolidation of all the sewer collection systems in Buncombe County. Some being, but not limited to: (1) in the fall of 1994 the City agreed to start payment of sewer fees to MSD; (2) certain problem sewers in the City's Master Plan have not been addressed; (3) the Broadway sewer issue; (4) the lack of economic development extensions in the MSD Sewer System Extension Policy; (5) the need for system-wide rehabilitation throughout the District.

He felt that it is natural to expect "growing pains" when an organization like MSD moves almost overnight from a waste water treatment facility to a regional sewer utility. The physical infrastructure problems facing MSD are immense; current estimates exceed \$100 Million in costs. There has been some progress

made in certain areas and the need is for progress to continue and accelerate.

He said that the Water Resources staff has taken pro-active measures to improve communications and relationships with MSD staff. For instance, Robin Westbrook has been assisting MSD with public relations; they have asked for MSD participation in the design of a new billing system; and they have offered to share AM/FM mapping system with MSD.

Councilman Swicegood thought that MSD was to use one percent of their total budget for economic development. Mr. Holcombe was unaware of that, but would find out and report back to Council.

Upon inquiry of Council, Mr. Holcombe said that he felt the relationship between the MSD Board and the City Council was a good working relationship and that the three City representatives on the Board are representing the City's interests well.

Mr. Holcombe responded to various questions as they related to the incinerator project and the alkaline stabilization. Councilwoman Sitnick asked for a report on those projects.

When Council inquired about the Sullivan Act, Finance Director Larry Fisher said that it has been challenged in Court and the City lost.

When Councilman Swicegood asked if an efficiency study had been done on staff at MSD, Mr. Holcombe responded that about two years ago a study was performed and some parts of the study were implemented and some were not.

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PUBLIC INFORMATION PLAN

Ms. Robin Westbrook, from the Water Resources Department, said that City Council has asked to review additional media sources for inclusion in the Public Information Plan.

In the original Plan the Asheville Citizen-Times was listed as the only publication that the City would use to publish CityWorks. CityWorks will consist of a 1/4 page ad every two weeks.

The following newspapers report these rates and distributions:

Mountain Xpress

Wednesday distribution: Western North Carolina - 20,000

Buncombe County - 14,000

City of Asheville - 10,000

Rates:

1/4 page every other week \$134.00 every other week

26 weeks = \$3,484

A rate increase is pending in July. New rates are not available at this time.

Asheville African American News

Monthly distribution: 10,000

Rates:

1/2 page monthly \$273.00 every month

12 months = \$3,276

Asheville Citizen-Times

Daily circulation: 67,311

Buncombe County: 37,500

City of Asheville: 20,500

Rates:

1/4 page ad every other week \$684.16 every other week

26 weeks = \$17,788

Upon inquiry of Councilwoman Sitnick why the Asheville Advocate was not listed, Ms. Westbrook said that she contacted Mr. Clarence Benton and he advised her that his presses had stopped. He said that if the City guaranteed him advertising, he would start his presses again. Ms. Westbrook suggested he work on getting certified and then we would be happy to consider his paper for advertisement.

Upon inquiry of Councilman McClure if the City was fully utilizing the ARNIE phone system, Ms. Westbrook said that we are not; however, this year there will be an ad in the Yellow Pages and Black Pages listing ARNIE codes.

Councilwoman Sitnick moved to include the advertising in the Mountain Xpress, the Asheville African American News and the Asheville Citizen-Times for the total cost of \$43,695. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

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Councilwoman Sitnick suggested that if we have some surplus in the budget, she would like to consider the success of this program and increase it's budget.

CONSENT AGENDA:

Consideration of Bids to Purchase a Skid Steer Loader with Concrete Planer and Transport Trailer

Summary: Staff recommends that award be made to the low bidder, E.F. Craver Company, Asheville, N.C., in the amount of \$28,912 for a 'Case' Model 1845C Skid Steer Loader with an 'Alitec' Model CP16 Concrete Planer and a 'Hudson' Model HSE 14 Transport Trailer. The following bids were opened on April 25, 1995:

Vendor Net Cost

E.F. Craven Co., Asheville, NC \$28,912.00

Viking Equipment, Asheville, NC \$31,650.34

Jones Tractor Co., Spartanburg, SC \$39,897.00

Corriher Tractor Inc., Lenoir, NC \$45,657.00

Sale of \$3,000,000 General Obligation Water Bonds, Series 1995

Summary: This resolution approves the issuance of \$3,000,000 General Obligation Water Bonds, Series 1995. The bonds were sold on June 6, 1995.

Amendment to an Agreement with William B. Farris for review of the draft Unified Development Ordinance

Summary: The City has previously entered into an agreement dated March 22, 1995, with William B. Farris for consulting services in the review of the draft Unified Development Ordinance. That agreement provides that all services shall be completed by Mr. Farris on or before June 30, 1995. The parties have agreed to extend that deadline to July 31, 1995. No costs are associated with this extension.

Demolition of 25 Ridge Street

Summary: This resolution sets a public hearing for June 27, 1995, to consider demolition of 25 Ridge Street, Asheville, North Carolina.

Section 6 of Braeside at Biltmore Park Voluntary Annexation

Summary: Biltmore Farms Inc. has submitted a petition for the annexation of an area located west of Overlook Road - Biltmore Park, Section 6. The area petitioned for annexation consists of 19 acres. This annexation is adjacent to Section 5 of Biltmore Park, but will not be contiguous to the City until the annexation of Section 5 becomes effective on August 21. Therefore, this petition will be handled as a satellite annexation.

Beaverdam Run Voluntary Annexation

Summary: Beaverdam Run Homeowner's Association has submitted a petition for the annexation of all that portion of Beaverdam Run not previously annexed into the City of Asheville. The area petitioned for annexation consists of 34 acres and is adjacent to the existing corporate limits.

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Brooks-Howell Home on Spears Avenue - Landmark Sign Designation

Summary: Brooks-Howell Home is requesting landmark sign designation for their Spears Avenue arched entrance sign.

At the Historic Resources Commission meeting on May 12, 1995, the Commission voted 12-1 to recommend to City Council that the Brooks-Howell Home arched entrance sign be designated a landmark sign. They determined that the sign meets criteria A and B as set forth in the sign ordinance for the following reasons: Criteria A - due to the number of tourists who come to Asheville to visit relatives and friends at the Brooks-Howell Home; Criteria B - it is a unique sign within the City of Asheville.

Massage Therapist License for Joan Mary Held

Summary: Joan Mary Held seeks approval of her application to practice the profession of a massage therapist from City Council, consistent with Article III of Chapter 9 of the City's Code. City staff has reviewed Ms. Held's

application and all pertinent requirements have been met.

Massage Therapist License for Mary Worrell

Summary: Mary Worrell seeks approval of her application to practice the profession of a massage therapist from City Council, consistent with Article III of Chapter 9 of the City's Code. City staff has reviewed Ms. Worrell's application and all pertinent requirements have been met.

Canceling Deed of Trust on Patton Avenue Property

Summary: This resolution would authorize the substitution of a trustee in a 1938 deed of trust and authorize execution of an acknowledgment of satisfaction of the debt secured by the deed of trust.

On August 18, 1938, the City of Asheville conveyed to Walter C. Wilson and wife, Kelly L. Wilson, and G. Wilbur Morris and wife, Lillian Morris, a small tract of property located at or near the intersection of Tampa Avenue and Patton Avenue, which deed was recorded in Deed Book 509 at Page 467 on August 26, 1938 in the Office of the Register of Deeds for Buncombe County.

Walter C. Wilson and wife, Kelly L. Wilson, and G. Wilbur Morris and wife, Lillian Morris, executed a deed of trust on August 25, 1938, which was recorded in Deed of Trust Book 367 at Page 194 on June 21, 1939, in the Office of the Register of Deeds for Buncombe County, wherein they conveyed an interest in the property located at or near the intersection of Tampa Avenue and Patton Avenue to Phillip C. Coker, Jr., as Trustee, to secure a note in the amount of \$250.00 given to the City of Asheville, with the City of Asheville being a third-party beneficiary under said Deed of Trust.

The City of Asheville has received a request from attorney Janese M. Baliles to substitute the City Attorney or Assistant City Attorney II for the trustee named in the Deed of Trust referred to above and for the substitute trustee to execute a Trustee Acknowledgment of Satisfaction for the deed of trust referred to above.

No record has been found of whether or not the note in the amount of \$250.00 has been paid and satisfied in full. N. C. Gen. Stat. sec. -16-

45-37(b) provides, however, that it shall be conclusively presumed that the conditions of any deed of trust securing the payment of money have

been complied with or the debt secured thereby paid or obligations performed from and after the expiration of fifteen (15) years from either the date when the conditions of the deed of trust were required by its terms to have been performed or from the date of maturity of the last installment of the debt or interest secured thereby.

It was the consensus of Council to proceed with appropriate actions regarding the Consent Agenda items at the next formal meeting.

OTHER ITEMS:

Meeting with the Airport Authority

It was the consensus of Council to meet with the Airport Authority at an upcoming worksession.

City Council Worksession on July 4, 1995

It was the consensus of Council to not meet the week of July 3, 1995, and if a worksession is needed, the Council will meet on Monday, July 10, 1995.

Worksessions; Council Agendas; Skateboarding; and ETJ Worksession

Upon inquiry of Councilwoman Field about the list of items on Councilwoman Sitnick's Worksession List, Mayor Martin said that he and Councilwoman Sitnick will be meeting soon to go over her list and then will get back with Council to determine which need to be actual worksession items.

Councilwoman Field thought it might be helpful to have an abbreviated agenda for dissemination to the public.

Councilman Field asked the City Manager to look into the possibility of providing a location for kids to skateboard in hopes that they will not continue to damage areas at the Vance Monument and also in front of the City Hall building. She also asked Council if they had a problem with her asking Maggie O'Connor, HRC Director, to meet with a group concerned about the restoration of the Vance Monument - Council did not have any problem.

It was the consensus of Council to have a worksession on the extra-territorial jurisdiction in the near future.

Payroll Deductions Policy

Councilman McClure asked Council to re-consider the payroll deduction policy to not only allow payroll deductions where required by law and for City-sponsored fringe benefit programs, but also for charitable 501 (C) (3) organizations that meet certain requirements.

He felt that the policy agreed to by Council on May 16, 1995, was done with the understanding that Premier Credit Union would be able to offer similar services to the other organizations - those being, Fraternal Order of Firefighters ("FOF"), Fraternal Order of Police ("FOP"), Police Benevolent Association ("PBA"), Asheville Firefighters Association ("AFA"), Asheville-Buncombe United Public Workers ("ABUPW"), and the United Way. -17-

A letter has since been received by Pam McGrayne from Ken Lane, President and CEO of Premier Federal Credit Union, dated May 23, 1995, which reads:

"As a result of our meeting on May 22nd, I have researched the avenues available to us in trying to best serve our Credit Union members.

We presently offer group services to the Asheville Firefighters Association and Asheville Buncombe United Public Workers, on an individual credit union authorized basis. We are prepared to offer similar services to the Fraternal Order of Police, Fraternal Order of Firefighters, and the Police Benevolent Association upon request, and for a fee to recover the cost involved.

Unfortunately, we are unable to offer this service to the United Way and Colonial Insurance or other non-shareholder member organizations"

As a result of this information, Councilman McClure asked that Council re-consider the policy to allow the United Way to continue to receive City payroll deductions.

Councilman Swicegood suggested Mr. Lane meet with the Council and explain exactly why this service cannot be met through the Credit Union and he also wondered if the Credit Union was making any money off City employees.

Ms. Pam McGrayne, Personnel Director, explained that because of federal guidelines that Premier Federal Credit Union operates under, the United Way is not in their field of membership.

Councilwoman Sitnick read a letter from "Members of the Asheville Fire Department" which contained 43 signatures. The letter reads

"On May 16, 1995, you decided to abolish all payroll deductions for employees other than those required by law or those for City fringe benefits.

You did this on the assumption that the Premier Credit Union could take care of all the rest of City employee deductions. We've now learned that this assumption was wrong. Premier Credit Union can't do it.

In fairness to all City employees, you need to reconsider your decision. Because Premier Credit Union can't handle all the deductions you thought they could, letting your May 16 decision stay in place will hurt a lot of people.

We respectfully request that you ask City Manager Jim Westbrook to review his proposed policy in light of the new facts that have come to light about Premier Credit Union and payroll deduction."

Councilman Watts said that he was not present at the meeting on May 16, 1995, when this matter was discussed. He said that being a former police officer, he joined the FOP for his own protection but the United Way is a voluntary contribution to help a charitable organization that helps many people. He supported bringing the matter back on the table again.

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Councilwoman Sitnick moved to bring the matter regarding payroll deductions back for Council consideration. This motion was seconded by Councilwoman Field and carried on a 5-2 vote with Vice-Mayor Peterson and Councilman Swicegood voting "no".

Vice-Mayor Peterson said that the ABUPW brought the issue up of the hidden cost of \$15,000 for each payroll deduction. He felt that if you allow one organization to have payroll deductions, you need to be fair and allow all organizations to have the same service. He felt the City would be causing a lot of problems if they don't give all City employees the same choices.

Audit/Budget Director Bob Wurst apologized to Council on giving them incorrect information on the cost for each payroll deduction. He said that correct administrative cost for each payroll deduction is \$3,600.

Councilman Swicegood expressed concern over the City Manager and the Fire Chief being on the United Way Board while on the City's payroll. He also questioned the use of a City employee being a Loaned Executive during the United Way campaign. He felt the City needed to be fair to all organizations regarding payroll deductions. He stated that he was not against the United Way, but he feels this policy change will only block the union from participating in City government.

Mayor Martin explained that the City is not excluding the union. They have the same services available to them through the Credit Union as the other organizations - the United Way is the only organization that does not have that service available to them.

Mr. John Teeter urged Council to consider allowing the United Way to continue to have a City of Asheville payroll deduction.

Councilman McClure moved to allow payroll deductions (1) where required by law; (2) for City sponsored fringe benefit programs; and (3) for 501 (C) (3) charitable organizations which are part of a "federation" (a group of ten or more voluntary charitable organizations) which meet the criteria in the policy presented by staff at the May 16, 1995, Council worksession. This motion was seconded by Councilman Watts. This motion carried on a 5-2 vote with Vice-Mayor Peterson and Councilman Swicegood voting "no".

Councilwoman Sitnick moved to allow any organization that is willing to pay the payroll deduction administrative costs to be allowed to have the City of Asheville payroll deduction service. This motion was seconded by Vice-Mayor Peterson. This motion failed on a 2-5 vote, with Councilmen Watts, Swicegood, McClure, Councilwoman Field and Mayor Martin voting "no".

Tree/Greenway Commission; and 1995 Leadership Summit

Councilwoman Sitnick stated that she had a letter that confirmed the Asheville Tree/Greenway Commission's position on the Jones School expansion design.

Councilwoman Sitnick said that Councilman Watts had been instrumental in bringing the National League of Cities 1995 Leadership Summit to Asheville on August 30-September 1, 1995, at the Grove Park Inn. She suggested Council make every attempt to attend this Summit in which Kathleen Hall Jamieson, Dean, The Annenberg School for Communication, University of Pennsylvania, will be the key speaker.

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Stuart Cowles - ClimbMax Inc.

Mr. Stuart Cowles, President of ClimbMax Inc., urged Council to consider a lease and easement agreement with him for an outdoor climbing wall to be located on the exterior wall of the Wall Street Parking Garage.

Mayor Martin said that City staff would review the request and the item would be placed on Council's next formal meeting agenda.

Closed Session:

Councilman McClure moved to go into closed session to discuss location or expansion of industries or other businesses in the area. This motion was seconded by Councilman Swicegood and carried unanimously.

Councilman McClure moved to come out of closed session. This motion was seconded by Councilman Swicegood and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 9:02 p.m.

CITY CLERK MAYOR
