

Tuesday - July 18, 1995 - 2:00 p.m.

WORKSESSION

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman McClure (arrived at 3:00 p.m.). Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

JOINT MEETING WITH THE ASHEVILLE REGIONAL AIRPORT AUTHORITY

A joint meeting with held with the Asheville Regional Airport Authority to discuss items of mutual interest at the Airport. The parking situation was discussed noting that the parking study should be completed in December.

Councilman Swicegood felt it was very important that all City-owned property at the Airport should be retained for the growth at the Airport.

Discussion was held about the paving operation at the Airport and the two alternatives: a four-day closure vs. a 90-day at night closure and the \$300,000 difference between the two. The Airport Authority will be holding a public hearing in September to solicit input from the public on both alternatives.

Mr. Jim Parker, Airport Director, answered questions about the traffic at the Airport and things that the Authority is doing to increase the traffic. He felt that even though June of 1995 was lower than June of 1994, he hoped that 1995 overall will be up approximately 2-4%.

When Councilwoman Sitnick asked what additional security measures would need to be taken at the Airport, if any, as a result of House Bill 90, Mr. Vic Buchanan, Airport Authority attorney, said that this is a matter the Airport Authority will look at because security is a very big concern with the Federal Aviation Administration.

Upon inquiry of Councilman Watts about the limousine service at the Airport, Mr. Parker explained that a contract has been entered into with Anthony Young for that service. He then explained the Airport's policy regarding ground transportation and some of the problems the Airport security has in enforcing that policy.

When Councilman Swicegood asked about the plans for the second runway, Ms. Mimi Cecil, Vice-Chair of the Airport Authority, explained that the second runway is in the Airport's master plan several years (15-20) out.

Ms. Cecil asked Council's support in asking the N.C. Department of Transportation ("DOT") to consider putting in a traffic light at the exit from the Airport on Airport Road near the WNC Agricultural Center and some signage. A study was performed a couple of years ago which DOT said the area did not warrant a traffic light. DOT has agreed to look at the situation again.

Ms. Cecil also asked Council to use whatever means they had to try and re-arrange the center turn lane at the entrance at the Airport.

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Mr. Steve Wood, Airport Authority member, asked that the Exxon property be

placed on the Airport Authority's lease.

Upon inquiry of Councilman Swicegood, Mr. Parker said that the City-owned property in front of the J&S Cafeteria might benefit the Airport in their long range plans. However, in a short range point of view, it could possibly be used for temporary parking.

CIVIC CENTER CAPITAL IMPROVEMENT SOURCES

Mr. Jim Scott, Civic Center Director, briefed the Council on the various ways that the City might use to obtain funds for capital improvements needed at the Civic Center. He noted some positive points (+) and some negative points (-) that each statement has as follows:

1. City General Fund - this is how current funds are provided.
  - Leaves taxes on citizens that may never use facility
  - Allows people outside of city free use of facility
2. Operating Profits - traditionally facility has operated at a deficit. But any operating profit could be used for capital improvements.
3. Request funds be appropriated from County
  - County turned down in Fall 1994
  - A. One time for specific purpose
  - B. Regular annual amount
4. Ticket Surcharge
  - A. Add 25 cents per paid ticket to ticket price (25 cent tax would yield approximately \$50,000 annually)
    - + Is simple to compute and add to ticket cost
    - + People pay that use facility
    - Amount paid does not vary given the ticket cost
    - Non-ticketed events do not pay
    - Promoters dislike and may go to city without tax
  - B. Charge a percentage of gross sales to promoter
    - + As ticket price varies, so does tax
    - + People pay that use facility
    - Non-ticketed events do not aid in capital improvement
    - Promoters dislike and may go to city without tax
5. Rent surcharge/portion of rent designated to capital improvements
  - + Easy to start

- Tends to just reduce rental income to facility

6. Hotel/motel tax or other tourist/convention product tax such as restaurants or car rental - Charlotte does this method of general support for its convention and arena facilities

- + Would produce significant money for capital improvement projects

- + Is regular and repetitive

- Resistance from those affected

Mr. Scott said that with the facility working toward self-sufficiency, it is good that we are examining ways the facility to be self supporting in terms of capital improvements. Of all the methods and items discussed above, it is only the ticket surcharge that the Council can unilaterally approve. While this method misses many groups, it is a start and efforts can be made if Council wishes to try other methods of generating income.

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Mr. Scott recommended that the City institute a 2% gross receipts tax on ticketed events at the facility with money earmarked for capital improvements. This will bring in approximately \$50-\$60,000 a year. This method recognizes that ticket prices will vary and produces slightly more income than a flat fee. As many contracts have already been issued for the coming season, Council may want to start the process with the 1996-97 fiscal year. Or, it could be started at any time and phased in.

When Vice-Mayor Peterson asked about how much it would cost to bring the building up to current day standards, Mr. Scott replied \$7 Million. Mr. Scott then explained some of the more current renovations needed, i.e., Americans with Disabilities Act, smaller lighting improvements, museum area renovations and Exhibit Hall upgrade.

At 3:00 p.m., Councilman McClure arrived at the meeting.

Councilwoman Sitnick suggested approaching the County again to ask for assistance in renovations of the Art and Mineral Museum space.

Councilwoman Sitnick explained that it is very important for the City to understand where the City stands as a result of House Bill 90 and how we can protect our City employees and City residents. She also expressed concern over the City's liability. When asked by Councilwoman Sitnick about how the Civic Center will be secured with the passage of House Bill 90, Mr. Scott said that the Civic Center will be posted with signs of no concealed weapons. At selected events, they already do pat downs. He said that they will look into the matter.

Upon inquiry of Councilwoman Field, Mr. Scott said that the 2% tax would be charged to the promoter, but ultimately the price would be passed down to the consumer through higher ticket prices.

When Councilwoman Field asked about if there was a need for another room as large as the exhibit hall, Mr. Scott said that if the Civic Center goes after the convention/conference business, and it should, the Civic Center needs to have larger break-out rooms.

Councilman Swicegood moved to place on the Council's next agenda a resolution charging a 2% ticket surcharge on all ticketed events at the Civic Center, with the money earmarked for Civic Center capital improvements. This charge should

begin immediately and phase-in during the year. This motion was seconded by Vice-Mayor Peterson and carried on a 6-1 vote, with Councilwoman Field voting "no".

#### PARADE, PICKET LINES OR GROUP DEMONSTRATIONS AMENDMENT

Police Chief Will Annarino said that in 1994 certain sections of the parade, picket lines and group development section of our ordinance was struck down by a Buncombe County Superior Court Judge. Upon the request of the City, the Buncombe County District Attorney appealed the Court's decision to the N.C. Court of Appeals. Upon appeal to the Court of Appeals, the City, the District Attorney and the N.C. Attorney General's Office mutually agreed to withdraw the appeal. As a result, this amended ordinance was prepared.

The amended ordinance excludes from permit requirements, picketing by less than ten people. The ordinance requires a permit for any group of ten or more. Additionally, there are specific requirements one must following in order to obtain a permit. The ordinance further allows -4-

administrative service fees for the issuance of permits for parades, picket and escort fees.

Councilman McClure asked about the Police Department's experience with parades and picketing since our ordinance was declared invalid. Police Chief Annarino said that people now don't have to tell the Police Department when they are going to protest or picket. However, if this proposed ordinance is adopted, it will require those people, through the permitting process, to make the Department aware of the protest or picket so that the Department can form a plan and be prepared if something should occur.

When Councilman McClure asked the reasoning behind no participation in a parade except during daylight hours, Police Chief Annarino said that was strictly for safety.

Councilman McClure also questioned the provision which requires the picketers to walk in single file not closer together than 15 feet, Police Annarino said that the spacing allows for ingress and egress and room for signs.

Upon inquiry of Councilwoman Sitnick, City Attorney Slawter said that the proposed ordinance does include language prohibiting firearms or dangerous weapons of any kind being carried by any participant in a parade or by any person engaged in picketing.

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

Councilman Swicegood asked the City Manager for a written report regarding the investigation of missing money at the Civic Center.

#### DESIGN OPTIONS FOR TRANSIT CENTER

City Manager Westbrook said that the City has recently received additional information on this matter which will need to be evaluated. He asked that this item be removed from Council's agenda and be brought back to Council at a later date.

#### FIRE CODE AMENDMENTS

Mr. Robert Griffin, Assistant Fire Chief, said that years ago the City of

Asheville adopted a "fire code" to prevent destruction, injurious and fatal fires. Asheville's Fire Code was last overhauled in 1965 when City Council adopted the 12-volume National Fire Code by reference for use in Asheville.

The State of North Carolina has since adopted a statewide fire code. The State's Code is based on a model fire prevention code developed by the Southern Building Code Conference International (SBCCI). The SBCCI model code incorporates a number of National Fire Code standards, the National Fire Code itself is not adopted.

In order to provide for a more "user-friendly" fire code, and in order to make certain that Asheville's Fire Code and the State Fire Code are complementary, the Building and Life Safety Division staff of the Asheville Fire Department recommend adoption of the new Asheville Fire Code that would (1) incorporate the State Fire Code; (2) delete adoption by reference of the National Fire Code; and (3) reconcile provisions of Chapter 6 of the Asheville's Code of Ordinances ("Fire Prevention and -5-

Protection"). The revision of Chapter 6 proposed in this ordinance maintains fundamental fire and life safety requirements while reducing the volume of the present Codes and eliminating some of the complexity of the present Codes.

Vice-Mayor Peterson suggested that any fees being considered be brought to the Fees and Charges Committee in the near future.

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

#### REGIONAL HAZARDOUS MATERIALS RESPONSES TEAM SERVICE

Fire Chief John Rukavina said that in 1993 the legislature adopted a law that provided for the creation of six "regional response teams" for hazardous materials emergency in North Carolina's six Emergency Management Regions. The N.C. Department of Crime Control and Public Safety's Emergency Management Division has determined that the Asheville Fire Department meets the criteria for assuming the role of "Regional Response Team" for Emergency Management Region F.

This two year agreement would establish the Asheville Fire Department's hazardous materials response team as the regional response team for Western North Carolina. In exchange for response to major hazardous materials incidents in Western North Carolina, the Division of Emergency Management would reimburse the City of Asheville as follows: Training expenses, \$10,000 in FY 1996 and \$14,000 in FY 1997; team member physical exams, \$5,000 in each of FY's 1996 and 1997; administration costs, \$12,000 in each of FY's 1996 and 1997; contribution to liability/workers compensation insurance, \$10,000 in each of FY's 1996 and 1997; replacement of team equipment and materials when used or consumed at an emergency; use of a response vehicle and equipment for which the state paid \$398,000; and reimbursement of repair and maintenance costs for that vehicle. No new additional firefighters will be required is the agreement is entered into.

The additional costs that the City will assume for this service are more than offset by the State's reimbursement plan.

When Councilman Swicegood asked if there were any negative points to this agreement, Fire Chief Rukavina said the only one he could think of would be that no one has any idea how many responses will be required in a year. He guessed at 50-60.

City Attorney Slawter answered Councilman McClure's questions as they related to the City's liability since the City is self-insured.

Fire Chief Rukavina noted that the City will only be called in by the State to control the hazardous materials emergency with no involvement in clean-up or removal.

Upon inquiry of Councilwoman Field of any advantages to this agreement, Fire Chief Rukavina said that the City will have access to a huge data base which we would not be able to afford.

Fire Chief Rukavina answered questions from Councilman McClure about the role of Jerry VeHaun, Buncombe County's Director of Emergency Management.

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

#### AUTHORITY TO PLANNING DIRECTOR AND COMMUNITY DEVELOPMENT DIRECTOR TO APPROVE HOUSING REHABILITATION LOANS

Ms. Julia Cogburn, Planning and Development Director, said that prior to July 1, 1995, the Housing Authority administered the City's housing rehab program. Authority to approve rehab loans had been delegated to the Executive and Deputy Executive Director of the Housing Authority. In order to expedite the loan approval process and to avoid undue hardship to the loan applicants, an expedient loan approval process is needed. These rehab loans normally do not exceed \$40,000. Underwriting procedures such as verification of income and credit report review, loan to income ratio, debt to income ratio are conducted by City staff prior to loan approval. The current workload involves 17 homes under construction, 12 loans approved but not under contract, 199 loans are outstanding. The current year goal is to provide loans for 65 housing units. Since 1980 they have only had one loan go into foreclosure. Staff loan approval authority would greatly expedite the loan approval process. Staff recommends authority to approve loans should be delegated to the Planning and Community Development Directors.

Councilwoman Sitnick suggested a meeting with the Housing Authority to answer any questions they might have regarding the City's decision to bring the redevelopment process back into the City. She summarized the reasoning by saying that it was brought back in order to create a solid mechanism of accountability as to how redevelopment funds are spent. She noted that Asheville was the only City in the State that had a combined redevelopment commission and Housing Authority. She stressed that nothing personal was intended in this move. Council felt they needed to be in line with the rest of the State and to be accountable for the redevelopment funds.

Vice-Mayor Peterson also supported a meeting with the Housing Authority stressing that the Housing and Community Development Committee is committed to providing dignified housing to all residents.

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

#### BELE CHERE FINANCIAL CONTROLS

Mr. Larry Fisher, Finance Director, passed out to Council the current organization chart for Bele Chere 1995, along with other documents which he

went through individually. He detailed the four committees of Bele Chere which produce revenue.

When Councilman Swicegood questioned the \$56,500 contributions to other funds line item, Mr. Fisher explained that that line item is an accounting mechanism in place used City-wide to pay one fund from another. The \$56,500 is the salary of the Festivals Coordinator and his assistant. There was subsequent discussion whether this amount should actually be placed in a line item that more accurately describes what is being charged, for instance "salaries".

Mr. Chip Scott, Festivals Coordinator, answered and explained several questions from Council. Some of those being, what clerical and -7-

logistical support consists of, who hires the Festival Coordinator's assistant and how long that assistant is employed, the purpose of the assistant, the authority to hire an assistant, the bidding process regarding outside printing and electrical work, what constitutes logistics, what items are paid for out of professional services, any thought to privatization, Bele Chere budget expenditures versus revenues, what hospitality training involves, who actually runs Bele Chere, and the role of the Bele Chere Commission.

When Councilman Swicegood asked about the possible conflict of interest with Jim Daniels being Chairman Emeritus and Daniels Printing involvement with Bele Chere, Mr. Scott saw no conflict saying that Daniels Printing receives no cash payment and that it only furnishes in-kind sponsorship.

Upon inquiry of Councilman Swicegood about the use of beer gardens, Mr. Scott said that last year beer gardens were set up but they failed miserably and they will not be set up for this year's festival.

Councilwoman Sitnick asked when the alcohol assessment is done she would like to have a report for Council's review.

Councilwoman Sitnick asked that the people who guard the barricades make sure that business people don't suffer as a result of those barricades being placed close to their businesses, especially the businesses on Hilliard.

When Councilwoman Sitnick asked about security at Bele Chere, as a result of House Bill 90, Mr. Scott said that all available police will be at the festival.

When Councilman Swicegood asked were Bele Chere would be administered from next year, City Manager Westbrook said it would be in the Parks and Recreation Department.

Discussion surrounded the use of the \$47,000 surplus from Bele Chere 1994. Mr. Scott said that any surplus from Bele Chere goes into the Festivals Fund which goes to help support other City festivals, such as Discovery Day.

Councilman Swicegood felt that more money could be made in the area of beverage sales. He hoped the Civic Center staff could come up with more creative ways in this area. When he asked how much revenue would be derived from the sale of soft drinks if non-profit organizations were not involved, Mr. Scott explained that the City and the non-profit organizations currently split the profits 50/50 and the 11 non-profits split their 50% eleven ways. This would only result in approximately \$10-11,000 additional revenue for the City if the non-profit agencies were not involved.

Mr. Fisher then explained about the Bele Chere bank, noting that every year the City is getting more sophisticated about the Bele Chere bank. A new item which

will be undertaken this year is the form which all new potential Bele Chere banker volunteers will have to fill out. It gives the City the authority to conduct a background investigation on that person.

Mr. Fisher also explained another new procedure being undertaken this year. When the Bele Chere banker and a uniformed police officer come to each site to pick the booth's excess money, the money will be counted at the site and inserted in an envelope with specific -8-

information filled in. The envelope will then be taken to the Bele Chere Bank and counted again in the presence of two bankers. This procedure should eliminate any missing money from the site to the bank. Councilman Swicegood felt that some type of receipt should be given to the person at the booth site who first counted the money. Mr. Fisher agreed that some type of carbonized paper could be used on the envelope enabling both parties to have a copy.

Councilman Swicegood suggested letting the local banks in the area handle the Bele Chere Bank. Mr. Fisher felt that would be a wonderful idea, however, even though some banks are sponsors, they cannot come up with the appropriate number of volunteers to man the bank throughout the festival.

Councilwoman Sitnick said she'd like to see more street festivals and more arts and crafts type festivals. She suggested beverage stands sell baby bottles with formula, apple juice or soy milk in them.

Mr. Scott explained to Vice-Mayor Peterson that the title Chairman Emeritus is only an honorary position.

Vice-Mayor Peterson asked for a report on the Bele Chere Festival as soon as the figures were completed.

It was the consensus of Council that Bele Chere is being very well handled.

City Manager Westbrook said that his staff would be happy to sit down with any member of Council to explain any further questions regarding Bele Chere.

Councilman Swicegood felt that Bele Chere needs to stand on its own and taxpayers should not subsidize the festival.

Vice-Mayor Peterson hoped to see any surplus be put back into the General Fund.

Mr. Scott noted that Bele Chere is definitely a money-making festival. It brings in \$9-11 Million in Asheville's economy.

#### CONSENT AGENDA:

Resolution setting a public hearing on August 22, 1995, to close Nichols Street

Resolution setting a public hearing on August 22, 1995, to close a portion of an unnamed alley running south from Aston Street to Hilliard Avenue between Ashland Avenue and Coxe Avenue

Budget amendment to appropriate Fiscal Year 1995-96 Community Development Block Grant Entitlement and HOME Investment Partnerships Program Funds

Summary: The City has received approval from HUD for the 21st Year CDBG Program in the amount of \$1,694,000. Program income is estimated to be \$130,000. HOME Investment Partnerships Program funds are \$1,172,000 and \$36,000 of matching funds. The allocation of these funds were approved by City Council on May 9, 1995, by Resolution No. 96-67.

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Request for Proposals - City Property Project

Summary: The City of Asheville will be seeking proposals from real estate firms to sell approved properties owned by the City as well as surplus "tax foreclosure lots" within the City of Asheville. The goals of the program are to sell, and/or possibly lease, properties that have been determined by the City not to have any future governmental use and to create an economic development fund from the proceeds derived from such leases or sales.

It is expected that the RFP will be distributed to all agencies listed with the Board of Realtors and published in the newspaper by the end of the week. Selection of the firm or firms will be completed in August. The list of available properties to sell will be finalized by City Council prior to releasing it to the selected firms.

Councilwoman Sitnick wanted to be assured that whatever realtors are hired to market the City property that there is no conflict of interest or perceived conflict of interest. In particular if someone is serving on a City board or commission. Planning Director Julia Cogburn said that she will work with the City Clerk to compare names and if any are found, will bring them to the attention of City Council.

When Councilman Swicegood asked what the status was on three appraisals authorized. Ms. Cogburn said that a firm has been selected and as soon as the contract is signed (which contract is being reviewed by the City Attorney's Office) the firm has 30-45 days to complete all three appraisals.

Agreement with Beaverdam Fire Department for fire protection services in Beaverdam Annexation Area

Summary: In mid-1994 and mid-1995, parts of the Beaverdam Run Subdivision in the Beaverdam community were annexed by the City of Asheville. Subsequent to the effective date of annexation, negotiations were initiated for a fire protection contract between Asheville and the Beaverdam Fire Department for fire protection for Beaverdam Run, and for consolidation of the present contract with Beaverdam Fire Department for the balance of the Beaverdam community annexed in 1991. The total annual cost of this agreement will be \$97,078.20 through mid-1999. Funds for implementation of this contract have been budgeted.

Horse Drawn Carriage Regulations Amendment

Summary: Article IV of Chapter 18 of the Asheville Code sets forth regulations for the operation of horse drawn carriages. Section 18-155 sets forth the areas of operation for horse-drawn carriages carrying passengers for hire. A request has been made by a business which desires to provide this service within the Montford Historic District. The Montford Historic District is not now included in the listing of areas of operation set forth in Section 18-155. In addition to that change, the Police Chief is being authorized to review routes for the carriages. The amendment also reinstates the Carriage Permit Advisory Board.

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

OTHER BUSINESS:

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COUNCILMAN FIELD COMMENTS REGARDING VOTING

Councilman Field said that she felt uncomfortable with the voting procedure in worksessions. She noted she had no problem with the process, only the voting procedure.

Councilwoman Sitnick expressed her concerns regarding the worksession rules regarding public comment, and the time in which worksessions begin.

RALPH BISHOP

Mr. Ralph Bishop felt that there should be a law that any adult has the right to carry a gun, whether they have a permit or not. He explained two instances in which, he felt, a gun saved his life.

CLOSED SESSION

At 5:45 p.m., Councilwoman Sitnick moved to go into closed session in order to (1) consult with the City Attorney on matters for which the attorney-client privilege must be preserved, as authorized by G.S. 143-318.11 (a) (3), and (2) instruct the City staff concerning the position to be taken in negotiating the price and other material terms of a proposed contract for acquisition of real property at the Skyland Fire Station and the old Royal Glass building on Coxe Avenue, as authorized by G.S. 143-318.11 (a) (5) (i). This motion was seconded by Vice-Mayor Peterson and carried unanimously.

At 7:25 p.m., Councilwoman Sitnick moved to come out of closed session. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:25 p.m.

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CITY CLERK MAYOR

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