

Wednesday - November 8, 1995 - 2:00 p.m.

WORKSESSION

Present: Mayor Russell Martin, Presiding; Councilwoman Barbara Field, Councilman Gary McClure, 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: Vice-Mayor Chris Peterson

Also Present: Council Members Elect Charles Cloninger, Thomas G. Sellers, James J. Skalski and Charles R. Worley

ADA ISSUES

Administrative Policy for ADA Compliance

Mr. Lyle Willis, ADA Coordinator, said that during the course of the City's efforts to comply with the Americans with Disabilities Act, procedures have been established to assist employees and the public in acquiring equal access to the City's programs, services, activities and facilities. The culmination of these procedures is the assembly of the proposed Administrative Policy as written conveyance of the City's ongoing commitment to compliance with this federally mandated Act.

Councilwoman Sitnick said that the PACE Committee has been working with Mr. Willis as ADA Coordinator. She invited the public to the final community meeting that the PACE Committee is sponsoring. The meeting will be at 6:30 p.m., on Monday, November 13, 1995, in the Public Works Building.

Councilman Watts, who is a member of the ADA Compliance Committee, commended Mr. Willis for the work accomplished to date with this policy.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

ADA Compliance - Interim Report - February 1 - November 1, 1995

Mr. Lyle Willis, ADA Coordinator, said that he was appointed the City's ADA Coordinator and given direction to bring the City into compliance as soon as possible with the guidelines of the American with Disabilities Act, a federal civil rights law which came into effect in 1992, with the deadline for compliance established as January 26, 1996.

Mr. Willis then outlined his efforts for the past eight months to adhere to the federal regulations and addressed in a systematic fashion activities to bring the City into compliance. He also outlined his goals for the coming months.

ORDINANCE AMENDING CHAPTER 19 REGARDING PARKING REGULATIONS TO AUTHORIZE THE USE OF WHEEL LOCKS FOR FAILURE TO PAY PARKING TICKETS

Mr. Larry Fisher, Finance Director, said that the City Council requested special authorization from the N.C. General Assembly to use wheel locks on certain illegally parked vehicles. The N.C. General Assembly provided that authority to the City in Chapter 75 of the 1995 N. C. Session Laws.

This ordinance would authorize the use of wheel locks to immobilize vehicles which are illegally parked when there are three or -2-

more unpaid and overdue parking tickets which are outstanding for a period of 90 days or more. A notice would be placed on the vehicle setting forth the \$25.00 immobilization fee and the address and phone number to use to have the vehicle released. If the parking penalties and immobilization fee were not paid within 24 hours, the vehicle would be towed and the owner would also have to pay the towing and storage fees.

The owner of the vehicle would have the right of a hearing before the City Manager or his/her designee. No further appeals are included.

The ordinance also makes it unlawful to remove, damage or destroy a wheel lock. To allow time for the wheel lock to arrive, an effective date of January 1, 1996, is proposed.

Councilwoman Field said that need have a good balance with these wheel locks. Asheville is a tourist City and we need to be tourist and user friendly; however, our local citizens should not be misusing the parking.

Councilwoman Sitnick felt that the 15 day grace period after the notice has been sent was too lenient since they've already had sufficient time within which to pay.

Councilman McClure suggested that a section in the agreement to set up a payment schedule include language that if the person defaults on their payment arrangements, the City can go out and install the locks.

When Councilwoman Sitnick asked about the citizen paying for the cost of the certified letter, Mr. Slawter responded that there is no specific way in place to collect for that cost.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

RECOGNIZE AND ENDORSE THE EAGLE/MARKET STREETS DEVELOPMENT CORPORATION

Mr. Marvin Vierra, Community Development Director, said that the Eagle/Market Streets Development Corporation is a non-profit Community Development Corporation ("CDC"). The purpose of the CDC is to facilitate the physical redevelopment of the Eagle/Market Street area "The Block." The purpose further is to create an atmosphere conducive to African American entrepreneurship through provision of technical assistance and access to resources.

The Board of Directors of the CDC is composed of property owners, tenants, grassroots and community leaders.

The Eagle/Market Streets Development Corporation has requested a resolution from City Council approving and endorsing the Eagle/Market Streets Development Corporation.

Mr. Vierra answered various questions from Council, some being, but not limited to, the discussions last year concerning the consultant Mr. Johnson, the Eagle/Market Streets CDC obtaining their 501 (c) (3) status and the YMI CDC not obtaining that status; and what will happen when the YMI CDC does obtain that status - will they also ask for a letter of support and endorsement.

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When Councilwoman Sitnick asked if the Council ordinarily did resolutions in support of a CDC, Mr. Vierra responded that they did not because this is the first time the City has had two CDC's in the area.

As a result of some questions from Council, Mr. Vierra said that the two CDC's are working together on their own and the City will only be dealing with the Eagle/Market Streets CDC. They feel like this resolution will assist them in accelerating the redevelopment of "The Block."

Councilwoman Sitnick asked for a copy of the members of the board for the YMI CDC, since she already had a copy of the Eagle/Market Streets CDC.

Councilwoman Sitnick (in referring to a letter dated September 6, 1994, from Dr. John H. Grant, Chairman of the Board of Directors of the Eagle/Market Streets Development Corporation) said that she was not in agreement with the content in the letter which reads "The Eagle/Market Streets Development Corporation was organized as a direct result of both the hiring, efficient and exemplary work of the F.A. Johnson Consulting Group, Inc. F.A. Johnson's experience, expertise, professionalism, thoroughness, ability to build community consensus, organize and mobilize people, in short, his effectiveness in getting things done, have been most impressive!" She, along with Councilman Swicegood, said that they could not agree with that as part of the request.

Councilwoman Sitnick cited various questions that she would like responded to prior to taking any action on this request, some being, what is phase II planning, does Council really know what they're doing, which redevelopment plan are they using, etc. She said that the whole point of bringing redevelopment into the City was for the accountability and with so many unanswered questions, she didn't feel comfortable with the request.

At this point Dr. John Grant arrived at the meeting and Council reiterated some of its concerns to him. Dr. Grant tried to respond to some of the questions stating that Mr. Matthew Bacoate is Chair of the YMI CDC board of directors and the membership list would have to be obtained from him; the two CDC's board of directors met and voted unanimously to maintain separate identities but to work together in a joint venture, when deemed appropriate; the information in the letter Councilwoman Sitnick and Councilman Swicegood did not support was a decision made by both CDC board of directors; the YMI CDC felt they needed to maintain their identity in terms of cultural focus and the Eagle/Market Streets CDC needed to maintain their identity to maintain the redevelopment in that area; the two CDC's have agreed to meet quarterly, when necessary; and the YMI CDC has agreed to work with the Eagle/Market Streets CDC with the Eagle/Market Streets CDC being the lead agency.

Councilwoman Sitnick suggested, and it was the consensus of Council, that the Housing & CD Committee discuss this item at their next meeting on November 30, 1995.

As a result of information exchanged, Council asked that a joint letter from the Eagle/Market Streets CDC and the YMI CDC be received to the effect that the YMI CDC has agreed to work with the Eagle/Market Streets CDC with the Eagle/Market Streets CDC being the lead agency;

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CLOSED SESSION

At 2:52 p.m., Councilwoman Sitnick moved to go into closed session to instruct the City staff regarding the position to be taken by the City concerning the acquisition of real property located at 41 Eve Lake Drive as authorized by G.S. 143-318.11 (a) (5). This motion was seconded by Councilman Swicegood and carried unanimously.

At 3:27 p.m., Councilman Swicegood moved to come out of closed session. This

motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION TO AUTHORIZE EXECUTION OF A CONTRACT WITH MCGILL ASSOCIATES, P.A., TO PROVIDE ENGINEERING AND SITE DESIGN SERVICES FOR SUNSET HEIGHTS SUBDIVISION

This item was deleted from the agenda.

REPORT ON GEOTECHNICAL STUDY AT RICHMOND HILL PROPERTY

Mr. Irby Brinson, Director of Parks & Recreation, said that the Parks and Recreation Department was asked to proceed with geotechnical boring and testing for Richmond Hill Park. The data would help determine the feasibility of grading the site for a single baseball field with the ability to expand the project to a four baseball field complex.

Staff obtained the services of Law Engineering and Environmental Services, Inc., who are currently under an hourly bid contract with the Parks and Recreation Department to recommend the location and number of boring sites and perform the testing based upon the baseball field complex. The conceptual design of the complex by staff included two 225' fields, two 150' fields, rest room facility, drive, and a parking lot. The Parks & Recreation Department cleared the vegetation necessary for testing truck access by using old logging roads as much as possible. After the testing was performed the City Engineering Department surveyed the location of each test boring site for future planning and design.

The test results from the boring sites within the project area indicate that bedrock was found below the anticipated finished elevation of the proposed complex (determined from the preliminary design) with the exception of the parking lot area where partially weathered rock or refusal materials were encountered at an approximate elevation of 2123 which is about 3 feet above the proposed finished elevation. In addition the soils are suitable for grading, building foundations, and the development of roads.

The geotechnical testing and report indicate that it would be likely and feasible to grade and build the park project as shown on the conceptual plans without encountering rock which would be prohibitive in nature and cost for much of the site. Nevertheless, a rock allowance should be considered for the project in case of possible variations in elevation of rock between the test boring sites and the parking lot area.

Staff will utilize this information in refining cost estimates for the development of a Richmond Hill Park. This cost estimate will be utilized as park priorities are evaluated by the Parks & Recreation Commission and subsequently presented to City Council.

Upon inquiry of Councilwoman Sitnick, Mayor Martin said that the City is continuing to look into the Lake Craig property for recreation -5-

purposes. Councilman McClure noted that Buncombe County Commissioner David Young did say that the County would provide the funding for Lake Craig if the City would purchase the property.

Mr. Brinson also explained that progress to date with regard to the 40 acres in Woodfin.

Councilman Watts his appreciation to Mr. Brinson and his staff for all the work they have done.

PARKS AND RECREATION REORGANIZATION BRIEFING

Mr. Irby Brinson, Director of Parks & Recreation, said that in an effort to meet the mission of the City of Asheville by providing professional and efficient services responsive to community needs, the following reorganization will take place January 1, 1996, in Parks and Recreation.

The Department will be divided into three divisions: Recreation Program, Park and Facility Maintenance, and Administration. This reorganization represents a reduction from seven divisions to three divisions. The Superintendent of Recreation will supervise the operations of the Recreation Program Division which will include all recreation centers, after school/day camp program, festivals/cultural events, athletics, and special populations. In addition, the recreation centers' supervision will be divided among three current supervisors. In the past one person has supervised the operation of 11 recreation centers resulting in limited control over operations which has effected the quality of community service we provide.

All park and facility maintenance responsibilities will now be incorporated under the supervision of the Superintendent of Parks and Public Facilities. Furthermore, the Park and Facility Maintenance Division will be structured into the four basic areas: Park Maintenance (includes Landscape/Grass Crew, Janitorial/Festivals, Mechanics/Office, and Maintenance/Repair), Facility Maintenance, City Hall Services, and ADA/Contracting. The operations of the City Hall Snack Shop will be contracted which will result in a savings of approximately \$30,000 to the City. The former full-time position within this division will be transferred to Park Maintenance to provide supervision to the newly formed Janitorial/Festivals crew. Furthermore, hours will be structured within Park Maintenance to allow for split crews which will allow us to perform maintenance to our facilities and programs over weekends and to provide staff assistance for special events during non-traditional work time. By restructuring these crews, we will reduce overtime within this division by 75% representing a savings of approximately \$15,000 per year.

The Administrative Division will be supervised by the Superintendent of Administration. The responsibilities for this position will include marketing of programs for the department, grant administration, and staff development. In addition, this position will supervise Riverside Cemetery, the clerical staff, and the Landscape -6-

Architect. This position will be able to explore grant possibilities for facility development, staff development, and program expansion

that would help increase the level of service at no additional cost to the City of Asheville.

He said that this report is presented for City Council's information only.

Councilwoman Sitnick stressed the need for a full-time grants officer noting that the City needed to find some sources of revenue. City Manager Westbrook responded that the City has found it more productive to have a person in each appropriate department, like police and parks, because they know exactly what the needs of that department are. He did say, however, that he would be glad to look at a consolidated grants officer.

Upon inquiry of Councilwoman Field, Mr. Brison explained how the reorganization came about, noting that his staff is comfortable with the changes.

City Manager Westbrook answered Councilwoman Field question about the addition of a middle management level.

When Councilman Watts asked about the concession stand at Walton Street Park,

Mr. Brinson replied that they will be constructing a small concession area in the building and it's in the plans to have that completed next year.

Councilwoman Sitnick appreciated Mr. Brinson and his staff for their willingness to meet with Haw Creek area to find possible land for a park. She thanked Mr. Brinson, Mr. Kopf and staff for going out to Malvern Hills Park and working affirmatively with MSD. She was also appreciative the efforts of Ben Wax and Marshall Logan on the youth listening project. Even though the group has not gotten into the schools yet, she hoped the new Council would continue with the project because it has been developed and it's a good proposal to work with.

CONSENT AGENDA

Flame Retardant Trousers for the Fire Department

Summary: Sealed bids were received to furnish 525 pair of flame retardant trousers for the Fire Department. Nine bids were received. Staff recommends that the award be made to the second low bidder as the lowest bidder meeting specifications, Whole Armor Uniform Company Inc., in the amount of \$25,961.25 for 525 pair of Topps Style No. 73021 Fibrous Flame Retardant Fiber Trousers. The following bids were received:

Vendor Net Cost

R&R Uniforms, Asheville, NC \$28,806.75

Zimmerman-Evans, Greensboro, NC \$28,812.00

Carolina Firemasters, Bennettsville, SC \$30,712.50

Kay Uniforms, Kingsport, TN \$30,922.50

Carolina Safety Association, Arcadia, SC \$35,700.00

Newton's Fire & Safety, Swepsonville, NC \$22,312.50

Whole Armor Uniforms, Asheville, NC \$25,961.25

Mid-America Uniforms, New Albany, IN \$27,930.00

Whole Armor Uniforms, Asheville, NC \$28,481.25 -7-

The low bidder, Newton's Fire and Safety Company, Swepsonville, NC, took exceptions to our specifications which requires the successful bidder to perform local measuring sessions to determine size and alteration needs for 175 firefighters receiving trousers.

Funds for this purchase are to be from the Fire Department's appropriations.

Final Plat for Stonebridge Subdivision

Summary: The Planning & Zoning Commission approved the preliminary subdivision plat for Stonebridge Subdivision on Old Haw Creek Road (formerly known as Royal Palms Subdivision) on 3/1/95. The developer, Mike Pierce, Biltmore Development Company, is seeking final plat approval for 20 lots in Phase I of the Subdivision.

The 68 single family lots for patio homes received variances from the Board of Adjustment for building setbacks on 12/5/94. Other variances granted to the

developer were the reduction of the road width to a minimum of 40 feet on 8/22/95 and a driveway clearance variance for two of the lots now numbered 4 and 5 from the Board of Adjustment on 10/16/95.

The Water and Engineering Departments have approved of the installation of water lines in the Phase I development. They do insist that the developer relocate the water meter on Lot 7 to the front of the lot. The developer has indicated that he would relocate the meter on 11/3/95.

The Public Works Department has inspected the street system in Phase I and found that the work completed meets Public Works construction standards. This does not mean that the City has accepted the streets in Phase I at this time, but that they will accept the streets when the final paving is completed and the developer requests acceptance by the City. No letter of credit was required by the Public Works Department for the last layer of paving.

Because the final layer of paving is not completed on Phase I at this time, it would be to the City's advantage to have all phases of this project completed before accepting the streets and to the developer's advantage to hold off on the final paving layer until the total construction is complete. This will eliminate the damage to this finish paving that results from construction activities.

The developer also needs to furnish documentation on the acceptance of a sewer easement for the relocation of a portion of the MSD line. This must be done before MSD will assume public maintenance of the system. The developer has stated that he will have the easement prepared and approved by MSD before the date of Council's final action.

Staff recommends approval of the final plat for Stonebridge Subdivision - Phase I (20 lots) with the following conditions: (1) relocation of the water meter on Lot 7 to the front of the lot; and (2) acceptance of the sewer easement by MSD.

Amendments to Indenture of Trust between Asheville Claims Corporation and NationsBank, N.A.

Summary: This matter pertains to the City's self-insurance program. In order to implement the program, the City entered into a Claims Administration Contract effective September 1, 1993, with Asheville Claims Corporation. The Corporation has assigned certain of -8-

its interests in the Contract under an Indenture of Trust to NationsBank. NationsBank has notified the Corporation that it is selling its corporate trust business and, therefore, will no longer be able to provide these services. The City Finance Director, who also serves as the President of Asheville Claims Corporation, discussed this matter with Donald P. Ubell, the special counsel who assisted in establishing this program and prepared the legal documents which put it in place. The action changes the Corporation's Trustee from NationsBank, N.A., to First Union National Bank of North Carolina. This resolution will authorize the signing of the consent documents necessary on the part of the City to permit the corporation to make these changes.

When Councilman McClure asked if the City was paying for these services, Mr. Larry Fisher, Finance Director, said that we were.

Councilman McClure then asked if we put this out for bid. Mr. Fisher replied that he asked bond counsel (Donald Ubell) who was capable of providing these services. Mr. Ubell said that there are two organizations - First Union and Wachovia. He said they decided not to select Wachovia because Wachovia is

already the letter of credit provider in this transaction and they felt it would be a conflict of interest so they did not solicit Wachovia.

Councilman McClure said that he didn't realize that there were only two banks that could provide that service. Mr. Fisher replied that he thought that there probably were more banks that could do that; however, First Union is a North Carolina bank, their fees are competitive, they have actively solicited business from the City; and they are approved by bond counsel.

Councilman McClure was concerned that this did not go out for bid because if people don't know about items like this, they are not going to actively solicit the business.

Mr. Fisher said that actually Asheville Claims Corporation would engage First Union. The reason this matter is before the Council at all is because the City has a claims administration contract with Asheville Claims Corporation. Since the City is a party to the transaction, the Corporation has to get the City's consent to change the trustee.

Request of Bike Nut Inc. to Assign the Lease of the Premises at 5 Biltmore Avenue to Henry Robert Miller Jr. and Theodore S. Warner

Summary: The City of Asheville acquired title to certain properties on Biltmore Avenue along with the transfer of Redevelopment from the Housing Authority. All of the properties currently leased and occupied.

5 Biltmore Avenue is currently leased to Bike Nut Inc., which is owned by Chris Hardwicke. Mr. Hardwicke operates Be Here Now, a music hall which also serves wine, beer and non-alcoholic beverages. Be Here Now has been open since about August of 1992.

Bike Nut Inc. is selling Be Here Now to Henry Robert Miller Jr. and Theodore S. Warner, who own and operate Gatsby's, a music, food and beverage establishment located at 13 Walnut Street. Bike Nut Inc. proposes to assign the lease to Mr. Miller and Mr. Warner. Mr. Hardwicke will remain as an employee of Mr. Miller and Mr. Warner in charge of booking entertainment. Mr. Miller and Mr. Warner plan to expand the club to include food and mixed drinks.

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Mr. Miller and Mr. Warner will assume all of the obligations and responsibilities of Bike Nut Inc. under the lease and the rights of the City of Asheville under the lease will remain fully enforceable. The lease permits assignment of the lease upon approval by the Lessor and provides that approval may not be unreasonably withheld.

Mayor Martin asked the City Attorney if he would have a conflict of interest on this matter because one of the men that will assume the obligations under this lease is a client of his. City Attorney Slawter replied that he saw no conflict.

Intent to Close a Portion of Skyline Drive between Skyline Parkway and Skyview Place, all of Skyline Parkway, all of an unnamed road between Skyline Drive and West View Road near the intersection of Oak Park Road, and all of an unnamed road between West View Road and Skyline Drive and setting a public hearing for December 19, 1995

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

OTHER BUSINESS

ABC Board

On October 31, 1995, the City Council intended to appoint Mr. James A. Green to the ABC Board. However, due to a conflict of interest Mr. Green was unable to serve.

Councilwoman Field moved to place this appointment on the next Council's formal meeting to reappoint Mr. Eugene Ellison to the ABC Board to additional three year term, term to expire November 13, 1998, or until his successor is appointed. This motion was seconded by Councilman Watts and carried unanimously.

PACE Committee

Councilwoman Sitnick reminded the public of the next PACE Committee meeting to be held at 6:30 p.m., on Monday, November 13, 1995, in the Public Works Building.

Wooden Walls on Biltmore Avenue

Councilwoman Sitnick instructed the City Manager to remind the Planning Department to check on the feasibility of using students from Asheville High to paint building faces on the wooden walls on Biltmore Avenue. She also noted that she has asked the Chamber of Commerce to sponsor some downtown kiosks for flyer use.

County Appointees Voting on City Matters

Councilwoman Sitnick asked Council to consider the whole issue of whether County appointees to the Planning & Zoning Commission and the Board of Adjustment should be voting on City issues. She felt they should only be voting on matters in the extraterritorial jurisdiction.

City Manager Westbrook said that he would bring a report to Council at a worksession.

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School Summit

After determining that City Council would not be holding a school summit, Councilwoman Sitnick felt that the City Council was wrong in not holding a public meeting with taxpayers about their concerns with the schools and how we can deal with those concerns. She said that she had no intention on discussing personnel matters at the school summit. The reason that she felt it was important for City Council to meet with the public was so that next time we meet with the School Board we would be fully informed in our ability to ask questions and address issues that have come up to us as members of Council.

Mayor Martin said that Council will be scheduling a meeting with the School Board.

NC Department of Transportation Public Hearing

Councilwoman Sitnick felt that Council might be interested in attending a NC Department of Transportation public hearing on Monday, November 13, 1995, in which the intersection in front of the Asheville Mall will be discussed. The owner of Frank's Roman Pizza, who has been a local businessman in Asheville for

20 years, is a taxpayer, a good job provider, etc., will be expressing concern about the possible demolition of his business.

Visioning Process Meeting

Mayor Martin invited the public to a town hall meeting at 7:00 p.m. on Thursday, November 16, 1995, at A-B Tech.

Ralph Bishop

Mr. Ralph Bishop commented that citizens are not afforded the opportunity to speak at these public meetings.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 4:12 p.m.

CITY CLERK MAYOR
