

Tuesday - June 16, 1998 - 3:00 p.m.

Worksession

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor Edward C. Hay Jr. (arrived at 3:44 p.m.); Councilman M. Charles Cloninger; Councilman Earl Cobb; Councilwoman Barbara Field; Councilman Thomas G. Sellers; and Councilman O.T. Tomes; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CONSENT:

Bids for Annual Asphalt Contract

Summary: Consideration of a resolution to award annual contract for asphalt materials to Asheville Division, APAC-Carolina Inc.

Pursuant N. C. Gen. Stat. sec. 143-129 and in compliance with the City's Minority Business Plan, sealed bids were invited to furnish the City's estimated annual requirement of asphalt materials to be purchased as needed for force account re-surfacing and street repair. One (1) bid was received.

Since only one bid was received, a survey was conducted to identify other governmental agencies cost for asphalt. By comparison, the price bid to the City of Asheville appears to be consistent with other governmental agencies cost. This bid has been reviewed with Mark Combs and his concurrence received in this recommendation.

Subject to Council's approval, it is recommended the City enter into a contract with Asheville Division, APAC-Carolina, Inc., Asheville, North Carolina, for the purchase, on an "as-needed" basis only, the estimated annual requirement of 21,550 tons of assorted asphalt materials for a grand total of \$581,850.00. The contract to become effective from the date of approval through June 30, 1999 with no guarantee of minimum purchase quantity.

Bids for Truck with Detachable Leaf and Dump Bodies

Summary: Consideration of a resolution to award contract to Carolina Truck Centers Inc. for the purchase of a crew cab truck with detachable leaf and dump bodies for the City of Asheville Public Works Department, Street Division.

Pursuant to N. C. Gen. Stat. sec. 143-129 and in compliance with the City's Minority Business Plan, sealed bids were invited to furnish a crew cab truck with hoist and detachable leaf and dump bodies for the Public Works Department, Street Division. The new vehicle will be a replacement for truck #323. Five (5) bids were received as follows:

Carolina Truck Center, Hickory, NC \$82,580.00

Volvo & GMC Truck, Hickory, NC \$82,629.17

Nu-Life Environmental, Easley, SC \$86,320.00

Carolina Truck & Body, Asheville, NC \$87,705.16

W. Carolina Freightliner, Asheville, NC \$88,977.00

Bids have been reviewed for technical compliance to specifications by the Public Works Department and the Fleet Management Division, and their concurrence received in the following recommendation.

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Funds for this purchase are to be from the Street Division's appropriations, Account Code 20-430-15-427-00-5740.

Subject to Council's approval, it is recommended that the bid be awarded to the low bidder, Carolina Truck Centers Inc., Hickory, N. C., in the amount of \$82,580.00 for the purchase of a 1999 'International' model 4700 cab and chassis with a 'Swaploader' SL-225 hoist, a 'Baker' 14 foot leaf body and a 'Heil' LH-13 dump body.

Sale of Surplus Street Sweeper

Summary: Consideration of a resolution authorizing the sale of a surplus street sweeper to the Town of Hot Springs, N. C. pursuant to N. C. Gen. Stat. sec. 160A-274.

The Town of Hot Springs is offering \$6,500.00 to purchase a street sweeper that has been declared surplus and taken out of service by the Public Works Department. This offer is considered to be fair when compared to the market value and prior auction proceeds for this type of equipment.

Upon Council's approval, the City will accept the Town of Hot Springs offer in the amount of \$6,500.00 for the purchase of one (1) 1987 Athey model AHL Street Sweeper.

Red Road & Patton Hill Road Water Line Project Bid Award

Summary: The consideration of adopting a resolution awarding the contract to Cooper Construction Company Inc. for the Red Road and Patton Hill Road Water Line Project.

The Engineering Department has developed construction plans for the Pipeline Replacement Program 97-98 Phase I - Red Road and Patton Hill Road Water Line Project. This project consists of the construction of a six-inch water line along Red Road and Patton Hill Road to replace the existing two-inch water line. The engineer's estimate for this project is in the amount \$193,193.00.

The project was advertised for one month. On Tuesday, May 26, 1998, the Engineering Department received 5 bids for the project as follows:

Cooper Construction, Hendersonville, NC \$169,174.95

Steppe Construction Co., Mill Spring, NC \$178,320.00

Hobson Construction Co., Arden, NC \$180,803.00

Buckeye Construction Co., Canton, NC \$197,855.45

Wheeler Construction Co., Weaverville, NC \$198,442.00

The construction time for this project is identified as 60 calendar days in the contract documents. The contract calls for liquidated damages in the amount of \$250 per calendar day beyond this contract time.

The budgeted amount for this project is \$293,000 and sufficient funds have been budgeted for the award of

project.

Cooper Construction was the lowest responsible bidder in the amount of \$169,174.95.

Staff recommendations that City Council adopt a resolution awarding the bid for Pipeline Replacement Program 97-98 Phase I - Red Road and Patton Hill Road Water Line Project - Contract E-438 to Cooper Construction Company Inc. -3-

Amendment of Regional Water Authority Capital Project Ordinance - 35 Fund

Summary: The consideration of a budget amendment to amend Capital Project Ordinance 82-25 to increase funding for the Glendale Bridge Water Line Project and to provide funding for the Carter Cove/Blackberry Lane Annexation Project.

By Resolution 82-25 dated October 5, 1982, the Authority authorized and budgeted for various capital projects to be funded by Investment Earnings, Contributions From Other Funds, and Appropriated Fund Balance.

Funding is needed for the following projects:

- In February 1998, the Authority approved funding for the Glendale Water Line (NC DOT Project) in the amount of \$5,000. This is a replacement of a 6" waterline that was abandoned when the old bridge was torn down. This project includes a new bridge and a new 6" water line. We are expected to contribute 20% and NC DOT will contribute the other 80%. Since that time, I have been informed that the project will cost more than anticipated. The original estimate did not include insulation of the water line attached to the bridge or necessary valving to isolate the line in order to make repairs. It is estimated that an additional \$5,000 is needed for the project. Funding is available in the Reservoirs/Tunnel Repairs Project that is being postponed until FY 1998/1999.
- Carter Cove/Blackberry Lane is a project that was previously approved by City Council and the Authority's Policies and Priorities Committee. It is an extension of the water line on Blackberry Lane for residents who were annexed into the City. The Engineering Department is designing this project which is estimated to cost \$37,700. Funding is available in the Reservoirs/Tunnel Repairs Project that is being postponed until FY 1998/1999.

Staff recommends adoption of the budget amendment amending Capital Project Ordinance 82-25 to reprogram funds in the amount of \$42,700 from the Reservoirs/Tunnel Repairs to the Glendale Bridge Project and to Annexation Phase I for the Carter Cove/Blackberry Lane Annexation Extension.

Amendment of Regional Water Authority Capital Project Ordinance - 29 Fund

Summary: The consideration of a budget amendment to amend Capital Project Ordinance 92-17 (29 Fund - Water Bond Capital Improvements Fund) to provide additional funding for the North Fork/Bee Tree Chemical Improvements Project.

By Resolution 92-17 dated May 19, 1992, the Authority authorized and budgeted for various capital projects to be funded by City Water Bond proceeds in the 29 Fund. The original budget for the North Fork/Bee Tree Chemical Improvements Project was \$1.5 million. This is a revenue bond project that was originally budgeted in the 35 Fund before revenue bond proceeds had been received. The expenses for this project were transferred to the 29 Fund at the end of FY 1997/1998. Following is a summary of the status of the budget for this project:

Original Contract \$1,367,000.00

C/O No. 1 -73,480.00

C/O No. 2 4,982.00

C/O No. 3 2,908.29

C/O No. 4 -5,000.00

Revised Construction Contract 1,296,410.29

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CDM Engineering Contract 216,600.00

Additional Services Law Eng. 1,409.77

Advertising 213.90

Allocated 35 Fund Interest Exp. 75,856.95

Tax Refund -1,092.25

Total Estimated Cost 1,589,398.66

Amount Budgeted for Project 1,500,000.00

Need to Increase Appropriations 89,398.96

Since there is insufficient funding to close out the North Fork/Bee Tree Chemical Improvements Project, it is necessary to increase appropriations at this time. This project exceeded the budget of \$1.5 million for the following reasons:

- The bids for construction came in slightly higher than expected (\$13,541.71 over budget)
- A portion of the interest expense charged to the 35 Fund for insufficient funds in FY 1996/1997 was allocated to this project in the amount of \$75,856.95.

There is adequate funding in the Water Distribution Master Plan to offset the over-expenditure in the North Fork/Bee Tree Chemical Improvements Project. The bids for the West Asheville Reservoir Project budgeted in the Water Distribution Master Plan came in under budget; therefore staff is recommending decreasing the Water Distribution Master Plan by \$89,398.96 and increasing North Fork/Bee Tree Chemical Improvements by the same amount.

This budget amendment will provide adequate funding to close this project at the end of FY 1997/1998.

Staff recommends approval of the budget amendment to reprogram funds in the amount of \$89,398.96 from the Water Distribution Master Plan Downtown Project to the North Fork/Bee Tree Chemical Improvements.

Mayor Sitnick asked that the record show that City Council has received this information and instructs the City Manager to place these items on the next formal City Council agenda.

SKATEBOARD PARK

Mr. Irby Brinson, Director of Parks & Recreation, said that the Skateboard Task Force was established by the Parks and Recreation Department over a year ago to investigate the possibility of constructing and operating a skateboard park downtown.

In May of 1997, the Parks and Recreation Department conducted a community meeting to discuss skateboard issues in Asheville. Approximately 125 people attended that meeting, and as a result of that meeting, the Skateboard Task Force was implemented. The purpose of this task force was to begin work on a process that would investigate the feasibility of building a skateboard park. Over this period of time, the task force has been working on various issues and has determined two possible locations for a permanent site. In the meantime, due to problems that have occurred around the Vance Monument over the past several months, the department has been working with Police and Parking Services to determine a tentative location to help eliminate some of the problems. The top of the Civic Center Parking Deck (8th floor) has been determined as a possible temporary location for a park. Staff has been working with the Legal, Police, Parking Services, Fire, and Risk Management Departments. In addition, the -5-

task force has met with residents of downtown to solicit their feedback in the possibility of locating a temporary park on top of the deck.

The Parks and Recreation Department and the Skateboard Task Force is seeking City Council approval to proceed in developing a temporary park on top of the Civic Center Parking Deck as well as continue to explore the location of a permanent site.

With the help of Police Officer Mark Wilson, Downtown Development Manager Terry Clevenger and skateboarder Lee Pace, Mr. Brinson addressed the areas of concern with skateboarding.

Mr. Brinson then presented the task force's progress report in that the location criteria is that it be close to downtown; accessible to City-owned transportation, use of City-owned property and ability to supervise.

Mr. Gabe Smith, skateboarder, outlined a proposal for a skateboarding facility by detailing the park design of "the Warlord" which cost is approximately \$70,000, while City Attorney Oast reviewed any risk management and legal concerns, noting that skateboarding is pretty low on the risk management scale. City Attorney Oast said that regardless of whether the park becomes a reality or not, the current ordinance does require some revisions and he will be bringing those revisions to Council in the future.

With the help of Steve Thompson, Parking Services Supervisor, Lee Pace, skateboarder, and Police Lt. John Kirkpatrick, Mr. Brinson outlined in detail the proposal to use the 8th floor of the Civic Center Parking Deck. Lt. Kirkpatrick reported that several locations were measured with regard to noise levels and his research revealed that the decibel noise level from 15 feet would be from 60-65 comparing that to normal conversation being a level of 60.

The Skateboard Park Rules & Regulations include no drugs or alcohol; no profanity; no vandalism, including graffiti, tagging or other means of defacing city and personal property; no camping, no loitering, keep the area clean and free of litter; keep the noise level to a minimum; no skating below the top level of the Civic Center Parking Garage at any time; all skating is limited to the designated area; skaters may access the facility using any of the three stairwells or the elevator; skaters only in the skating area; and spectators must remain in their designated seating area. Anyone violating the regulations will be banned from using the park and the parking garage. The hours of operation would be Monday-Saturday 10:00 a.m. - 8:30 p.m.; and on Sunday from 1:00 p.m. - 8:30 p.m.

Mr. Brinson said that three possible locations were arrived at for a permanent location. Those are the Rankin Street gravel parking lot behind the Civic Center, the old leaf dump on Broadway and Stephens-Lee Recreation Center. It was then determined that Stephens-Lee Recreation Center would not be the best

location and based on the parking study, the Rankin Street gravel parking lot was pulled from the list as well. They are still researching the old leaf dump on Broadway as the permanent location.

Mr. Brinson said that it would cost approximately \$5,000 to fence in around the area on the 8th floor.

Staff and task force members responded to many questions from Council, some being, but are not limited to: will the large number of skateboarders going to the skateboard park increase traffic in downtown; what is the cost of an average skateboard; what are the penalties for violation of the ordinance prohibiting skateboarding in the business district; has the task force looked at the property owned by NC DOT at the I-240 overpass or the concrete parking lot at the north end of Lexington; has the City explored any public/private venture; is there anything -6-

included in the Parks and Recreation Master Plan to accommodate skateboarders; what are precautions that will be made if the park attracts large crowds; will one person be adequate to maintain the park; has there been any research done regarding possible turf issues; are there any age restrictions for use of the park; does staff think that the use of the elevator during the park hours might impede the convenience of the people who park in the garage daily or rent on a monthly basis; is the park consistent to the parking study currently underway; how many months is it anticipated that the temporary park will be in operation; what would happen to the temporary park if the spaces on the 8th floor are needed; has staff addressed possible vandalism of cars parked in the parking deck; what are the security measures in place now and anticipated if the park is built; what is the cost of the temporary park; and how will restroom facilities be handled.

Ms. Marilyn Muccio, resident at Vanderbilt Apartments, expressed concern of the safety of the area, noise, if there would be extra security, and that the area is not shaded. She wondered if there were any state regulations that the City would be violating. She also felt that if the City charges a fee that some children will not be able to use the park.

Mr. Brinson responded to Ms. Muccio's concerns and particularly noted that they do not plan to charge a permit fee for use of the park. However an annual fee may be considered for the permanent park, but that is something they have not pursued yet. He said that he has no knowledge of any state regulations concerning the temporary park and regarding no shade, he noted that several activities, e.g., tennis, football, basketball, are performed in the sun.

Mayor Sitnick was also concerned about the safety of the youth on the 8th floor of the garage.

Ms. Laura Maltby, resident in the Asheville Hotel, spoke in support of this temporary solution to a very real problem.

Ms. Susan Roderick, representative of Quality Forward, was excited about the proposal and stated that they would be glad to help with any fund-raising. She felt that most people would welcome the skateboard park on the leaf dump on Broadway, which could be part of the greenway system. She suggested a permanent site might be the parking lot across from Southern Bell in front of 45 Cherry Street on the NC DOT's right-of-way.

Mr. H.K. Edgerton was concerned about the City's cost for security for this park when there doesn't seem to be enough police man-hours to solve problems in the Eagle-Market Street area.

Mayor Sitnick responded to Mr. Edgerton by saying that the City is making an effort to place a community resource center in the Eagle-Market Street area. Mr. Brinson also responded that the skateboarders are raising money to buy materials and will build wooden ramps and other devices to skate over. He said that they are not asking for any additional appropriation.

Ms. Bonnie Contreras spoke in support of the park and noted that skateboarders will work on accomplishing

the goals set.

It was the consensus of Council to place this item on the next formal City Council agenda.

CRUISE-IN TRACK

Mr. Irby Brinson, Director of Parks & Recreation, said that the Parks and Recreation Department, in conjunction with the Police Department, has been working on the problem associated with cruising on Patton Avenue. -7-

Last year, several articles appeared in the newspaper in regard to merchant concerns with problems associated with cruising on Patton Avenue especially on Friday and Saturday evenings. In an effort to be proactive in its efforts, Sandi Hosey, Special Projects Coordinator for the Parks and Recreation Department, and Officer Wade Wood of the Police Department, held the City's first cruise-in in September of 1997 at the Sam's Club parking lot.

With the help of Mr. Russ Parris, Ms. Hosey updated Council on the success of the cruise-in, the survey results of a poll taken of the cruisers, and also updated them on three cruise-ins planned for 1998. She noted that the problem they have is finding a location which the owners will let them use their facility on Patton Avenue. Several meetings have been held where business owners are invited, however, attendance by the owners is very poor.

After some discussion on trying to find a location, it was suggested that Ms. Hosey contact the West Asheville Business Association and attend a meeting to see if they can perhaps help them find a solution to the location problem for these cruse-ins.

It was the consensus of Council to lend their support in developing the cruise-ins in 1998.

RESCINDING BELE CHERE COMMISSION

Mr. Irby Brinson, Director of Parks & Recreation, said that the Parks and Recreation Department wishes to rescind Resolution No. 93-45, dated March 30, 1993, which established the Bele Chere Commission for the City of Asheville.

On March 30, 1993, the City Council established the Bele Chere Commission. This Commission was formed from Past Chairs of the Bele Chere Festival along with two appointees from City Council. Over the years, this Commission has served in an advisory capacity for the Bele Chere Board and staff. Responsibility for the Bele Chere Festival was transferred to the Parks and Recreation Department in 1995, and staff feels it is no longer necessary to have the Commission serve in an advisory function to Bele Chere since there currently exists a Parks and Recreation Advisory Board. It is staff's desire to have the Past Chairs of Bele Chere continue to serve as mentors for the Festival and to participate in various Bele Chere functions as they have in the past.

The Parks and Recreation Department recommends that City Council rescind Resolution No. 93-45 which established the Bele Chere Commission as an official City board or commission.

Mayor Sitnick asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

BUDGET AMENDMENT RE: PAVING OF McCORMICK FIELD

Mr. Irby Brinson, Director of Parks & Recreation, said that this is the consideration of a budget amendment, in the amount of \$79,577, for the paving of the McCormick Field parking lot based upon prior commitment by

former City Manager Doug Bean.

In 1992, former City Manager, Doug Bean, agreed that the City would pay for the paving of the McCormick Field parking lot as the City's commitment to the renovations of the minor league ballpark. Based upon review by both the City and County, payment has never been made by the City for this project. Buncombe County has now requested payment for the paving of the McCormick Field parking lot which was completed in 1992. The total cost for this project was \$81,577; however, due to the contractor failing to complete various requirements of the -8-

contract, \$2,000 was deducted from the original total. Therefore, the amount the City has been requested to pay is \$79,577.

The Parks and Recreation Department is requesting City Council approval of the budget amendment to appropriate funds totaling \$79,577 to pay for the paving of McCormick Field parking lot.

Mayor Sitnick expressed concern about the County billing the City six years later. Mr. Brinson said that by a letter dated September 16, 1992, former City Manager Doug Bean wrote to Mike Watson, who was the architect on the McCormick Field project, stating that the City would reimburse the County for the parking lot improvement change order in an amount not to exceed \$81,577.

Councilwoman Field, who was a member of City Council in 1992, remembered vaguely that since the City Manager only had authority to approve projects under \$35,000 that he did bring the issue to City Council's attention and Council at that time gave him authority to pay for the paving. She would review her notes to see if she could bring anymore light to this issue.

Councilman Cloninger felt that if staff is confident that the City made the commitment to pay, then the City should stand by that commitment.

Vice-Mayor Hay noted problems associated with the paving and final settlement and felt that some of that might explain the delay in receiving the bill.

Mayor Sitnick asked that the record show that City Council has received this information and instructs the City Manager to place this item on the next formal City Council agenda.

AFFORDABLE HOUSING STRATEGIES

Ms. Charlotte Caplan, Community Development Director, said that this is the consideration of adopting a resolution approving strategies proposed in the Affordable Housing Study and instructing staff to prepare a first-year action plan.

The Affordable Housing Study was commissioned in October 1997 from Housing and Community Insight, Inc. for a fee of \$28,200. The scope of work was to analyze historic and current trends in Asheville's housing supply and demand, including housing for ownership, rental and special needs, and to prepare a five-year affordable housing strategy including goals for housing production, potential financial resources, and administrative structures. The report was submitted in February 1998.

The Housing and Community Development Committee has reviewed the report and heard a presentation on its contents from the principal author Richard Genz. It finds the report to be based on good factual information and sound analysis. It is clear that Asheville faces a significant shortage of housing, at all price levels, and in both ownership and rental sectors. The shortages are particularly severe for housing affordable to people with low to moderate income (below 80% of area median income), According to the

Study, Asheville will need 675 additional housing units a year to meet demand over the next five years, and 455 additional units of rental assistance.

The study recommends eight broad strategies. They are (with minor amendments proposed by the Housing and Community Development Committee):

1. Develop a strong leadership role for the City to promote housing production and affordability.
2. Use local zoning and regulatory policies to support affordable housing. -9-
3. Increase production of rental and ownership housing.
4. Promote in-fill housing, mixed-use development and adaptive re-use of existing buildings.
5. Expand housing rehabilitation
6. Encourage affordable housing development by both for-profit and non-profit developers.
7. Develop transitional housing for those with special needs.
8. Develop formal City-County collaboration on housing.

The Housing and Community Development Committee endorses these strategies and recommends their approval by Council.

Under the eight strategies, the study recommends 49 separate implementing actions. It is not feasible, nor did the study's authors intend, that all these actions should be carried out simultaneously. They can be treated as a menu from which to prioritize and select actions that are most suitable for immediate implementation. Some actions have already started through the efforts of the Chamber of Commerce's "Homes for Asheville-Buncombe" Task Force. As progress is made year by year, the study can be revisited and further implementing steps added. The process should coincide with, and eventually be subsumed within the City's consolidated planning process for housing and community development.

That City Council accept the eight broad strategies set forth in the Resolution and instruct staff to prepare an initial action plan detailing implementing actions that have the highest priority and can reasonably be put into effect within the next twelve months.

Upon inquiry of Councilman Cobb, Ms. Caplan said that a newly constructed house selling at or below \$100,000 would be considered affordable.

Upon inquiry of Mayor Sitnick, Vice-Mayor Hay and Councilwoman Field explained how the City can work with the County on housing.

Discussion surrounded the need for a source of designated income to create a local housing trust fund for affordable housing.

Mr. H.K. Edgerton urged Council to include the African American community in discussions. He noted that there was not any African American representation on the HOME Consortium. Councilwoman Field said that Asheville has two appointments, one of which is her and the other is the Director of Affordable Housing Beth Maczka. If Council chooses, they can remove either herself or Beth and appoint an African American representative, since Asheville has no control over the other appointments on the Consortium.

Mayor Sitnick asked that the record show that City Council has received this information and instructs the

City Manager to place this item on the next formal City Council agenda.

ORDINANCE NO. 2491 - ORDINANCE TO ALLOW A FRANCHISE AGREEMENT WITH ASHEVILLE TROLLEY COMPANY

City Attorney Bob Oast said that this is the consideration of a request from the Asheville Trolley Works, LLC, for a franchise to operate trolleys on the city streets, stopping at various points along said streets to board and discharge passengers.

The applicant, a Limited Liability Company by the name of Asheville Trolley Works, LLC, (ATW), wishes to operate rubber tired trolleys on the Asheville city streets. The owner is the Grove Park Inn and SouthCities Capital Corporation. The company plans to serve the Grove Park Inn and the Biltmore Mansion, and various points in-between. The operation is geared -10-

towards tourists and is desired by merchants and hotels that expect to benefit from the existence of such a service.

The ATW service will operate primarily during the tourist season, and will probably not operate at all during the winter months. Although in the current plan the trolleys will run primarily during daylight hours, it is conceivable that they will also be used to transport hotel guests or other tourists during evening hours for restaurant tours, or to other special events.

He reviewed various items in the franchise, noting that current plans are for the trolley to service the Grove Park Inn, The Biltmore House, and the Radisson Hotel from within the properties of these businesses. It is also planned that the trolley will stop near the Haywood Park Hotel, Pack Square, and in Biltmore Village. Although these are the only planned stops on public streets, it is conceivable that other stops may be desirable in the future. The precise location of the trolley stops must be approved by the Planning Director. Trolley stops shall be so located and signs shall be so designated as to minimize the possibility of confusion with the bus stops of the Asheville Transit Authority ("ATA").

The hours of operation shall be limited to between 7:00 a.m. and 8:00 p.m. Sunday through Thursday, and between 7:00 a.m. and Midnight Friday and Saturday. For City-recognized holidays and days on which City-approved festivals occur in the Central Business District, the operating hours may be extended to Midnight, regardless of the day of the week.

The ATW may operate up to three trolley vehicles pursuant to the franchise. The trolley service shall be so operated and the routes so designed that each stop is serviced not less frequently than once per hour during the hours of operation.

The term of the franchise shall be for one year beginning on June 24, 1998, and ending on June 23, 1999. There is an insurance and indemnity clause in the franchise agreement.

Mr. Oast then reviewed the trolley equipment and condition of vehicle standards and the revocation and termination clause.

Because of the sense from Council in trying to support the operation, the fee for operation of this franchise shall be \$1.00 per day for each day of the term of the franchise. The fares charged by the ATW for trolley service shall be prominently displayed on the exterior of each trolley vehicle.

The trolley will not replace the ATA service in these areas, nor is it likely to significantly affect ATA ridership, as the market it aims to capture (tourists, hotel guests, etc.) do not currently ride the ATA service. Officials of ATA have been advised of the trolley proposal and have expressed no objection, though the ATA Board has not formally considered the matter.

The franchise ordinance requires that City staff give approval to all routes and stopping places on the basis of public health, safety and welfare. The agreement allows the operation of this business subject to the possibility of further regulation should such become necessary in the future. This is not an exclusive franchise.

Franchise ordinances require two affirmative votes of the City Council. Council's next formal meeting is June 23, and there is not another regular meeting until July 14. It is recommended that Council waive its rules and vote on the proposed ordinance at this worksession, in order to permit final consideration and a second vote on June 23.

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When Mayor Sitnick requested that no signs be placed on the outside of the trolleys, Mr. Newman said that they have not come up with an advertising scheme as of yet, however, they will scheme their advertising in that way if Council wishes.

Upon inquiry of Councilman Tomes on whether the drivers will be local, Mr. Newman said that they envision the drivers of the trolleys to be knowledgeable about Asheville in that the trolleys will be like a tour bus.

Mr. Newman responded to a concern from Councilman Tomes if someone locally would like to ride the trolley. He said that even though they will gear all marketing to sell tickets in hotels, however, if someone wants to ride the trolley, they would accept the \$3 from that person.

Mayor Sitnick felt that Council should be cautious in this franchise agreement and that it should be reviewed in either three or six months. She questioned whether the \$1 day for the franchise (regardless of whether one or three trolleys were operating) was adequate or should we consider receiving a percentage. She felt there should not be any advertising signs on the outside of the vehicle.

It was the consensus of Council not to include a provision in the franchise agreement to require ATW to provide ridership figures. Mr. Newman stated that ATW will keep track of ridership and provide those figures to Council when the franchise is up for renewal.

Councilwoman Field moved to waive the rules and take formal action at this meeting. This motion was seconded by Councilman Cloninger and carried unanimously.

Councilman Tomes moved to adopt Ordinance No. 2491 on its first reading. This motion was seconded by Councilman Sellers and carried unanimously.

Mayor Sitnick said that the required second vote on this ordinance will take place at Council's next formal meeting.

EXOTIC CAR WASH

Pursuant to a request of Councilman Sellers, City Council was presented with the following update on the status of any violations found concerning the operation of a car wash at 97-99 New Leicester Highway.

As Council is aware, the operators of XCapades Adult Night Club have for weeks now been advertising the opening of an exotic car wash. The first day of operation of the car wash was Saturday, June 6, 1998. Staff from the Police, Planning and Development and Building Safety Departments were all present on Saturday to determine whether or not any violations of local or state regulations/laws were taking place. Following is the status from each department:

- Police - At present the police have determined no violation exists over which they have jurisdiction. They will continue to monitor the situation to ensure no future violations occur.
- Building Safety - The plumbing inspectors who have visited the site have identified the need for no permits at this time. They did require a vacuum breaker on the outside water faucet last week which was provided. They are currently treating the waste water the same as stormwater for parking lots with no special code requirements. The electrical inspector is also watching for any electrical issues. They will continue to evaluate the situation and may place additional requirements on the car wash if it becomes a continuing operation.

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- Planning and Development - Based on the advertisements placed by XCapades in local publications, the Department sent the owners and operators of XCapades a notice of violation last week stating that the operation of a car wash at 97-99 New Leicester Highway would be in violation of our ordinance for failure to receive a permit to operate such an establishment. (At present we have been unable to successfully deliver notification to the business owner – only to the operator). The notice further stated that should the car wash be a form of adult entertainment, additional regulations would apply. A department employee inspected the site on June 6th and determined that the car wash did not constitute adult entertainment.

We understand that the operators plan to continue operating the car wash on Saturdays. If that is true, the operators would be in violation of the city's ordinance requiring a permit for the establishment of a new use. If Saturday's car wash is not a continuing venture, then we do not feel that the city would need to pursue any action at this time. We will continue to monitor the situation to evaluate whether or not a permit is necessary. For any day the operation takes place without a permit we can subject them to a fine of \$100.00. Should the operation continue for several weeks without obtaining a permit we may want to consider other legal options which would include injunctive relief. Obviously, we may want to reconsider our approach should the operation become an adult establishment. The operators have thirty days to appeal the notice sent to them. We have heard nothing from the operators.

Staff of all departments involved will continue to monitor the situation at XCapades. We will keep Council informed if the situation changes.

Upon inquiry of Councilman Sellers, Planning & Development Director Julia Cogburn said that she would see if there is any kind of sign violation with temporary banners at that location.

REPORTS FROM BOARDS & COMMISSIONS

Outside Agency Committee

Councilman Cloninger stated that each Council member received a copy of the Outside Agency Committee's recommendations and that they will be reported on in detail as part of the adoption of the budget at next week's formal Council meeting.

Discussion surrounded the amount allocated in the budget for the YMI Cultural Center. Because the budget has not been adopted at this time, City Council felt it would be appropriate for the City Manager to advise the YMI Cultural Center Board of Directors that they anticipate funding the YMI Cultural Center \$64,000 for a staff person and programming, however, the utilities are not included in that amount.

OTHER BUSINESS

Mayor Sitnick commended the Asheville Police Department for their handling of a situation in West Asheville

on June 15, 1998.

Mayor Sitnick asked for, and received, City Council's support of a letter City Manager Westbrook has sent to the Housing Authority requesting that the Housing Authority set up a focus group involving the Hillcrest Residents Association, Housing Authority, Asheville Police Department, Roberts Street neighborhood, Asheville Transit Authority, and the N.C. Dept. of Transportation to continue to discuss the problems and information that was brought forward as part of the entire Hillcrest pedestrian bridge issue. Councilwoman Field asked that the N.C. Dept. of Transportation be contacted immediately to repair the fence. -13-

CLOSED SESSION

At 5:45 p.m., Councilman Tomes moved to go into closed session for the following reasons: (1) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the Council, including agreement on a tentative list of economic development incentives that may be offered in negotiations - G.S. 143-318.11 (a) (4); (2) to consider the qualifications, competence, performance, character, fitness, conditions of appointment of an individual public officer or employee - G.S. 143-318.11 (a) (6); and (3) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease - G.S. 143-318.11 (a) (5) (i). This motion was seconded by Councilman Sellers and carried unanimously.

At 6:12 p.m., Councilman Sellers moved to come out of closed session. This motion was seconded by Councilwoman Field and carried unanimously.

ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 6:12 p.m.

CITY CLERK MAYOR
