

Tuesday - May 4, 1999 - 3:00 p.m.

Worksession

Present: Mayor Leni Sitnick, Councilman Earl Cobb; Councilman M. Charles Cloninger; 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: Vice-Mayor Edward C. Hay Jr.

**CONSENT:**

**Provisions for Possession & Consumption of Malt Beverages and/or Unfortified Wine at the 1999 Bele Chere Festival**

Summary: The consideration of approving the resolution to allow alcohol during the Bele Chere Festival which is based on the recommendations of the Bele Chere Alcohol Task Force.

The Bele Chere Strategic Plan which was presented to City Council at the annual retreat in 1997 established a Bele Chere Alcohol Task Force to address the alcohol issues surrounding the Bele Chere Festival. This Task Force continues to meet and address issues related to alcohol possession and consumption.

In May, 1996, Asheville City Council approved an ordinance prohibiting consumption and/or possession of open containers of malt beverages and unfortified wine on public streets and other property owned or occupied by the City of Asheville. In order to allow for the control of the sale and consumption of alcohol at Bele Chere, it is necessary for City Council to approve the resolution. Over the past several months, the Bele Chere Alcohol Task Force has been meeting to address concerns from downtown merchants, festival participants and Bele Chere Board members concerning alcohol at Bele Chere. The Task Force is made up of representatives from downtown merchants, City Council, Parks and Recreation staff, Legal Division, Asheville Police Department, the Alcohol Law Enforcement Board and Bele Chere Board. The resolution contains recommended actions by the task force, Bele Chere Board and various City Departments. This Task Force feels that the cooperative arrangement between all parties has been successful in trying to address the major issues relating to alcohol possession and consumption based upon past history of the festival.

The Parks and Recreation Advisory Board, Bele Chere Board, Bele Chere Alcohol Task Force, and the Parks and Recreation staff recommend approval of the resolution to allow alcohol during the Bele Chere Festival.

**Annual Audit Contract**

Summary: The consideration of a resolution authorizing the Mayor to execute a contract with Crisp Hughes Evans LLP, Certified Public Accountants, for auditing services for Fiscal Year 1998-99.

N.C. Gen. Stat. sec. 159-34 requires that local governments of North Carolina have their accounts audited each fiscal year and submit a copy of the audit to the Local Government Commission.

In 1998 the City solicited proposals from 36 accounting firms to perform the City's annual audit for the Fiscal Years 1997-98, 1998-99 and 1999-2000. City Council selected Crisp Hughes Evans LLP to conduct the Fiscal Year 1997-98 audit with the option to be re-engaged annually -2-

for two more years. They completed the Fiscal Year 1997-98 audit and have now submitted an engagement

letter for the Fiscal Year 1998-99 audit. The fee has been estimated at \$53,600, which is \$3,700 higher than the amount quoted in their proposal. The increase is due to the new HUD audit program (\$2,700) and implementing changes to the Comprehensive Annual Financial Report suggested by the Local Government Commission in their review of last year's report (\$1,000). Sufficient funds are appropriated in the budget of the Accounting Division of the Finance Department.

City staff recommends City Council adopt the resolution.

### **Budget Amendment re: Grant for Harvest House and Senior Opportunity Center**

Summary: The consideration of a budget amendment, in the amount of \$26,490, received from the N.C. General Assembly for improvements and equipment at Harvest House and Senior Opportunity Center.

The 1998 Senior Center Appropriation has been approved by the North Carolina General Assembly.

The Senior Center Appropriation is designed to provide funds to senior centers throughout North Carolina for a variety of services including capital improvement, supplies, equipment, and staff. The funds will be used at Harvest House to renovate the woodwork shop and purchase new weaving equipment and the Senior Opportunity Center will complete Phase Two of the kitchen renovation and remodel the craft room.

The Parks and Recreation Department recommends the City of Asheville to accept the 1998 Senior Center Appropriation on behalf of the Parks and Recreation Department for improvements at Harvest House and Senior Opportunity Center.

### **Endorsement of Broadway Corridor Plan Advisory Committee Members**

Summary: The Planning and Development staff is requesting City Council endorsement of the proposed membership of the advisory committee for the Broadway Corridor planning process.

The Planning and Development department staff is undertaking the preparation of a corridor plan for the Broadway corridor between the I-240 Interchange and the US 19/23 Interchange. As with past corridor planning efforts, we are proposing the creation of an advisory committee to provide input into the process and to serve as liaisons between the staff and business owners, property owners, adjacent neighborhoods, and interested organizations and groups. The proposed advisory committee would be composed of owners of properties and businesses located along Broadway, representatives of the abutting neighborhoods, a representative of UNC-Asheville, and a representative of an organization involved in the beautification of the corridor. It is proposed that a member of the Planning and Zoning Commission, the Asheville-Buncombe Historic Resources Commission, and the City Council serve as liaisons between the committee and their respective board. Mr. Will Williams will be the liaison from the Planning and Zoning Commission and the Asheville-Buncombe Historic Resources Commission will designate their liaison. The committee would meet approximately 6 times during the planning process to provide input and direction to the staff team responsible for the preparation of the plan.

The Planning and Development Department staff is requesting City Council endorsement of the proposed membership of the Advisory Committee for the Broadway Corridor planning process and designation of a City Council liaison. -3-

### **Lease of Additional Equipment for Telephone System**

Summary: The consideration of a resolution authorizing the execution of documents to include additional equipment under the existing Master Municipal Rental Agreement for the City's telephone system.

Last year, City Council approved the execution of a Master Municipal Rental Agreement, dated February 25,

1998, between the City of Asheville and NEC America, Inc. (The lease was subsequently assigned by NEC to Sutro & Co., which in turn assigned its right to receive rental payments to Fifth Third Bank, NA) The lease provided a fully-integrated telephone system that met the City's then-current needs and provided expansion capabilities to incorporate future expansion. The lease was for a term of 84 months at a cost of \$6,457.50 per month. During the past year it has been necessary to add additional equipment to the system to meet the City's evolving telephone requirements (6 additional digital display phones, 17 headsets, analog card for voice response system, etc.) The proposed resolution authorizes the City Manager, Finance Director and City Clerk to execute all necessary documents to include the above mentioned equipment as Delivery Order Number Two to the Master Municipal Rental Agreement. The terms of the added leased equipment is \$378.68 per month for a period of 36 months beginning in May 1999.

Staff recommends the City Council adopt the resolution.

Councilman Cloninger said that he has a conflict of interest in this matter and asked that it not be placed on the Consent Agenda for the next formal meeting.

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.

### **VISION BENCHMARK REPORT**

Ms. Pat Smith, Chair of the Asheville-Buncombe County VISION Board of Directors, and Ms. Pam Wall, Executive Director of Asheville-Buncombe VISION, Inc., presented City Council with the VISION benchmark report.

Ms. Wall responded to various questions and comments from Council with regard to the report, some being, but are not limited to: minority achievement, women and minorities on government appointed boards, and the City Council Code of Ethics.

### **MINIMUM HOUSING CODE AMENDMENTS AND FEES**

Director of Building Safety Terry Summey said that this is the consideration of setting a public hearing to amend the Minimum Housing Code and associated fees.

During the past six months, staff and some industry and nonprofit agency representatives have been meeting and discussing changes needed for the enforcement of the Minimum Housing Code. In addition, during the last four months the changes have been discussed at the Council's Housing & Community Development Committee.

The changes being recommended include the following:

- Technical changes to the Code (supported by the representatives);
- Changes to the schedule for inspecting rental properties (no consensus agreement reached);
- Increase staffing support for administering the code; -4-
- Additional and/or changes to the administrative and permits fees (to pay for the additional staff being requested);
- Implement on July 1, 1999, no water turn-ons until rental units have met the Housing Code;

and

- Increase promotion of the Code and any approved changes

The following summarizes the issues recommended by staff at a special called Housing and Community Development Committee meeting on April 27, 1999:

Possible schedule additions:

Rental units (includes single family, duplexes, triplexes and larger complexes owned by the same property owner or company at different locations) then the following ratio will apply-

Units < 15 years old.....15% of the units every 5 years

Units  $\geq$  15 years old.....50% of the units every 5 years

To use the above schedule the property owner or agent must present a list of all properties owned and a schedule for completion of inspections to the City; the City will determine the units to be inspected.

The following schedule will apply where the owner can produce current documentation of a regular annual inspection and maintenance schedule of each unit using a form approved by the City, adequate to maintain the units up to the standards of this code:

Units < 15 years old.....10% of the units every 5 years

Units  $\geq$  15 years old.....20% of the units every 5 years

(Note: the current schedules is based upon a percentage of units in each building; the proposed schedule samples a percentage of all units owned by a property owner; the units to be inspected will be determined by the City)

2. Implement new administrative fees in addition to the current permit fees for units receiving Housing Certificates after the 5 year deadline. Proposed new fees:

Units receiving certificates after the required 5 year schedule in the Housing Code: Certificate fee of \$100 per unit inspected; after 5 ½ years an additional \$20 per month housing certificate fee will be required.

Example: unit inspected 12 months after the 5 yr. schedule = \$220 fee (\$100 plus 6 months X \$20) plus any related permit repair fees.

Units inspected during the 5 year schedule will have the current \$20 Housing Certificate Fee waived if the unit passes the initial inspection.

Permit Fees will be reduced from \$45 to \$25 per trade (building, electrical, mechanical, and plumbing) at each building where housing code corrections are made.

Impact: (if the over 5,000 units still needing inspections are completed after the deadline, over \$500,000 (\$100 X 5,000 units) would be available in new revenue to support current and any additional proposed staffing. With the above schedule fewer units would be required to be inspected.

3. No water turn-ons will be approved after July 1, 1999 unless the rental unit has all Housing Inspection work completed and the Housing fees paid. -5-

4. Currently proposed new staff has been reduced to 3 positions:

1) Research Assistant (for hearings, title searches, mapping, assistant to Building Safety and Legal Office; to

be part of the Legal Office's budget and work under the supervision of an Assistant City Attorney)

2) Housing Code Enforcement Inspector (increase City Inspectors from current 3 to 4 positions. Initial inspectors to be continued to be done by the 3<sup>rd</sup> Party Inspectors; City Inspectors to do re-inspections and initial inspections on those units requiring search warrants.

3) Secretary (provide support to Inspectors, and assist Customers and Landlords with understanding Housing Code inspection requirements; position is to work in the Finance Department's Customer Service Division)

(A part-time secretary from a temp agency has been hired by Building Safety to work 4 hours a days in the Customer Service Division to help with Housing Code issues through the end of June)

The additional new costs of \$ 132,000.00 includes funds for temporary secretarial assistance and outside legal assistance.

5. Continue promotion of Housing Code, changes and fees; promotion to include the following:

- 1) Insert in water bills (draft being finalized)
- 2) Multiple CityWorks articles
- 3) Letter mailed to all known landlords
- 4) Presentation to Board of Realtors; also use their newsletter
- 5) Presentation to Carolina Real Estate Investors Association (CREIA)
- 6) Promotion by Building Safety's faxing system
- 7) All units needing an inspection will be posted after 7/1/99
- 8) Promote on Government Channel

A separate committee (with industry and nonprofit agency representatives) will have two list of proposals that will be shared with Council as soon as they are available.

City staff recommends City Council schedule a public hearing for May 25, 1999, in order to hear citizens input on the proposed amendments to the Minimum Housing Code and fees.

Mr. Summey responded to various questions and comments from Council.

Councilwoman Field, Chair of the Housing & Community Development Committee, spoke in support of the proposed changes noting that their concern is to balance a need to protect our housing stock and be fair and reasonable to everyone.

At the request of City Manager Westbrook, it was the consensus of City Council to include the proposed fees in the upcoming budget draft, noting that the budget can be amended prior to final adoption.

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.

**DISCUSSION OF A POLICY REGARDING CONTINUANCE OF ZONING PUBLIC HEARINGS PREVIOUSLY SCHEDULED ON THE CITY COUNCIL AGENDA**

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City Attorney Oast said that Council is frequently faced with last minute requests to continue public hearings. He felt that it was important for Council to be consistent, however,

Council needs to retain discretion in these matters. He suggested (1) submit two business days in advance of hearing the continuance request in writing (by 5:00 p.m. the Thursday preceding the public hearing date); (2) state reason; notify interested parties (where applicable); (3) second or subsequent continuances are discouraged (in some cases, City Code may require Council to proceed with hearing); (4) Continuance requests submitted less than 48 hours in advance: (a) must provide compelling reason (incapacity to proceed, death in family, etc.) and show notification of neighbors (where applicable); and (b) if there is any objection, Council may hear comment on question of continuance; (5) not applicable to staff/city requests; and (6) Council reserves for itself right to continue matters in its discretion. He said that it would be appropriate for Council to take comment on the continuance issue. He also said that this information could be included in the application package.

Councilwoman Field suggested the continuance request be noted on the agenda that is distributed on Fridays.

Councilman Cloninger suggested a form letter be sent to the party requesting the public hearing continuance outlining what steps need to be taken to notify interested parties of the continuance request. He also suggested that Council try the policy outlined by the City Attorney.

City Manager Westbrook said that since continuances are at the discretion of City Council, they might want to consider each request on a case by case basis based on the merits heard at the scheduled Council meeting.

Mayor Sitnick said that perhaps the request for continuance be submitted three business days in advance and requiring that all interested parties (which list would be available in the Planning & Development Department) be notified in writing. Her biggest concern is the time, expense and inconvenience of having people come to the Council meeting, just to find out that it has been continued.

It was the consensus of Council that it be clearly stated that continuances are discouraged, however, if a continuance is sought, the following steps outlined by the City Attorney should apply.

City Attorney Oast said that he would assimilate a short policy for Council to consider, along with some implementation strategies.

### **Trinity Baptist Church**

The second reading of the conditional use permit for Trinity Baptist Church located at 216 Shelburne Road scheduled for Tuesday, May 11, 1999, will be held in the Council Chamber, located on the Second Floor of the City Hall Building, Asheville, North Carolina. It was noted that the public hearing on this issue was held and closed on April 13, 1999.

### **Closed Session**

At 4:28 p.m., Councilman Cloninger moved to go into closed session to establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City 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 - authorized by G.S. 143-318.11 (a) (5). This motion was seconded by Councilman Sellers and carried unanimously.

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At 4:50 p.m., Councilwoman Field moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

**ADJOURNMENT:**

Mayor Sitnick adjourned the meeting at 4:50 p.m.

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CITY CLERK MAYOR

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