

Tuesday - August 17, 1999 - 3:00 p.m.

Worksession

Present: Vice-Mayor Edward C. Hay Jr.; 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: Mayor Leni Sitnick

Councilman Sellers congratulated Fire Chief John Rukavina for being selected to be on a planning team with six other fire chiefs from amongst the United States in the development of a business plan for the U.S. Fire Administration and the National Fire Academy for the first year of the new millennium.

### **CONSENT AGENDA:**

#### **Budget Amendment for Non-Resident Fees**

Summary: The consideration of a budget amendment, in the amount of \$23,000, to appropriate expenditures for non-resident fees which have been collected for various Parks and Recreation programs.

Several years ago, City Council approved collecting non-resident fees for various Parks and Recreation services. These fees include services for classes, adult and youth sports, and various clubs that use Parks and Recreation facilities. The Parks and Recreation Department wishes to establish expenditure line items and appropriations in order to spend funds which have been collected. The revenue that has been collected is intended to be used for various capital projects of the department. It is the intent of staff to use these funds in conjunction with various public/private endeavors and other activities or improvements that will benefit the community.

The Parks and Recreation Department requests City Council approve the budget amendment to appropriate funding from revenue collected from non-resident fees totaling \$23,000.

#### **Budget Amendment Increasing Appropriations to the Water Capital Projects Fund to include a grant from the Clean Water Management Trust Fund for Watershed Protection Improvements in Mills River Valley.**

Summary: The consideration of a budget amendment, in the amount of \$589,000, to amend Capital Project Ordinance 82-25 (35 Fund) to provide funding for the Mills River Watershed Protection Project.

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

Capital Project Ordinance 82-25 needs to be amended to provide funding for the Mills River Watershed Protection Project which will protect and improve water quality in the Mills River. This project will include replacing eight stream-side pesticide mixing stations with state-of-the-art agrichemical handling facilities located outside of the floodplain, restoring 41,000 feet of riparian buffer in degraded areas along the Mills River, stabilizing 2.6 acres of streambank using bio-engineering methods, controlling erosion and sedimentation in the Wash Creek watershed, and developing a long-term watershed protection management strategy. -2-

On December 1, 1998, the Regional Water Authority, on behalf of the Mills River Partnership, requested

funding from the NC Clean Water Management Trust Fund (NC CWMTF) for the Mills River Watershed Protection Project. Funding of \$541,000 was approved by the NC CWMTF on April 12, 1999. The Regional Water Authority will provide matching funds of \$100,718 with \$33,000 budgeted in 1998/1999, \$33,000 budgeted in 1999/2000 and \$34,718 budgeted in 2000/2001. The City of Hendersonville will provide \$15,000 in matching funds.

Revenues will be increased as follows: \$541,000 for NC CWMTF Grant, \$33,000 for the Authority's 1999/2000 contribution of matching funds, and \$15,000 for Hendersonville's matching funds. The appropriation for the Mills River Watershed Protection Project will increase from \$33,000 to \$622,000.

Staff recommends approval of the budget amendment amending Capital Project Ordinance 82-25 to provide funding for the Mills River Watershed Protection Project for FY 1999/2000.

### **Resolution Authorizing a Grant Agreement between the Regional Water Authority and the Clean Water Management Trust Fund for Watershed Protection Measures in Mills River Valley**

Summary: The consideration of a resolution authorizing the Chairman of the Regional Water Authority to execute a Grant Agreement with the North Carolina Clean Water Management Trust Fund for the Mills River Watershed Protection Project in the amount of \$541,000 to replace pesticide mixing stations and restore riparian buffers on the Mills River and its tributaries.

On December 1, 1999, the Regional Water Authority, on behalf of the Mills River Partnership, requested funding from the NC Clean Water Management Trust Fund (NC CWMTF) for a two-year comprehensive project to preserve and improve water quality in the Mills River watershed. The NC CWMTF approved funding of \$730,000 on April 12, 1999, for the following elements of the Mills River Watershed Protection Project:

- Replace eight stream-side pesticide mixing stations with USDA-approved agrichemical handling facilities (AHF's) located outside of the floodplain;
- Preserve approximately 50 acres of existing riparian buffer through a combination of purchased and donated conservation easements;
- Re-vegetate or widen 41,000 feet of riparian buffer in degraded areas along the Mills River and its two forks;
- Stabilize 2.6 acres of streambank using bio-engineering methods;
- Control erosion and sedimentation in the Wash Creek watershed by stabilizing 22 camp sites and installing sedimentation control measures along six miles of road; and
- Develop a long-term watershed protection management strategy.

The grant agreement between the Authority and the NC CWMTF will include all of the projects except the preservation of 50 acres of riparian buffers through purchased or donated easements. The total funding provided for the projects being administered by the Authority is \$541,000. The preservation of riparian buffers will require a separate grant agreement between the NC CWMTF and the Carolina Mountain Land Conservancy (CMLC) in the amount of \$189,000.

The Regional Water Authority will provide \$100,718 in matching funds and \$30,972 in in-kind services. The City of Hendersonville will provide a match of \$15,000 for the replacement of

the mixing stations and the Carolina Mountain Land Conservancy will provide \$2,400 in in-kind services for management costs related to the preservation of riparian buffers.

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The purpose of this project is to restore water quality in the lower Mills River and Wash Creek while maintaining the outstanding quality of the other streams in the watershed. The grant agreement will be approved as to form by the Authority's counsel before the Grant Agreement is executed.

Staff recommends approval of a resolution authorizing the Regional Water Authority to execute a Grant Agreement in the amount of \$541,000 with the North Carolina Clean Water Management Trust Fund

### **Resolution Authorizing a Contribution Agreement between Regional Water Authority and Natural Resources Conservation Service for design of Agrichemical Handling Facilities for Mixing of Pesticides at Eight Farm Locations in Henderson County**

Summary: The consideration of a resolution authorizing the Regional Water Authority to execute a contract with the Natural Resources Conservation Service to complete the final design of Agrichemical Handling Facilities for eight farms in the Mills River valley as required by a grant from the Clean Water Management Trust Fund.

The Regional Water Authority was awarded a grant by the Clean Water Management Trust Fund in March 1999 to make improvements to watershed land management practices to protect the quality of water in the Mills River. A major component of this grant was the award of \$329,157 from the Trust Fund, matched by an additional \$99,000 from the City's Water Fund and \$15,000 from the City of Hendersonville, to relocate the practice of pesticide mixing at up to eight locations from near the streambank to state-of-the-art facilities outside the floodplain.

The grant application and grant award provides for funding disbursements and management and construction practices to be handled as currently provided through the Agricultural Cost-Share program. Further, the state-of-the-art agrichemical handling facilities (AHF) are to conform to the standard design developed by the Natural Resources Conservation Service (NRCS) and Henderson County Soil & Water Conservation District (HSWCD). Through discussions with the HSWCD staff, the Water Resources Department staff have been able to obtain a commitment for engineering to complete the final design of these facilities through registered engineers of the NRCS staff. This has an advantage since NRCS engineers are already very familiar with the AHF standard design, and specific site requirements, and are experienced in working with farmers and agricultural practices. NRCS is an agency of the U S Department of Agriculture.

The contract is called a Contribution Agreement and calls for the complete design, including flood elevation surveying, site plan, grading plan, piping plan, layout, and detailed construction specifications for eight locations, to be completed not later than January 1, 2000 at a fee not to exceed \$21,943.00.

Staff recommends the adoption of the resolution authorizing the Regional Water Authority to execute a Contribution Agreement with the Natural Resources Conservation Service.

### **Lake Craig and Azalea Road Park Survey Contract and Feasibility Study**

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with MA Engineering Consultants, Inc., for a survey and feasibility study of the Lake Craig and Azalea Road Park.

This property was identified as a potential recreation and public works resource though task teams initiated by the Parks and Recreation and Public Works Departments. These teams combined and developed a

consolidated, conceptual program of recreational (soccer fields, gymnasium complex, ballfields, greenway trails, etc.) and public works facilities (beneficial fill, eco-park, composting, etc.). -4-

Within the conceptual recreational program, partnerships were solidified with Western North Carolina Soccer Foundation, Western North Carolina Youth Sports Complex Foundation, and RiverLink to maximize recreational needs and funding opportunities.

With these organizational efforts in place, City Council directed staff to proceed with the land acquisition process. Consequently, a request for qualifications was sent for the initial phase which entailed a property survey. Staff from Parks and Recreation, Public Works and Engineering Departments followed city procedures and selected MA Engineering Consultants, Inc. as the top firm. A comprehensive boundary and topographic survey will be the scope of service provided by the consultant for \$85,173.00 (boundary survey \$34,980.00, topographic survey \$40,185.00, wetland delineation \$10,008.00) for this 150 acre tract. In addition, staff is currently discussing with this consultant, an exact scope of work and cost estimate for a feasibility study of the entire project, which includes the needs of the Public Works and Parks and Recreation Departments.

The Parks and Recreation Department recommends that authorization be given to the City Manager to enter into a contract with MA Engineering Consultants, Inc. for the boundary and topographical survey for Lake Craig and Azalea Road Park and to enter into a change order agreement for a feasibility study if deemed necessary by staff.

Vice-Mayor Hay 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.

### **ANNUAL REPORT ON THE MINORITY BUSINESS PROGRAM**

Ms. Mamie Scott, Director of the Office of Minority Affairs, reviewed with City Council the annual report on the Minority Business Program. She explained that this report was prepared pursuant to the Minority Business Plan adopted in May of 1998. Not only does it contain an assessment of the City and County goal attainment and the factors involved in that assessment, but gives information on strategies used to implement the Minority Business Plan. They are encouraged in knowing that they have the support of the Mayor, Council and City staff as we work smarter to increase minority participation. By preparing this report, they have learned that it is imperative that we all take responsibility and intentionally get involved with identifying and recruiting ethnic and women owned businesses in our community to be certified with the Minority Affairs Office. They have also been made aware of areas in which minority owned businesses can participate. This report has been reviewed by the Minority Business Commission.

Ms. Scott then answered various questions from City Council, some being, but are not limited to: how the goals were established; are complaints from the certified minority businesses investigated; why aren't more minority businesses bidding on projects; and how many minority businesses are certified.

Upon inquiry of Councilwoman Field, Finance Director Bill Schaefer said that he would provide a breakdown of the \$44 Million City expenditures.

Councilman Tomes felt there is still room for tremendous improvement and hopefully as we look into the future, we will see evidence of that improvement. He also felt that there is an ethical and moral obligation for major and significant contractors to educate them to mentor and nurture people.

Ms. Vickie Gaddy, certified minority owned business owner and member of the Minority Business Commission, spoke in support of the work of the Minority Affairs Office staff.

### **ANNEXATION STUDY**

Mr. Doug Spell, Assistant City Manager, said that on January 12, 1999, City Council members attended a "Tour of Urban Areas" in an effort to see development patterns in areas adjacent to our -5-

corporate limits. At the City Council Retreat on January 29, 1999, Mr. Richard Flowe with Benchmark, Inc. presented to City Council "Levels of Priority" to be utilized in assessing potential annexation areas. These levels of priority consisted of the following:

1. Clean up small service inequities;
2. Look at economic base diversification;
3. Address residential areas that lie immediately outside the city limits that have full infrastructure services;
4. Look at residential areas that lie immediately outside the city limits that don't have complete urban area infrastructure;
5. Focus on a balance of areas among these areas for future growth opportunities.

With these levels of priority, City Council authorized the consultant to proceed to identify areas for potential annexation and to present recommendations based upon these priorities.

Benchmark Inc. has prepared a list of areas for consideration as a part of the City's first phase of areas for consideration of annexation. The areas addressed as a part of this first phase were primarily identified based upon the priority of cleaning up service inequities based upon properties that currently have various infrastructure services.

Staff is seeking direction from City Council and would recommend that following the presentation on these areas that Council instruct staff to proceed working with the consultant on preparing the "Plan of Services Report" which is required as part of the annexation process. The Plan of Services Report will identify the boundaries of the properties proposed for annexation and will also identify any service costs or improvements necessary as a part of the annexation process. Upon completion of the Plan of Services Report, a Resolution of Intent would be presented to City Council for consideration of adoption. It should be noted that any proposed annexation as a part of this recommendation would not become effective prior to July 1, 2001.

One other task which is a part of the consultant's Scope of Work for the Annexation Study is to come back to the City in the future with an Annexation Plan. The Annexation Plan will identify specific areas and provide a general time frame for future consideration of annexation based upon the Levels of Priority which Council directed the consultant use in developing the Annexation Plan.

By use of a map, Mr. Richard Flowe identified the areas recommended as part of the first phase annexation. He explained that the areas to be considered in the first round of annexations are largely urbanized, are in close proximity to the present City limits, have significant urban infrastructure services, have significant existing non-residential growth, and are located among important strategic growth categories. Annexation of these areas will address service inefficiencies and inequities without significant budgetary impacts.

The following first group areas are recommended for consideration within the first one to two years:

Area A - This compact area would close a services gap along I-240, east of downtown. The area includes the Coleman Office Park and the Asheville Apostolic Church.

Area B - This compact area would extend the City limits eastward, along the north side of US 70, to

encompass a portion of the Blue Ridge Parkway. It includes the Veterans Administration Medical Center, some apartment complexes, an assisted living residence, and a few moderate houses.

Area C - This area would extend the City limits westward along Long Shoals Road. It contains the Carolina Power & Light property, some commercial uses, Valley Springs Middle School, a park, and a large apartment complex with 1,100 residents called "The Forest". The boundary of this area is extended along the right-of-way of I-26 to connect the Airport to the primary corporate limits.

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Area D - This compact, commercial area would extend the City limits southward along I-26 and Brevard Road. This area primarily consists of the Ridgefield Business Center and Biltmore Square Plaza.

Area E - This very compact area, which would close a service gap along Leicester Highway, includes a well drilling business, a convenience store, and a manufactured home sales lot.

Each area has a different history behind its development resulting in varying densities, growth patterns, vacancies, street designs, property valuations, incomes, and other characteristics. These factors all affect the decisions to annex by influencing the benefit versus cost considerations.

The information below illustrates the general data for each of the first group areas:

Predominate Land Use Acreage Population Tax Value

A Commercial 140 0 1,839,700

B Institutional, Residential 200 550 8,202,000

C Residential, Industrial 1,310 1,150 38,655,400\*

D Commercial 185 0 77,991,800

E Commercial 10 0 932,300

Totals 1,745 (2.73 sq. mi.) 1,650 \$127,621,200\*

\* The tax value of Area C does not include the Carolina Power & Light tax valuation assigned by the State of North Carolina which was not available at this time.

Upon inquiry of Councilwoman Field, Mr. Flowe said that these combined areas represent approximately 15% or less single family dwellings. He also said that 75% of these areas deal with service inequities.

Mr. Flowe then briefly explained the process that will need to be followed, noting that the first formal action of Council should take place sometime this winter with final adoption of the ordinance near the end of May or first of June, 2000.

Councilwoman Field asked if the Council could add or delete areas from the Plan during the process. Mr. Flowe explained that Council can make reductions or minor modifications to the Plan for Services, however, if after the public hearing a different approach is recommended, he would recommend at least another public hearing be held so that everyone had an opportunity to see the revised plan.

City Manager Westbrook said that several years ago the VA Medical Center asked to be annexed and City staff recommended that annexation as well. However, the City Council seated

at that time chose not to annex them. It was his understanding they are still interested in being annexed, noting that the City has a contract with the VA Medical Center to provide fire service.

City Manager Westbrook said that there was an agreement with Carolina Power & Light Company several years ago on past utility franchise taxes, and even though it's not explicitly stated in the agreement, having talked with former Mayor Martin and some Council members seated at that time, annexation was anticipated within the year and that did not take place.

At the request of Councilman Field, Mr. Flowe said that he would find out how many acres of Area C is water.

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After a brief discussion, it was the consensus of City Council to add an additional Area F to the first round of annexations. Area F is to include the hotels (and properties that make sense) at the interchange by the Biltmore Square Mall exit. Vice-Mayor Hay felt it would be a competitive disadvantage to the hotel having to pay higher taxes against the one that doesn't.

Upon inquiry of Councilwoman Field, Mr. Flowe explained that if any voluntary annexation petitions are received, they should be looked at on a case by case basis to determine whether they do or do not affect the strategies planned.

City Manager Westbrook said that anyone having questions about this annexation should be referred to Planning & Development Director Scott Shuford or Assistant City Manager Doug Spell.

It was the consensus of City Council to direct the City Manager to proceed with the preparation of a Plan of Services Report for Areas A-E to be considered for future annexation, including the addition of Area F.

### **UPDATE ON THE PUBLIC ACCESS PROCESS**

Councilman Tomes said that the cable franchise agreement adopted by City Council designates three initial access channels to be used for public, educational and/or governmental programming.

Last November Council discussed several possible ways to organize these channels. The governmental and educational channels were established first because they were less involved and could be on-the-air quickly. It is now time to concentrate on the public access channel.

City Council requested that staff prepare a Request for Proposal (RFP) for proposal soliciting non-profit organizations to run the public access channel. Council also decided to appoint a Public Access Channel Commission following the section of this non-profit organization.

Staff has prepared an RFP that has been reviewed by the City Manager's Office, the Legal Division, Buncombe County and members of the community. Changes were made to the document based on suggestions presented from these different sources.

Staff has also prepared an ordinance establishing the Public Access Channel Commission. This Commission will set policy and oversee the management of the public access channel.

Ms. Robin Westbrook, Public and Community Information Officer, reiterated that this is the consideration of authorizing staff to proceed with the issuance of the RFP for managing the public access channel and the establishment of the Public Access Channel Commission.

In June, a letter was sent to all individuals and organizations that had spoken in favor of public access during

previous public hearings announcing that the draft document was available for public comment. A total of five draft documents were picked up for review and comments were received by three individuals. These comments have been included in the RFP.

The RFP will be advertised beginning on Sunday, August 29, 1999. The deadline for submitting proposals will be Friday, October 1, 1999.

Staff requests that City Council approve issuance of the Request for Proposal. Staff further requests that City Council approve the ordinance establishing a Public Access Channel Commission in the near future.

Upon inquiry of Councilman Cobb, Ms. Westbrook said that they have received about 6-12 inquiries about what will be involved in the RFP process.

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Mr. Jack Fobes said that he was in total opposition to the proposal.

Ms. Patsy Meldrum, Assistant City Attorney, reviewed with City Council the several possible ways in which to organize this channel.

Ms. Westbrook said that the comments she has heard are not about the content of the RFP, but the process.

Vice-Mayor Hay 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.

### **REPORTS ON BOARDS/COMMISSIONS**

Vice-Mayor Hay, Chairman of the City Council Boards/Commissions Committee, said that the Committee recommends reappointment of Lionel Williams and Max Haner to the Planning & Zoning Commission and interview for the vacancy left by Jane Mathews; interview for the vacancy left by Randy Fluharty on the Tourism Development Authority; reappoint Charles Worley to the Regional Water Authority; and wait until the next quarterly appointment process on a vacancy on the Tree/Greenway Commission.

### **BUNCOMBE COUNTY ZONING**

At the request of Councilman Cobb, it was the consensus of City Council to instruct the City Manager to coordinate with the Buncombe County Manager a worksession date for City Council to be updated on the County's proposed land use plan. City Council felt the worksession is important to educate the City residents in that they have a stake in the outcome of the zoning in that they can vote on the issue.

### **ADJOURNMENT:**

Vice-Mayor Hay adjourned the meeting at 4:34 p.m.

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CITY CLERK MAYOR

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