

Tuesday - April 4, 2000 - 3:00 p.m.

Worksession

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor M. Charles Cloninger; Councilwoman Barbara Field; Councilman Edward C. Hay Jr.; Councilman Brian L. Peterson; Councilwoman Terry M. Whitmire; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

**CONSENT:**

**Restructuring of Redevelopment Loan to Robert Eidus**

Summary: The consideration of a resolution authorizing the restructuring of a redevelopment loan in connection with the redevelopment of Disposal Parcel 5B of the Head of Montford Redevelopment Project.

Robert Eidus purchased property known as Disposal Parcel 5B of the Head of Montford Redevelopment Project from the City of Asheville on March 15, 1999. The property is located at 102 Montford Avenue and was formerly known as the Miller Cab property. As part of the consideration for Disposal Parcel 5B, the City received a Promissory Note, secured by a Deed of Trust on Disposal Parcel 5B, in the principal amount of \$23,850.00. The Note is a balloon note with principal and interest at 7% per annum due and payable on February 16, 2001.

Mr. Eidus obtained a construction/permanent loan from Clyde Savings Bank to finance the redevelopment of the property in the amount of \$30,000.00 at an interest rate of 7.75% and 15 year term. Redevelopment has been completed in accordance with the plan submitted by Mr. Eidus and approved by the City.

In order to pay off his obligation to the City as a balloon note due in 2001, Mr. Eidus would have to refinance his loan with Clyde Savings Bank. Refinancing would increase the interest rate to 8.5-8.75%. The higher interest rate would adversely impact the economic viability of the property based on its rental income potential. Mr. Eidus has requested the restructuring of his obligation to the City in order to avoid refinancing the loan from Clyde Savings Bank. As a result of negotiations with staff Mr. Eidus has agreed to pay monthly installments with interest at 8% over a period of twenty (20) years.

The terms proposed for restructuring the City's loan are reasonable and the restructuring will contribute to the economic viability of the property and the success of the Head of Montford Redevelopment Project.

Approval of the resolution will authorize the Community Development Director to restructure the loan.

Community Development staff recommends adoption of the resolution.

**Amendment to Animal Control Ordinance**

Summary: The consideration of an ordinance authorizing the City Manager to designate other City departments to enforce Chapter 3 of the City Code regulating animal control.

-2-

By Ordinance No. 2631, adopted by the City Council on October 27, 1999, keepers of animals within the City were specifically ordered to clean up after said animals. That ordinance authorized "appropriate officials" of

the City to issue a civil penalty to violators of the ordinance. To determine what constitutes an "appropriate official," Section 3-6 of Chapter 3 of the City's Code must be reviewed. That Section of the Code restricted the enforcement personnel. This amendment will authorize the City Manager to administer the ordinance by designating other City departments to enforce some or all of the provisions of Chapter 3 of the Code of Ordinances and also authorizes the City Manager to create an Animal Control Division within a City Department. For example, enforcement of this ordinance in City parks be delegated to Parks and Recreation Department employees. Buncombe County Friends for Animals will provide training for City staff in enforcement of the ordinance.

The Police Department recommends adoption of the ordinance.

### **Amendment to Agreement with Grove Arcade Public Market Foundation regarding Location of Proposed Portico**

Summary: The consideration of an amendment to the Preservation, Operation and Restoration Agreement between the City and the Grove Arcade Public Market Foundation regarding the location of a proposed portico.

During the course of preparing documents for the reorganization for the tax credit financing for improvements to the Grove Arcade at the end of last year, it was discovered that the Preservation, Operation and Restoration Agreement provides in Paragraph VII.E.2. that a pergola may be built on the north side of the building. The intent was and has always been to put the structure on the south side of the building. This mistake was the probable result of confusion arising from Battery Park Avenue being on the south side, while the Battery Park Hotel is on the north.

The Grove Arcade architects have suggested that the proposed structure is more correctly a "detached portico" than a "pergola", and an amendment to this effect has also been requested.

Adoption of the resolution authorizing the amendment is recommended.

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.

### **REPORT FROM THE FUTURE OF THE CIVIC CENTER TASK FORCE**

Councilman Hay, and Chair of the Future of the Civic Center Task Force, stated that the hard-working and diligent Task Force members include: Charles Worley, Tommy Sellers, David Gantt, Barbara Halton, LaVerne Laney, Jan Davis and Mark Rosenstein. He said on behalf of the Task Force on the Future of the Civic Center, this is the latest in a series of reports to City Council by the Task Force on the Future of the Civic Center. Previous reports have covered the series of public meetings conducted by the Task Force, the commissioning of a market study and the results of that study, and the recommendations made by Hunter Interests Inc., the City's consultant. In its last presentation, the Task Force recommended that the Civic Center be improved as follows: (1) That the Thomas Wolfe Auditorium be improved to make it a "first class" performing arts center; (2) That no arena be studied for improvement and expansion; (3) That trade show space be expanded; and (4) That Hunter Interests Inc. be authorized to develop plans for a convention/conference center in partnership with private developers.

-3-

It was the opinion of the Task Force at that time that all goals could be best achieved by the convention/conference center proposal, and that all community needs could be met in a cost-efficient and comprehensive fashion.

In the late winter, the Task Force received the results of the Hunter Interests effort, which we have previously shared with City Council. The report indicated that developer interest was very high in the proposal, but it could not go forward without having previously identified a dedicated funding source for the public portion of the project. The consultant recommended that the City build support for such a funding source for the convention/conference center, and also move forward immediately with plans for a new arena.

Since receiving the report in January, the Task Force has met weekly to study options, and is prepared to make its recommendations about next steps. The Task Force has been joined in these latest meetings by representatives of UNC-A, the Asheville Smoke, the Downtown Commission, the Convention and Visitors Bureau, the Asheville Symphony, and the proposed amateur sports facility. Their assistance is greatly appreciated.

In light of Hunter Interests' latest report, the Task Force recommends that the City move forward on all four of the initial projects, but as individual efforts, rather than the consolidated effort previously built upon the convention/conference center effort. All four objectives are necessary, are in demand from the citizens, and are, in the opinion of the Task force, achievable contemporaneously. Taken individually, the projects are as follows:

Convention/Conference Center – The Hunter Interests' market studies remain valid, and have been affirmed by all research and anecdotal evidence considered by the Task Force. A convention/conference center would provide a measurable boot to the local economy, in particular to the hospitality industry, as well providing a new venue for community activities. In the event that the arena is relocated, dedication of the facility to a convention/conference center appears to be its most appropriate use. The opening of the Grove Arcade Public Market next year, along with continued revitalization of the down area, will make for an energized convention market, and studies show a demand for a venue for conferences in the Asheville area. The strong developer interest in the project is further proof of the feasibility of the proposal.

The Task Force recommends that efforts continue to build community support for the dedicated funding source necessary for the project, and that additional community partners, such as UNC-A, be approached. The Task Force recognizes that private development in the form of an adjacent hotel is essential to the development of a successful convention/conference center. However, nothing in this report is to be construed as endorsing or proposing a governmental subsidy of such private development. The Task Force is unanimous in its believe that such private development must stand on its own.

Performing Arts Center – No venue at the existing Civic Center shows stronger sustained community interest than the Thomas Wolfe Auditorium. Not only does it provide space for anchor tenants such as the Symphony and Community Concerts, its use is in high demand for popular events (as evidenced by the spring schedule). Due to relatively low operation costs, as well as the high level of use, no aspect of the existing Civic Center puts a lower burden on public funds. In addition to providing a venue for popular performing arts events, the auditorium serves an important community need by nurturing the arts, which is important to the continuing prosperity of our City. No other facility, existing or proposed, presently meets this important community need. The Task Force recommends that we build on the strong community interest in creating a first-class performing arts center.

A coalition of regular auditorium users, including the Symphony, Community Concerts, and the Arts Council, has offered to study other performing arts centers in cities such as

-4-

Greenville and Charlotte, and to report on design and funding. A delegation is presently planning a tour of similar facilities, with the goal of making recommendations to the Task Force. Interest is very high in improving the Thomas Wolfe Auditorium, and we believe that it is feasible to bring together a combination of

public and private funds to make a first-class performing arts center a reality. In light of the long history of performing arts at that location, the importance of the auditorium to downtown, and the proposal that the performing arts center be complementary to the convention/conference center, we do recommend that the new facility, whether it be by renovation or new construction, be located at its present site.

Arena – The Hunter Interests' market study of several years ago found that the existing arena, if improved, would meet the needs of our community for the foreseeable future. In light of changes in the market since that time, as well as the success of the Asheville Smoke as an anchor tenant, Hunter Interests now recommends that we move forward with plans for a new arena. We agree. There has been a dramatic loss of events from our arena in the past few years, due primarily to the size and design of the facility. Events which would otherwise use the arena, such as large shows and basketball tournaments, go to other cities solely because of the facility. The success of minor league hockey, as well as the prospect of other such anchor tenants, indicates that a new arena can be successful built in partnership with private interests. Dan Wilhelm of the Asheville Smoke has a proposal based upon similar arenas in other cities which provides a model for what can work in Asheville.

The Task Force believes that that arena will almost certainly need to be built in a different location. Our research indicates that the expense and architectural feasibility of making the necessary changes in size and facilities render the present site unsuitable. We have considered requesting the Commission of a study of the existing arena, but have concluded that the expenditure is unnecessary. Among our reasons for relocation are the following: (a) Parking downtown for large events is seen as a major impediment, and all financial projections for funding a new arena require parking revenues to be successful (which is not available downtown); (b) Increasing seating at the present arena is not feasible, but of equal importance is a site, which would allow for additional expansion if required in the future; (c) Most new arenas include an additional ice rink for recreational skating, which would be infeasible at the present site; (d) Renovation would require displacement of present tenants and events during a long period of construction; (e) Interest from private investors, a prerequisite for funding a new arena, is much higher in a new, rather than renovated, facility; and (f) Relocating the arena would allow for space for the convention/conference center.

The Task Force recommends consideration of any potential location for a new arena, but feels preference should be given to a site within the City limits which will be synergetic with other City goals, such as downtown vitalization, riverfront development, or partnership with UNC-Asheville.

Trade Shows – The community has a vested interest in the success of a variety of trade shows, and expanded, improved space is desirable. The Task Force believes, however, that this need can be best met by careful design of the convention/conference center and the arena. The nature and requirements of different shows can be accommodated in several venues, with craft shows, for instance, located downtown and RV shows at the arena.

In conclusion, the civic leaders who planned our present multi-purpose civic center gave us a facility which has served our City very well for almost 30 years, but we believe our needs have outgrown the present location. We propose that we preserve the multi-purpose civic center concept by relocating the arena and dedicating the existing facility to a convention/conference center and performing arts center. In furtherance of that goal, we recommend that City Council commission the Task Force to do the follows: (a) Build support for a dedicated funding source for a convention/conference center, to be located at the site of the present Civic Center; (b)

-5-

Investigate promptly and aggressively the prospects of creating a first-class performing arts center, also to be located at the present location; and (c) Explore location and construction of a new arena.

In addition, we request that Chancellor Mullen of UNC-Asheville be asked to make an appointment to a vacant seat, and a non-attending member be replaced by someone with similar interests. Finally, the Task Force proposes that it be authorized to create an advisory panel to assist to in its work.

Councilman Hay, along with Councilman Worley, answered various questions/comments from Council, some being, but are not limited to: hotel owners do not want any more rooms built; we should not base a huge financial investment only on the success of the Asheville Smoke; there are other kinds of sports, other than hockey and basketball, that the community would like to see, e.g., racing; if a new arena is built, it should be located in the downtown area; the City should explore a partnership with UNC-A; the suggestion of a new, larger arena should be explored carefully; how is the feasibility of building a new arena determined; if we move forward with these recommendations, we still need to repair our existing deteriorating Civic Center; is it possible to purchase items for our Civic Center and then move them to be used in another facility if its built; the financial commitment should not rest solely on the Asheville taxpayers; we should explore naming opportunities; and the need to pursue the dedication of a raise in the room tax going specifically towards infrastructure needs.

Councilman Peterson wanted to stress that we are taking care of our existing facility in addition to exploring a new arena.

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.

### **BELE CHERE 2000 BUDGET**

Mr. Irby Brinson, Director of Parks and Recreation, said that this is the consideration of a budget amendment, in the amount of \$545,000, appropriating revenue and expenditures for Bele Chere 2000 Festival.

This budget will be considered by the Bele Chere Board at their April 5, 2000, meeting and was approved Parks & Recreation Department staff. This request represents a balanced budget with appropriate revenue offsetting expenditures.

The Parks & Recreation Department staff recommend City Council adopt the budget amendment in order to recognize revenue and appropriate funds for Bele Chere 2000 Festival.

Councilwoman Whitmire questioned the figures with regard to beverages, the shuttle service, souvenirs and cost of inserts in the water bills. Mr. Brinson responded to all of her concerns and said that he would make available to all Council members, prior to the April 11 meeting, the 1998 Budget, 1999 Budget, 1999 Actual and 2000 Budget.

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.

### **OTHER BUSINESS:**

#### **WNC Regional Air Pollution Control Agency and Board**

-6-

Mayor Sitnick updated City Council on the informal meeting held on March 30 to discuss the future of the WNC Regional Air Pollution Control Agency. After much discussion, there appeared to be three options: (1) the agency become a County operated department; (2) operate the function as a joint agency controlled by a board appointed by the City, the County and perhaps by other towns in the County; or (3) leave the agency in place for a year to see if it would work. The committee members requested the County consider a joint public

hearing and Buncombe County Commissioner Chairman Tom Sobol said that he would relay this request to the Commissioners. Mr. Paul Muller, local representative of the NC Division of Air Quality said that he felt the state would allow the current structure to stay in place until the Environmental Management Commission ("EMC") approved changes and that he would send us a letter to that effect.

Mayor Sitnick asked Council to consider writing a letter to the EMC and the Buncombe County Commissioners to clarify in writing the City's position in that the agency should continue it's current structure, modified to recognize the deletion of Haywood County, until the issue is cleared up.

Councilman Peterson suggested that the City Council fact-finding committee make a report to City Council at their formal meeting on April 11, 2000. Discussion then surrounded whether the recommendations should or could be approved at the next worksession held on April 18, 2000.

It was the consensus of City Council to have the Council fact-finding committee report to the full City Council at their meeting on April 11 or April 18, whichever meeting the report can be finalized for. It was agreed that the City will find out what action, if any, the Buncombe County Commissioners took with regard to this matter at their meeting held earlier today. City Council also agreed that if the County Commissioners were amenable to a joint public hearing, the City Council would be eager to participate.

### **Affordable Housing**

Councilwoman Field asked that on the April 18 worksession agenda the issue about dedication of 1 cent of property tax to be leveraged to the housing trust fund. Because this has such a major effect on the budget, Council should give direction to the City Manager as quickly as possible. She also asked staff to research what impact that would have on the overall budget (which would be a reduction of approximately \$400,000 in the General Fund) and if the money is dedicated, if additional housing units can be built in that year.

### **Parking Meter Rates**

When Councilwoman Field raised the question about a article in the newspaper about City Council raising parking rates, Mayor Sitnick pointed out that discussion is in the very preliminary stages and the Fees and Charges Committee has only heard part of a report. The news media should not have drawn any conclusions on preliminary discussion.

### **Parks and Recreation Master Plan**

Councilman Peterson asked for an update on what the City is doing to implement the Parks and Recreation Master Plan since the Master Plan Bond was defeated.

-7-

### **Revenue Roundtable**

Mayor Sitnick requested that a revenue roundtable be set up in order to get public input and buy-in from the community. Discussion surrounded when the roundtable should take place. It was the consensus of City Council that the Mayor meet with the City Manager and report back with suggested dates.

### **Closed Session**

At 5:45 p.m., Councilman Worley moved to go into closed session for the following reasons: (1) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including a lawsuit involving the following parties: Leanna F. Young; Janet Rebecca Crisp; Paul Evington; Scott Alan Gaddy; Rock S. Edwards; William R.

Annarino; Leroy Lunsford; and City of Asheville - statutory authorization is contained in G.S. 143-318.11(a)(3); and (2) 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 terms of a contract for the acquisition of real property by purchase, option, exchange or lease - statutory authorization is contained in G.S. 143-318.11(a)(5). This motion was seconded by Councilwoman Field and carried unanimously. Councilman Hay was excused at 5:45 p.m. from participating in the first closed session item.

At 6:03 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Councilwoman Field and carried unanimously.

**ADJOURNMENT:**

No further business taking place, Mayor Sitnick adjourned the meeting at 6:04 p.m.

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CITY CLERK MAYOR

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