

Tuesday - September 12, 2000 - 5:00 p.m.

Regular Meeting

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor M. Charles Cloninger; Councilwoman Barbara Field; Councilman Edward C. Hay Jr.; Councilman Brian L. Peterson; Councilwoman Terry Bellamy (left meeting at 7:15 p.m.); and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilwoman Bellamy gave the invocation.

ADDITIONS TO THE AGENDA

Councilwoman Field requested that a brief discussion be held about the enforcement of political signs under "Other Business."

Councilman Hay asked that he and Councilwoman Bellamy report on a VISION meeting under "Other Business."

I. PROCLAMATIONS:

A. RESOLUTION NO. 00-152 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE BETTY SAMS

City Manager Westbrook read a resolution of appreciation to Betty Sams who has been employed by the City of Asheville for 20 years. Ms. Sams has requested retirement from her position as Elevator Operator in the Parks & Recreation Department.

Resolution No. 00-152 was adopted by acclamation.

RESOLUTION BOOK NO. 26 - PAGE 131

B. PROCLAMATION PROCLAIMING THE WEEK OF SEPTEMBER 10-16, 2000, AS "IMPROVING END OF LIFE CARE WEEK"

Mayor Sitnick read the proclamation proclaiming September 10-16, 2000, as "Improving End of Life Care Week" in the City of Asheville. She presented the proclamation to Tina Holmes, Carolyn Geister, Debbie Aiton, Kathi Peterson, and Jennifer Atkinson from Williams Funeral Home, who briefed City Council on some activities taking place during the week.

C. PROCLAMATION PROCLAIMING THE WEEK OF SEPTEMBER 24-30, 2000, AS "MINORITY ENTERPRISE DEVELOPMENT WEEK"

Mayor Sitnick read the proclamation proclaiming September 24-30, 2000, as "Minority Enterprise Development Week" in the City of Asheville. She presented the proclamation to Mr. Mariana Raigo, Vice-President of the Asheville Latin Americans for Advancement Society, who briefed City Council on some activities taking place during the week.

-2-

D. RESOLUTION NO. 00-153 – RESOLUTION IN SUPPORT OF HIGHER EDUCATION BONDS TO ASSIST NORTH CAROLINA’S COMMUNITY COLLEGE AND UNIVERSITIES IN MEETING THEIR FACILITY NEEDS AND ACCOMMODATING THEIR STUDENTS

Mayor Sitnick read the proclamation which said that higher education historically has played a tremendous role in building the State of North Carolina into the thriving economic, cultural and social leader that it is today. North Carolina’s community colleges and universities allow citizens of this State to learn the skills necessary to compete in today’s and tomorrow’s competitive economy. North Carolina’s systems of higher education are acclaimed as being among the best in the country. In the next decade, our community colleges expect more than 57,000 new students to enroll, and our universities’ enrollment will grow by more than 48,000 students. Our higher education campuses must upgrade and construct academic, residential and administrative facilities, including critical laboratory and classroom space, to accommodate the growing numbers of students. The \$3.1 billion bond package approved by the General Assembly will assist our community colleges and universities in meeting their significant facility needs. \$49.9 million has been allocated for the University of North Carolina at Asheville and \$14 million has been allocated for Asheville-Buncombe Technical Community College. The bonds are subject to voter approval on the November 2000 ballot and deserve rightful consideration by the citizens of this state. The Asheville City Council strongly supports the higher education bond proposal because it will enable our systems of higher education to better educate tomorrow’s students and maintain North Carolina’s place as the national leader in higher education learning and training. The Asheville City Council pledges to work to educate and inform the citizens of our State about the importance of the bonds in improving our community colleges and universities, and pledges to encourage voters to approve the bonds this November.

She then recognized Dr. Jim Mullen, Chancellor from UNC-Asheville, and Mr. Ray Bailey, President of Asheville-Buncombe Technical Community College, who spoke in favor of Council’s consideration of this resolution.

Councilman Worley moved for the adoption of Resolution No. 00-153. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 26 – PAGE 132

II. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 22, 2000, THE COMMUNITY MEETING HELD ON AUGUST 29, 2000, AND THE WORKSESSION HELD ON SEPTEMBER 5, 2000

B. RESOLUTION NO. 00-154 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A STATEWIDE EMERGENCY MANAGEMENT MUTUAL AID AGREEMENT WITH THE N.C. DEPT. OF CRIME CONTROL AND PUBLIC SAFETY

Summary: The consideration of a resolution authorizing the City Manager to sign a statewide emergency management mutual aid agreement with the North Carolina Department of Crime Control and Public Safety, and its Division of Emergency Management.

As a result of Hurricane Fran in 1996, Governor Hunt commissioned a Task Force to address the State’s recovery effort. The Task Force made 84 recommendations that would enhance communication, coordination and recovery efforts, and help provide the resources

-3-

needed to respond and recover from a disaster. One of the recommendations was for the League of Municipalities and the North Carolina Association of County Commissioners to draft a statewide mutual aid agreement. North Carolina Emergency Management serves as the repository for this statewide mutual aid agreement. This voluntary agreement means that the City may request assistance during a disaster, or Asheville may be asked to provide assistance to another city or town. The needs of Asheville residents are the first priority and the City may decline to provide assistance when the resources are needed in the City of Asheville. The multi-purpose agreement provides efficient and effective assistance among governments, faster reimbursement from the Federal Emergency Management Agency and covers liability and insurance concerns.

The Interim Fire Chief recommends City Council authorize the City Manager to sign a statewide emergency management mutual aid agreement with the North Carolina Department of Crime Control and Public Safety, and its Division of Emergency Management.

RESOLUTION BOOK NO. 26 – PAGE 133

C. RESOLUTION NO. 00-155 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO DISPOSE OF CITY-OWNED PERSONAL PROPERTY BY PUBLIC AUCTION ON SATURDAY, OCTOBER 7, 2000, AT 10:00 A.M. IN THE PUBLIC WORKS COMPLEX LOCATED AT 161 SOUTH CHARLOTTE STREET

Summary: The consideration of a resolution authorizing the Purchasing Director to dispose of City-owned personal property by public auction on Saturday, October 7, 2000, at 10:00 a.m. in the Public Works Complex located at 161 S. Charlotte Street.

The resolution authorizes the City's Purchasing Division to hold a public auction to dispose of motor vehicles, off-road equipment, and other miscellaneous property declared as surplus by various City departments. The auction is scheduled to be held Saturday, October 7, 2000, at 10:00 a.m. in the Public Works Complex, 161 S. Charlotte Street.

City staff requests City Council's approval of the resolution.

RESOLUTION BOOK NO. 26 – PAGE 134

D. ORDINANCE NO. 2737 - BUDGET AMENDMENT TO INCREASE REVENUE FROM THE \$2 MILLION HIGH UNIT COST GRANT AND INCREASE THE WATER CRITICAL NEED PHASE II APPROPRIATION

Summary: The consideration of a budget amendment to amend Capital Project Ordinance 82-25 (35 Fund) to reflect the increase in revenue from the \$2 Million High Unit Cost Grant and the increase to the Critical Needs Phase II appropriation.

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

In September 1999 the Regional Water Authority applied for a second grant with the N.C. Dept. of Environment and Natural Resources (DENR) to continue improvements to the regional water distribution system. The Authority had already been awarded a \$3 million grant from DENR in July 1999 from an earlier round of applications. Areas of the water system were

-4-

prioritized according to the State's criteria for grant points, including areas where water pressures to

customers were low and areas where water leak repairs were frequent.

On March 15, 2000, the Water Resources Department was notified that DENR had selected the Authority for a \$2 Million grant from the September application, conditioned on the design being completed and approved by DENR by July 7, 2000. This was completed on July 5, 2000.

Pursuant to the Water Agreement, the City of Asheville and Buncombe County formally accepted the grant in early August.

The Regional Water Authority approved an amendment to Capital Project Ordinance 82-25 at the August 15, 2000, meeting to reflect the increase in revenue from the \$2 Million High Unit Cost Grant and the increase to the Critical Needs Phase II appropriation.

The Regional Water Authority recommends approval of a budget amendment for Capital Project Ordinance 82-25 to reflect the increase in revenue from the \$2 Million High Unit Cost Grant and the increase to the Critical Needs Phase II appropriation.

ORDINANCE BOOK NO. 18 – PAGE

E. RESOLUTION NO. 00-156 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A FEDERAL AVIATION ADMINISTRATION GRANT

Summary: The consideration of a resolution approving a grant from the Federal Aviation Administration in an amount not to exceed \$500,000.

The Federal Aviation Administration (FAA) has offered a grant agreement to the Asheville Regional Airport. This grant, in an amount not to exceed \$500,000, consists of the following projects: Rehabilitate Runway 16/34 Lights (HIRLS); and Improve Runway 16/34 Runway Safety Area and Taxiway Safety Area.

Staff recommends adoption of the resolution and authorize the Mayor to execute the grant agreement for Project No. 3-37-0005-24.

RESOLUTION BOOK NO. 26 – PAGE 154

F. MOTION SETTING A PUBLIC HEARING FOR SEPTEMBER 26, 2000, TO CONSIDER A CONDITIONAL USE PERMIT FOR A PARKING LOT ASSOCIATED WITH MILKO INC. TO BE LOCATED ON PROPERTY ZONED RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT AT THE INTERSECTION OF DEAVERVIEW ROAD AND BEAR CREEK ROAD

G. MOTION SETTING A PUBLIC HEARING FOR SEPTEMBER 26, 2000, TO CONSIDER REZONING SEVEN LOTS LOCATED ON ACTON CIRCLE FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT, HIGHWAY BUSINESS AND NEIGHBORHOOD BUSINESS TO HIGHWAY BUSINESS, AND ISSUANCE OF A CONDITIONAL USE PERMIT (CONDITIONAL USE ZONING)

-5-

H. MOTION SETTING A PUBLIC HEARING FOR SEPTEMBER 26, 2000, TO CONSIDER REZONING PROPERTY AT CLINGMAN AVENUE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO CENTRAL BUSINESS DISTRICT, AND ISSUANCE OF A CONDITIONAL USE PERMIT (CONDITIONAL USE ZONING)

I. RESOLUTION NO. 00-157 - RESOLUTION ESTABLISHING MINIMUM PRICE AND AUTHORIZING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE DISPOSAL PARCEL 76 IN THE EAST

END/VALLEY STREET COMMUNITY IMPROVEMENT AREA FOR THE TAX VALUE OF \$300

Summary: The consideration of a resolution establishing minimum price and authorizing the City Clerk to advertise an offer to purchase Disposal Parcel 76 in the East End/Valley Street Community for the tax value of \$300.

Disposal Parcel 76 is a fragment lot located on the east side of Martin Luther King Jr. Drive at the intersection with South Beaumont Street comprising 566 square feet. The lot is irregular in shape and mostly flat about street level. The bid from Dorothy Dean includes the proposal to combine the property with adjoining property currently owned by Ms. Dean on South Beaumont Street. No construction is planned.

Approval of the resolution will establish the tax value of \$300 as the minimum price and initiate the sale of the property through the upset bid process as provided in N. C. Gen. Stat. sec. 160A-269.

Community Development staff recommends adoption of the resolution.

RESOLUTION BOOK NO. 26 – PAGE 155

J. RESOLUTION NO. 00-158 - RESOLUTION MAKING PROVISIONS FOR THE CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE 2000 GREEK FESTIVAL ON OCTOBER 6-8, 2000

Summary: The consideration of a resolution to allow alcoholic beverages on October 6-8, 2000 at the 2000 Greek Festival.

N. C. Gen. Stat. sec. 18B-300 (c) authorizes the City by ordinance to regulate or prohibit the consumption and/or possession of open containers of malt beverages and/or unfortified wine on public streets, and on property owned, occupied or controlled by the City of Asheville. The City Council has adopted an ordinance pursuant to that statutory authority. Section 11-11 of the Code of Ordinances provides that City Council may adopt a resolution making other provisions at a special event or community festival.

The Parks and Recreation Department recommends City Council adopt a resolution allowing the possession and consumption of malt beverages and/or unfortified wine at the 2000 Greek Festival to include the areas as described in the resolution.

RESOLUTION BOOK NO. 26 – PAGE 156

K. RESOLUTION NO. 00-159 - RESOLUTION MAKING PROVISIONS FOR THE CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE 4TH ANNUAL BREWGRASS FESTIVAL SEPTEMBER 16, 2000

-6-

Summary: The consideration of a resolution to allow alcoholic beverages on September 16, 2000 at the 4th Annual Brewgrass Festival.

N. C. Gen. Stat. sec. 18B-300 (c) authorizes the City by ordinance to regulate or prohibit the consumption and/or possession of open containers of malt beverages and/or unfortified wine on public streets, and on property owned, occupied or controlled by the City of Asheville. The City Council has adopted an ordinance pursuant to that statutory authority. Section 11-11 of the Code of Ordinances provides that City Council may adopt a resolution making other provisions at a special event or community festival.

The Parks and Recreation Department recommends City Council adopt a resolution allowing the possession

and consumption of malt beverages and/or unfortified wine at the 4th Annual Brewgrass Festival to include the areas as described in the resolution.

RESOLUTION BOOK NO. 26 – PAGE 158

L. RESOLUTION NO. 00-160 - RESOLUTION FINDING THAT A PORTION OF THE RIGHT-OF-WAY KNOWN AS SUNSET TERRACE IS NOT PART OF AN ADOPTED STREET PLAN

Summary: The consideration of a resolution finding that a portion of the right-of-way known as Sunset Terrace is not part of an adopted street plan.

According to N. C. Gen. Stat. sec. 136-96, if a right-of-way is not utilized within 15 years of dedication, it can be abandoned through a recording of a Declaration of Withdrawal.

To proceed with this process, Claxton Law Firm, on behalf of Peter and Jasmin Gentling, has conducted an extensive title research and determined that they are the rightful persons to claim under the dedicator and to make and record a declaration of withdrawal pursuant to North Carolina General Statute sec. 136-96 and has requested that the City of Asheville verify if the specific rights-of-way are or are not part of the City's adopted street plan. The statute requires that the City adopt a resolution stating whether the right-of-way to be abandoned is or is not part of a proposed street plan.

Public Works Department staff has determined that a portion of the right-of-way known as Sunset Terrace, beginning at the southeast corner of PIN No. 9649-08-88-3098, and ending at the southwest corner of PIN No. 9649-08-87-4827 as shown on Plat Book 14, Page 70, is not part of an adopted street plan and is not a City maintained right-of-way.

City staff recommends City Council adopt the resolution finding that a portion of the right-of-way known as Sunset Terrace is not part of an adopted street plan.

RESOLUTION BOOK NO. 26 – PAGE 160

M. RESOLUTION NO. 00-161 - RESOLUTION DIRECTING THE PUBLICATION OF NOTICE OF INTENTION TO APPLY TO THE LOCAL GOVERNMENT COMMISSION FOR APPROVAL OF BONDS

Summary: The consideration of resolutions related to the issuance of \$1,970,000 City of Asheville General Obligation Two-Thirds Bonds.

In most instances, the least expensive financing source available to municipalities is the issue of General Obligation (GO) Bonds; especially when the GO bonds can be issued without

-7-

the expense and uncertainty of conducting a referendum to authorize their issue. N.C. General Statutes allow the issue of GO bonds without a referendum in a maximum amount equaling two-thirds of the amount by which the City's outstanding GO debt was reduced in the prior fiscal year. As a result, the City of Asheville may issue up to \$1,973,333 in Two-Thirds Bonds in FY 2000-2001.

The City of Asheville Budget for Fiscal Year 2000-2001 includes \$1,300,000 for sewer projects and \$800,000 for an aerial ladder fire truck. The Budget called for the sewer projects to be financed by Two-Thirds Bonds and the fire truck through an installment purchase. After financing of the sewer projects, the City would still have \$670,000 of Two-Thirds Bond capacity which staff proposes be used to finance the majority of the fire truck; with the balance of only \$130,000 to be financed by the more expensive lease purchase.

The City's Bond Counsel, in consultation with the Local Government Commission (LGC) and City Staff, has established a tentative calendar (Atch.1) of events leading to a sale date of December 5, 2000, for the City's Two-Thirds Bonds. In order to meet that schedule, City Council needs to adopt the first four enabling resolutions for the Two-Thirds Bonds and a Budget Ordinance Amendment specifying the fire truck financing at the September 12, 2000, Formal Session. The following summarizes each of the Two-Thirds Bonds resolutions:

1. *Resolution Directing the Publication of Notice of Intention to Apply to the LGC for Approval of Bonds:* Directs the City Clerk to have published on September 13, 2000, a notice of the City's intent to apply to the LGC to issue \$1,300,000 bonds for sewer projects and \$670,000 bonds for the purchase of a fire truck.
2. *Resolution Authorizing the Finance Director to Prepare an Application to the LGC ...:* Directs the Finance Director to submit the necessary application and associated information regarding the City and its financial condition and to request LGC's approval of the City's use of Parker, Poe, Adams & Bernstein L.L.P. as the City's Bond Counsel.
3. *Resolution Making Certain Statements of Fact Concerning Proposed Bond Issues:* Documents Council's findings of fact as to the following:
 - A. The proposed bonds are necessary and expedient;
 - B. The amounts of the bonds are adequate and not excessive;
 - C. The City's debt management policies have been carried out in compliance with law;
 - D. The City's budgetary and fiscal management policies have been carried out in compliance with law; and
 - E. The schedule for issuing the bonds does not require a property tax increase and calls for all of the bonds to be issued in December, 2000.
1. *Resolution Declaring the Intent of the City to Reimburse Itself for Capital Expenditures Incurred in Connection With the Extension of Sanitary Sewer Lines From Proceeds of Certain Tax-Exempt Bonds ...:* On August 22, 2000, Council authorized the City Manager to enter into a contract for a portion of the sewer projects which are to be financed by Two-Thirds Bonds. In order for the City to be able to reimburse itself from the proceeds of the Bonds for a construction contract executed prior to the sale of the Bonds, the City must publicly document its intent prior to or within 90 days following the execution of the contract. This resolution documents the City's intent.

City staff recommends City Council adopt the four resolutions and the budget amendment.

-8-

RESOLUTION BOOK NO. 26 – PAGE 161

N. RESOLUTION NO. 00-162 - RESOLUTION AUTHORIZING THE FINANCE DIRECTOR TO PREPARE AN APPLICATION TO THE LOCAL GOVERNMENT COMMISSION FOR APPROVAL OF THE CITY'S PROPOSED BOND FINANCING AND TO SUBMIT SUCH APPLICATION TO THE LOCAL GOVERNMENT COMMISSION

Summary: See Consent Agenda Item "M" above.

RESOLUTION BOOK NO. 26 – PAGE 162

O. RESOLUTION NO. 00-163 - RESOLUTION MAKING CERTAIN STATEMENTS OF FACT CONCERNING PROPOSED BOND ISSUES

Summary: See Consent Agenda Item "M" above.

RESOLUTION BOOK NO. 26 – PAGE 163

P. RESOLUTION NO. 00-164 - RESOLUTION DECLARING THE INTENT OF THE CITY TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH THE EXTENSION OF SANITARY SEWER LINES FROM PROCEEDS OF CERTAIN TAX EXEMPT BONDS TO BE ISSUED IN THE YEAR 2000

Summary: See Consent Agenda Item "M" above.

RESOLUTION BOOK NO. 26 - PAGE 165

Q. ORDINANCE NO. 2738 - BUDGET AMENDMENT FOR PURCHASE OF FIRE TRUCK AND REALLOCATION OF FINANCING SOURCES

Summary: See Consent Agenda Item "M" above.

R. RESOLUTION NO. 00-165 - RESOLUTION APPROVING UNDERWRITERS FOR THE ISSUANCE OF WATER REVENUE BONDS AND CERTIFICATES OF PARTICIPATION

Summary: The consideration of a resolution authorizing the engagement of underwriters for the issue of Water Revenue Bonds and Certificates of Participation.

The City of Asheville Budget for Fiscal Year 2000-2001 calls for the issue of \$11,300,000 of Water Revenue Bonds to finance various improvements to the water system and the issue of \$11,200,000 tax-exempt Certificates of Participation (COPs) for the City's portion of the Battery Park Parking Deck. (An additional taxable portion of the COPs issue, currently estimated as \$4,000,000, will be required to finance the private partner's portion of the project. The debt service for the taxable portion is to be provided, in its entirety, by the private partners.) The services of an underwriting firm will be required for the structuring and sale of both the Water Revenue Bonds and the COPs.

The City requested separate proposals for the Water Revenue Bond issue and the COPs issue from six investment banking firms. In response, we received five proposals to underwrite

-9-

the Water Revenue Bonds and all six firms provided proposals to underwrite the COPs. City staff members evaluated the proposals based on: experience with similar financings in North Carolina; suggested alternatives for the structuring of the financing; firm's personnel dedicated to the financing; underwriter's counsel; compliance with the City's drug free workplace policies; fee structure; etc.

Based on the results of the evaluation of proposals, City staff recommends the engagement of Robinson-Humphrey, LLC to underwrite the City's issue of Water Revenue Bonds and both the tax-exempt and taxable COPs.

City Council adopt the resolution which engages underwriters for the issue of Water Revenue Bonds and Certificates of Participation.

RESOLUTION BOOK NO. 26 – PAGE 167

S. ORDINANCE NO. 2739 - BUDGET AMENDMENT FOR PRITCHARD PARK PROJECT

Summary: The consideration of a budget amendment, in the amount of \$38,312.53, to appropriate funds received from reimbursement by the Transportation Advisory Committee for the Downtown Traffic Evaluation Plan for Pritchard Park.
