

Worksession

Present: Mayor Charles R. Worley, Presiding; Vice-Mayor Terry M. Bellamy; Councilman Joseph C. Dunn; Councilman James E. Ellis; Councilwoman Diana Hollis Jones; Councilman Carl Mumpower; and Councilman Brian L. Peterson; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

CONSENT:

Public Auction

Summary: The consideration of a resolution authorizing the Purchasing Director to dispose of City-owned personal property by public auction on Saturday, October 5, 2002.

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 to be held Saturday, October 5, 2002, at 10:00 a.m. in the Public Works Complex, 161 S. Charlotte Street, Asheville, N.C.

City staff requests City Council approve the resolution authorizing the Purchasing Director to hold a public auction on October 5, 2002, at 10:00 a.m. at the Public Works Complex, 161 S. Charlotte Street, Asheville, N.C.

Upon inquiry of Councilman Dunn, Finance Director Bill Schaefer explained how the Fleet Management Division makes the determination if vehicles are economically feasible to keep.

Renewal of Radio Maintenance Agreement

Summary: The consideration of a resolution authorizing the City Manager to execute a service agreement renewal with Motorola Communications and Electronics, Inc. to provide maintenance of the City's radio communication system for another year at a cost of \$9,795.10 per month.

Motorola Communications and Electronics, Inc. has provided maintenance services for the City's radio communications system since installation of the system in 1992. Effective with the service agreement covering the period of September 1994 through August 1995, the maintenance cost per unit of equipment has remained fixed. The service agreements are renewed annually. The maintenance cost per unit of equipment for the renewal period of September 1, 2002, through August 31, 2003, remains fixed at the original cost per unit.

This renewal agreement reflects a monthly decrease of \$1,758.80. This is due to the fact that some radio equipment will include labor only as part of the maintenance agreement. The agreement covers additional equipment purchased by the City that has come out of warranty during the past year. The monthly cost of this service is \$9,795.10.

Funds have been appropriated in the Finance Department, Information Services Division, in Account No. 110-1005-415-3001 C44108 to cover the monthly cost of this agreement.

City staff recommends City Council adopt the resolution which authorizes the City Manager to execute a renewal of the service agreement with Motorola Communications and Electronics, Inc. to provide maintenance to the City's radio communication system.

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Mountain Mobility of Buncombe County Grant

Summary: The consideration of (1) a budget amendment, in the amount of \$50,000, to receive additional funding by Mountain Mobility of Buncombe County to provide two additional bus trips provided by the Asheville Transit to Black Mountain; and (2) a resolution authorizing the City to enter into an agreement with Mountain Mobility of Buncombe County to provide said service.

Mountain Mobility has received federal funds for the provision of additional service for persons seeking to commute to work using public transportation. Mountain Mobility seeks to enter into an agreement with Asheville Transit to use these monies to fund two additional trips to Black Mountain at times conducive to employment commuting. Mountain Mobility will subsequently provide feeder routes with its vans to feed these and currently existing Black Mountain trips run by Asheville Transit.

City staff recommends City Council approve the budget amendment to receive additional funding from Mountain Mobility, and grant City Manager authority to enter into an agreement for same.

FAA Grant Agreement

Summary: The consideration of a resolution approving a grant from the Federal Aviation Administration in an amount not to exceed \$604,709.

The Federal Aviation Administration (FAA) has offered a grant agreement to the Asheville Regional Airport. This grant, in an amount not to exceed \$604,709, is for the project consisting of: installing runway lighting for Runway 34 (Category II Touchdown Zone Lighting); rehabilitate taxiway lighting, and construct perimeter security/service road, Phase II.

Staff recommends adoption of the resolution authorizing the Mayor to execute the grant agreement for Project No. 3-37-0005-27.

Setting Public Hearing to Close Portion of Old Haywood Road

Summary: The consideration of a resolution setting a public hearing on October 8, 2002, to close a portion of Old Haywood Road from Park Avenue to Roberts Street.

According to N. C. Gen. Stat. sec. 160-299, a City has the authority to permanently close a street or alley without regard to whether it has actually been opened.

On September 23, 1997, a public hearing on the question of closing a portion of Old Haywood Road between Park Avenue and Roberts Street was held at the regular meeting of City Council. A decision was deferred on "closing" until staff could further advise Council on the ability of using this portion of Old Haywood Road in the Greenway Master Plan.

The Planning Department has completed the Greenway Master Plan and determined that this portion of Old Haywood Road from Park Avenue to Roberts Street would not serve as a good link in an anticipated greenway connecting the downtown with the river. The Planning Department has also not identified a viable public use for this property as requested on September 23, 1997. Based on those findings the closing proceedings were reinitiated at the request of Mr. Rice.

The Public Works Department staff has determined that the right-of-way known as Old Haywood Road, beginning at Park Avenue and ending at Roberts Street, as shown in the

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Buncombe County Tax Maps bordered by PIN Nos. 9648-09-07-1425, 9648-09-07-0394, and 9638-12-97-9347 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 of intent to set a public hearing on October 8, 2002, to close a portion of Old Haywood Road from Park Avenue to Roberts Street.

Private Sewer Line Easement over City-owned Property on Choctaw Street

Summary: The consideration of a resolution authorizing the Mayor to convey an easement over a portion of City-owned property in the East Riverside Redevelopment Project Area on Choctaw Street for a private residential sewer line.

The City owns property (PIN No. 9648.10-25-8823) located between Tolula Lane and Choctaw Street and Town Branch approximately 400 feet west of McDowell Street. Due to its location, shape and topography, its current and anticipated use is for park green space with plans for an improved greenway path along Town Branch.

Tilman and Sabrina Jackson purchased a parcel of land from the City adjacent to the greenway parcel in May of 2002 and have since erected a single-family dwelling. Due to the location of water lines and sewer lines the Jacksons have requested an easement, which would provide the most direct and efficient route to the sewer main. The easement would be solely for the purpose of installing and maintaining the sewer line and would not restrict the City from constructing a greenway path or planting trees which is the proposed use of the City's property.

Approval of the resolution will authorize conveyance of the easement to Tilman and Sabrina Jackson for the purpose of a private residential sewer line.

The staff of the Community Development Division, Parks & Recreation Department and Water Resources Department recommend adoption of the resolution authorizing the easement.

Mayor Worley 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.

SUMMER YOUTH EMPLOYMENT PROGRAM 2002

Ms. Rebecca Janes, Project Coordinator from Community Solutions for Youth Employment, spoke to Council about the success of the summer youth program and submitted a copy of their final report.

Mr. Butch Kisiah, Superintendent of Recreation, explained that the Summer Youth Employment Program was unable to be funded by the City for the first time in many years due to the budget shortfall caused by the State of North Carolina. A non-profit agency, Community Solutions for Youth Employment (CSYE), stepped forward and funded the program through a cooperative agreement with the Parks and Recreation Department. The amount provided by the CSYE was \$37,400. Because of the demand for summer youth employment positions, the CSYE gained additional financial support from the Asheville Housing Authority, in the amount of \$8,928 to pay for additional youth positions. These additional funds require a budget amendment so they can be utilized and to move funds from unused line items to the line item for part-time seasonal salaries.

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City staff recommends City Council adopt the budget amendment for the Summer Youth Employment Program 2002.

Mayor Worley 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.

AMENDMENTS TO THE ANIMAL CONTROL ORDINANCE

Police Chief Will Annarino said that this is the consideration of an ordinance amending the Animal Control ordinance.

The Asheville Police Department is seeking to improve public safety and the humane treatment of animals by reviewing and updating the animal control ordinance.

The animal control ordinance was last revised on October 27, 1999. In an effort to meet public expectations and insure the most up to date ordinance possible, the Asheville Police Department began a review of the ordinance in early 2002. The ordinance was also modified to establish the City of Asheville's relationship with the animal shelter, which was previously defined by Buncombe County ordinance.

Consistent with City Policy, the Asheville Police Department sought input from organizations such as the Coalition of Asheville Neighborhoods, and the Haw Creek Neighborhood Association and the Kenilworth Neighborhood Association. A public meeting was held and comments were received on August 19, 2002.

The ordinance will be enforced solely by civil citations. If there is a serious violation, the Police Department can criminally charge the violators through state law in terms of dangerous dogs and cruelty to animals.

Police Chief Annarino stated that the community has made it know that they want strict enforcement of this ordinance. Roughly 10% of owners have their dogs registered now, which is unacceptable. He said they would enforce the ordinance in a fair and consistent manner.

Chief Annarino pointed out some amendments as follows:

- All persons keeping an animal in the City for 30 days or longer or to all owners whose animal has a set of permanent K-9 teeth are required to obtain an annual license tag for such dog.
- Change in language making it easier to classify barking dogs as a nuisance and have the nuisance definition be in line with the noise ordinance.
- Change wording for the maximum number of animals within a household from "more than six" to "seven or more." However, the maximum number without a permit in the City remains at six.
- Add a section making it unlawful for a person to tether an animal to public property.
- Change in penalty section whereby a violation of any section of the animal control ordinance will be a civil violation where the animal control officer may impose a civil penalty (i.e. \$50).
- Owner of an animal must keep the animal on his or her premises or if off premises the animal must be on a leash in the hand of the owner. This does not apply to cats, service animals with the proper documentation and dogs in specified dog parks.
- Addition of language allowing the animal control officer to require a dog owner to obtain liability insurance after a violation of the ordinance.

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- If the owner fails to comply with an order from an animal control officer, then each day that the owner violates the order, the owner may be fined \$50 per day. Each day in violation constitutes a separate violation.
- The City will attempt to give notice to the owner that his/her animal was impounded. If the owner is unknown, persons must check the designated shelter. The owner has 72 hours to claim his/her animal and the clock begins to run when the animal control officer brings the animal to the shelter. However, according to the Humane Society's policy, if the name of the owner is known, the Humane Society will hold the animal for 10 days. If the owner does not claim his/her animal in 72 hours, the Humane Society can either put the animal up for adoption or destroy it.
- In instances where the animal must be kept at the shelter for more than the 72-hour period, the owner may pay a bond in order to prevent the animal from being put down or put up for adoption.
- Enforcement of the amended ordinance will begin on October 1, 2002.

Discussion was held and questions were responded to by Police Chief Annarino and Assistant City Attorney Curt Euler with regard to the amendments.

Upon inquiry of Councilwoman Jones, Police Chief Annarino said that there would be a good education component for this amended ordinance. He agreed that since not all pet owners are homeowners who will receive a notice to license their dogs in their water bills, a way to reach renters would be investigated.

Councilman Mumpower suggested reviewing the language in Section 3-29 (c) in that it may contain some typographical errors.

City staff recommends the adoption of the ordinance to amend the animal control ordinance.

Mayor Worley 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.

UPDATE ON THE CIVIC CENTER

Mayor Worley updated City Council on his conversation with Crawford Murphy, who is heading up a group working on the possibility of the performing arts center on the parking lot of the Renaissance Hotel. Mr. Murphy has talked with the Renaissance Hotel and they have expressed their willingness to cooperate and they would negotiate further after they see a pro forma and feasibility study. He expects to be able to present that to them with the next 60-90 days. In a couple of months they will be holding a formal meeting involving all potential players, including the City, arts community, key users, and key people in community. He is forming his leadership group to help push this forward and they should be in place within the next 30-60 days. There has been interest from a master developer who will coordinate the development process and bring other splinter developers. In addition, they have talked to a cost management firm about working with them on the project as well.

Mr. Scott Osborn presented City Council with two issues of the Dual Jewel Project showing the concept of the Asheville Sports Campus and Village at the SunSpree Golf Course and Resort located just off I-240. He reported that they would be discussing different avenues for financing and how the public and the private sector can get involved. Mayor Worley said that City Council would be anxious to hear the next update.

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Councilman Mumpower stressed that City Council is anxious to hear from anyone who has a concept that is doable and can be supported.

Civic Center Director David Pisha gave City Council a brief update on the list of summer projects they have and are hoping to accomplish.

OTHER BUSINESS

After discussion, it was the consensus of City Council to have the City Attorney prepare a resolution to be placed on Council's next formal agenda that raises our concerns to our state legislators and asks them to come to a conclusion regarding reimbursements and other sources of revenue. Mayor Worley encouraged all of Council to make contact with our state legislators, and others, by e-mail, letter, telephone or even a personal visit.

CLOSED SESSION

At 4:50 p.m., Councilman Mumpower moved to go into closed session for the following reasons. (1) To establish or to instruct the City's staff concerning the position to be taken by or on behalf of the public body in negotiating the price or other material terms of a contract for the acquisition of real estate – G. S. 143-318.11(a) (5); and (2) To consult with an attorney employed by the City in order to preserve the attorney-client privilege between the City and its attorney. The parties to the lawsuit about which the Council expects to receive advice are: Morris Communications, Inc. d/b/a Fairway Outdoor Communications; Maple Cove, Inc.; Carl and Janis Ricker; Asheville Board of Adjustment; and City of Asheville - G.S. 143-318.11(a) (3). This motion was seconded by Councilman Ellis and carried unanimously.

At 6:40 p.m., Councilman Ellis moved to come out of closed session. This motion was seconded by Councilwoman Jones and carried unanimously.

ADJOURNMENT:

Mayor Worley adjourned the meeting at 6:40 p.m.

CITY CLERK

MAYOR