

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 R. 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

MINORITY BUSINESS PROGRAM ANNUAL REPORT

Ms. Brenda Mills, Director of the Office of Minority Affairs, presented Council with the Minority Business Program Annual Report for Fiscal Year 2001 - 2002.

In May of 1998, City Council adopted the Asheville-Buncombe Minority Business Plan. The Plan was subsequently amended in November 1998, December 1999, December 2001 and October 2002, to clarify provisions of the Plan and to reduce the Minority Business Commission from thirteen members to eleven.

The Plan requires the Office of Minority Affairs to present to the City Council and County Commissioners an Annual Report on the effectiveness of implementation of the Plan. The Report shall include, but not be limited to: the number of minority businesses; percentage of minority businesses contracting with the County and City either as a prime contractor or as a subcontractor; percentage of overall reported contracts awarded to minority businesses; percentage of contractors complying with good faith efforts; and percentage of goals achieved and goals waived.

The Annual Report for Fiscal Year 2001 – 2002 has been reviewed by the Minority Business Commission and approved at its meeting on November 14, 2002.

Ms. Mills responded to various questions and comments from members of Council.

On behalf of City Council, Mayor Worley thanked Ms. Mills, her staff and the entire Minority Business Commission for their hard work on this important Commission.

RESOLUTION NO. 02-187 - RESOLUTION AUTHORIZING THE CITY TO PURSUE CREATION OF A CORPORATION FOR THE ADMINISTRATION OF ITS SELF-FUNDED HEALTH CARE BENEFIT PROGRAM

Mr. John Miall, Director of Risk Management, said that this is the consideration of a resolution authorizing the creation of a corporation for administration of group health plans.

Creation of a corporation will allow a buffer between the City of Asheville and group claims administration; allow for the recovery of portion of commissions paid by the City for aggregate and specific stop-loss coverage annually; and will allow a mechanism by which other entities may, if they choose, access medical care in the region through fee schedules negotiated by the corporation.

Approval shall be obtained from the State Insurance Commissioner's Office prior to initiation of operations.

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Approval of this resolution will result in no expense to the City other than the legal costs of chartering a corporation and applicable fees for State filing, and licensure. Anticipated fees are budgeted in the current year health care budget.

Through the formation of this entity, the City will recapture some of its present health care costs on an annual basis. Other participating employers, if any, will be able to do the same with collective recoveries being retained by the corporation and used for the administration of claims and negotiation of future fees.

Further, the lack of competition among providers in the health care field in the community has resulted in an expensive and cumbersome process of messengering fee schedules to providers on an ongoing basis through provider owned PPO networks in the region. An employer-owned network, through the proposed corporation, will allow for quicker and more efficient establishment

of fee schedules because the corporation created will not be provider-owned.

The City has enjoyed much success in the current environment with its health care system and the proposed corporation will allow other employers in the region to access fees through City negotiation with providers. The City will be in a leadership position to effect lower health care costs in the region and the corporation will be able to recover partial commissions for itself and ultimately for members participating through the corporation.

City staff recommends City Council adopt the resolution authorizing the creating of a corporation for administration of group health plans at its December 17, 2002, worksession.

Mr. Miall responded to various questions and comments from members of Council regarding Buncombe County's invitation to participate.

Vice-Mayor Bellamy moved to waive the rules and take formal action at this meeting. This motion was seconded by Councilwoman Jones and carried unanimously.

Councilman Mumpower moved for the adoption of Resolution No. 02-187. This motion was seconded by Councilwoman Jones and carried unanimously.

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WESTERN CAROLINIANS FOR CRIMINAL JUSTICE WOMEN AT RISK PROGRAM

- Ms. Ellen Clarke, Executive Director of the Western Carolinians for Criminal Justice, and Ms. Brenda Carlton, Director of the Women at Risk Program, explained that the Women at Risk Program is a community-based treatment alternative for women at risk of going to jail or prison. They presented Council with a fact sheet of the Program and a list of services in the program. She reviewed with Council the weekly schedule for the Program and presented activity reports, referral sources, demographics data of clients served, their Fiscal Year 2001-02 operating budget and a cost analysis of the Program.

Ms. Clarke briefed Council on their capital campaign to purchase the building the program is located in at 218 Patton Avenue.

On behalf of City Council, Mayor Worley thanked Ms. Clark and Ms. Carleton for this very important program.

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PUBLIC ART BOARD

- Mr. Kenn Kotara, Chair of the Public Art Board, said that in September of 1999, the Public Art Board was established by Asheville City Council to oversee the education, maintenance, acquisition and deaccessioning of public art within the City of Asheville. The Public Art Board has worked tirelessly on the development of the Public Art Master Plan, which was approved August 28, 2001.

Mr. Kotara then updated City Council on the Public Art Board's accomplishments of the Board over the past year by saying that the W.C. Reid Mural project is a component of the Cultural Renaissance Program of the Parks & Recreation Department's Cultural Arts Division and is unique because it gave at-risk youth an opportunity to participate in a public art project of major significance. The Mural Project (1) showed at-risk youth they can be artistic and potentially become professional artists; (2) developed knowledge of and appreciation for art of the past and present and the interpretative impact it can have on the community; (3) taught youth about visual arts skills using math/graphing, tools and equipment, research and critiquing art work; (4) provided a strong sense of pride and self-esteem through the final display of their work; and (5) ultimately facilitated the increased understanding of the importance of public art and its place in preserving history in visual form.

Postcards from the Ledge is their annual fundraising project.

The first of three public arts projects in the West End/Clingman Avenue (WECAN) Art and Garden Project was a kinetic sculpture by artist Julia Burr and was installed in November of 2002. After installation, WECAN residents, friends, and business owners installed a garden of perennials enclosed by an evergreen hedge at the base of the sculpture. The garden, hedge and sculpture together emulate gardening traditions in the area and enhance the existing neighborhood sign. The two remaining projects, a signature neighborhood tile and sculptural bus shelter bench, will be installed this winter followed by an exhibit in spring of 2003.

The Public Art Board developed a task force with the Pack Square Conservancy Board and formed an agreement for preservation procedures, and incorporation and acquisition of public art works in the Pack Square Area.

The Public Art Board worked with the Mosaic Vortex and other artists to develop an arts program focusing on the creative work of "Underground Artist" in Asheville. And they have attended meetings of the Graffiti Board to dialogue about the challenges of graffiti in Asheville.

Mr. Kotara shared with Council future projects that the Board will be working on towards the implementation of the Master Plan.

On behalf of City Council, Mayor Worley thanked Mr. Kotara and the entire Public Art Board for their hard work and dedication to public art.

RESOLUTION NO. 02-188 - RESOLUTION ENTERING INTO A REGIONAL EARLY ACTION COMPACT FOR IMPROVING AIR QUALITY

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Mr. Dan Baechtold, MPO Coordinator, said that this is the consideration of a resolution to enter into a regional Early Action Compact (EAC) for improving air quality.

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The federal Clean Air Act sets standards for acceptable levels of air pollution in order to ensure public health. Monitoring stations throughout the region monitor the levels of pollutants in the air. Recent monitoring data in Buncombe County suggests that Buncombe will be in violation of the federal clean air standards for ozone pollution. Under the normal process, this means that

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the EPA will designate Buncombe County, and potentially surrounding counties, as a "non-attainment" area beginning in 2004.

A designation of "non-attainment" would mean that the area would be subject to additional restrictions for permitting new polluting industry and we would be required to prove that new transportation projects will conform with the State's plan to improve our air. The requirements placed on transportation planning are known as transportation "conformity." In addition, there may be a negative stigma associated with the non-attainment status, as it will put us on an official list of places with dirty air.

Local governments are considering an option that would delay or avoid "non-attainment" status. This option is known as an Early Action Compact (EAC). The EAC is a pro-active plan developed locally, with a goal of meeting clean air standards sooner than under non-attainment status. The EAC would be an agreement between local governments, the State, and EPA. This option requires a signed EAC agreement by December 31, 2002.

It remains somewhat unclear which local governments must sign by the December 31st deadline. At a minimum, any counties that would be a part of the non-attainment designation must sign the agreement. Since the extent of the non-attainment area is not known, all potential counties must sign; namely: Buncombe, Henderson, Madison, and Haywood. The EPA is also asking for the municipalities of Asheville and Hendersonville to sign the agreement, but it is not clear if the municipalities absolutely must sign by the December 31st deadline.

State and federal regulatory agencies are urging our area to enter into the EAC. The pros and cons of entering into the EAC are listed below:

Arguments for the EAC

- * The EAC has the potential to improve air quality sooner than if we waited for non-attainment designation, which could mean cleaner air for citizens to breathe. The citizens most impacted by these pollutants are children and the elderly.
- * Healthcare costs, emergency room visits, and lost productivity due to breathing problems carry a significant annual economic cost.
- * The air quality improvements from the EAC could exceed the basic clean-air standards required by the EPA.
- * Under non-attainment, we would have to prove that the entire transportation plan is in conformity with clean air standards, including the I-26 Connector project. Although delay of the connector project is not likely, it is possible under non-attainment.
- * Provides some local control over air quality strategies, and puts forth a proactive approach to addressing the problem.
- * The EAC keeps options open. Our region can always default to non-attainment designation.

- * EAC avoids the stigma of being on the “dirty city” list with the related implications for tourism and business recruitment.
- * Our region may be able to head off pollution problems associated with fine particulate matter. In the future, we may be designated as non-attainment for fine particle pollution.
- * Funding to implement control strategies is limited under either scenario.

Arguments Against the EAC

- * There is no funding source to develop the EAC plan for improving air quality. The EAC will require staff time and resources to develop the plan and collaborate with other local governments.

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- * There is no funding source to implement the strategies identified in the plan. Many of the strategies identified in the plan are likely to be the responsibility of the City of Asheville. So, this plan may require additional City resources to develop and implement the strategies.
- * With no funding source, and a very limited time frame, it will be challenging to meet the goals of the EAC.
- * The EAC is vulnerable to legal challenge because it is not specifically provided for in the Clean Air Act
- * Environmental groups will seek ensure that the local plan meets or exceed the same stringent standards that would be applied under non-attainment – especially in the area of transportation conformity.
- * Most of the strategies that will be effective in our area are specific to transportation, which means we are likely to include air quality modeling in our transportation planning with our without the EAC.
- * Our area would not be available for federal CMAQ funds under the EAC. These funds could total up to 1 to 2 million dollars per year for transportation improvements. If all potential non-attainment areas in North Carolina enter into an EAC, it will guarantee that the \$20 million in statewide CMAQ funds will be spent exclusively in Charlotte, Raleigh, and the Triad.
- * Uncertainties exist. In contrast, non-attainment designation is well tested. It may be difficult to back out of a regional agreement if it does not work as expected.
- * Our area may be designated as non-attainment for the pollutant “fine particulate matter” which is not addressed in the EAC.

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In summary, the primary argument offered in favor of the EAC is that it avoids the regulatory requirements of non-attainment and has the potential to achieve clean air sooner. Also, if the EAC doesn't work, we will automatically revert to the “non-attainment” track. The prevailing argument in favor of the EAC seems to be that it is preferable to non-attainment and that we have “nothing to lose” by entering into the agreement. However, there are some potential costs and drawbacks associated with the EAC that need to be considered. Specifically, the EAC is a process that has no funding source. The development of the plan and implementation of the strategies in the plan would require staff time and resources. Entering into the EAC would also prevent us from receiving federal CMAQ funds, which, under “non-attainment” could provide up to 1 to 2 million dollars per year for transportation projects.

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City staff recommends City Council consider a resolution to enter into an “Early Action Compact.”

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

Discussion surrounded how the strategies will be developed and enforcement of those strategies.

Vice-Mayor Bellamy moved to waive the rules and take formal action at this meeting. This motion was seconded by Councilwoman Jones and carried unanimously.

Councilman Ellis moved for the adoption of Resolution No. 02-188. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

Councilwoman Jones said that in the event everyone is not in agreement with the Compact, she hoped that City staff would still begin identifying our strategies.

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BOARDS/COMMISSIONS

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It was the consensus of City Council to have the City Clerk prepare the proper paperwork to appoint Dr. James Mullen to the Community Relations Council and to also arrange for interviews for the other vacancy on the Community Relations Council.

It was the consensus of City Council to have the City Clerk prepare the proper paperwork to (1) reappoint Chuck Pickering and William Byrne and to appoint Peter Alberice and J. Patrick Whalen to the Asheville Downtown Commission; (2) reappoint Lloyd Williams to the Firemen's Relief Fund; (3) reappoint Gerry Hardesty and Linda Giltz to the Greenway Commission; (4) reappoint Stacy Anderson and Ruth Chaet and appoint James Gardner Jr. to the Transit Commission; and (5) reappoint Kasty Latven and Peter Gentling and appoint Joseph Carney to the Tree Commission.

It was the consensus of Council to require all School Board candidates be City residents and that they live in the Asheville School District.

It was the consensus of Council to reduce the at-large membership, through attrition, on the Educational Access Channel Commission, from three members to two members.

It was the consensus of Council to instruct the City Attorney to prepare a brief educational meeting on the Open Meetings Law, etc. for all our Board and Commission members.

MISCELLANEOUS

- It was the consensus of City Council to instruct the City Attorney to provide Council with a report in the near future regarding towing and parking in the downtown and Biltmore Village.

Councilman Dunn said that since we appoint members to the ABC Board, he asked for a report from the ABC Board on the details of the embezzling incident.

CLOSED SESSION

- At 5:57 p.m., Councilman Mumpower moved to go into closed session 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 lawsuits involving the following parties: Betty Donoho, County of Buncombe, Western North Carolina Air Pollution Control Agency, City of Asheville, and Buncombe County School Board. The statutory authorization is contained in G.S. 143-318.11(a)(3). This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

At 6:42 p.m., Councilman Peterson moved to come out of closed session. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

ADJOURNMENT:

Mayor Worley adjourned the meeting at 6:42 p.m.

CITY CLERK

MAYOR