

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

CONSENT:

Budget Amendment to the Water 35 Fund to Provide Funding for an Emergency Response Plan

Summary: The consideration of a budget amendment to reprogram funds to provide additional funding for an Emergency Response Plan.

The Regional Water Authority and Brown and Caldwell entered into an agreement for a Vulnerability Assessment in September 2002, and it is being funded with a \$115,000 Environmental Protection Agency (EPA) grant. The Assessment is complete and was presented to the City Council in February, but it is now required that the Authority develop an Emergency Response Plan that incorporates the results of the Vulnerability Assessment. An Emergency Response Plan will include plans, procedures, and identification of equipment that can be implemented or utilized in the event of a terrorist or other intentional attack on the public water system. It shall also include actions, procedures, and identification of equipment, which can eliminate or significantly lessen the impact of terrorist attacks or other intentional actions on the public health and the safety and supply of drinking water.

The cost of the plan is \$45,000 with \$16,000 being provided from the remaining EPA grant funds that were granted to the Authority in September of 2002 to conduct the Vulnerability Assessment and an Emergency Response Plan. An additional \$29,000 is needed to complete funding for the Emergency Response Plan. Staff is recommending reprogramming \$29,000 from the Master Plan Improvements to the Water Security Assessment (Vulnerability Assessment) to complete funding for the Emergency Response Plan.

Staff recommends that City Council approve a budget amendment to reprogram funds to provide additional funding for an Emergency Response Plan.

Declaration of Withdrawal of Henry Street

Summary: The consideration of a resolution finding that Henry Street is not part of an adopted street plan.

The Asheville Area Chamber of Commerce submitted to the City a Declaration of Withdrawal for Henry Street. The Chamber of Commerce owns all of the property, which abuts the alley. The property is needed for construction of the new Chamber of Commerce building and parking lot. The alley is not used as an ingress or egress nor has it ever been used as such. The Chamber's request for a resolution from Council finding that Henry Street is not part of the street plan adopted under G. S. 136-66.2, is supported by the legal research performed by the law firm of Van Winkle, Buck, Wall, Starnes & Davis, P.A., certifying that the following three criteria have been met.

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N. C. Gen. Stat. sec. 136-96 permits the filing of a Declaration of Withdrawal of any street dedicated to public use and not utilized within 15 years from and after dedication.

In order to withdraw a street from public dedication, N. C. Gen. Stat. sec. 136-96 requires:(1) that the street must have been dedicated to public use; (2) the person desiring to withdraw, must be the original dedicator or someone claiming under the original dedicator; and (3) that the street not have been opened and used by the public for 15 years from and after the dedication. The statute goes on to state that upon request, the City shall adopt a resolution stating whether the street is or is not part of the street plan adopted under G. S. 136-66.2.

Public Works Department staff have consulted with all appropriate City departments and determined that the right of way designated as Henry Street as shown in Plat Book 8, Page 72 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 the right-of-way designated as Henry Street as shown in Plat Book 8, Page 72, is not part of an adopted street plan.

Renewal of Franchise Ordinance for Narrated Historic Tour Trolley

Summary: The consideration of renewal of an existing franchise ordinance for the operation by Trolley Leasing, LLC, of a narrated historic tour trolley on the streets of the City of Asheville.

For the last year, Asheville Historic Trolley Company (AHTC) has operated a narrated historic tour in Asheville using a 30 foot bus that looks like a trolley car. The venture has been successful to the extent that the AHTC would like to renew the franchise for a period of two years. There have been no complaints and several compliments received by the City over the course of the last year.

The tour will continue to follow an established route, and could occur up to four times per day.

The operator is required to meet with the city Traffic Engineer to review and get approval for the routes that the historic tour will run.

The vehicle is a 30 foot rubber tired trolley with open sides where the windows would normally be. This area can be closed off with clear plastic roll down curtains in inclement weather. The operator has assured the staff that the narration from within the trolley is not audible outside the vehicle.

The vehicle is driven and the tour narrated by one person, but could also include a second person if appropriate.

The franchise ordinance also limits operation of the narrated tour from 7:00 a.m. to 8:00 p.m., Sunday through Thursday, and between 7:00 a.m. and 12:00 Midnight Friday and Saturday. For City-recognized holidays and days on which City-approved festivals occur in the Central Business District, the operating hours may be extended to 12:00 Midnight, regardless of the day of the week. For charter operations the hours of operation are not limited to the above providing that Trolley Leasing meets all local state, and federal laws regarding the operation of a chartered vehicle. The franchise fee is one dollar per day of projected operation.

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The ordinance is drawn to be as narrowly as possible, and does not attempt to franchise any other part of the business operation except that part which will regularly and routinely utilize local public rights-of-way with the potential of repeated constraints to the flow of traffic.

City staff recommends City Council renew the franchise ordinance with Trolley Leasing, LLC, for a two-year period.

Grant for Fire Department Equipment

Summary: The consideration of a resolution to apply for and enter into an agreement with the Department of Homeland Security for funds to assist with the purchase of Self-Contained Breathing Apparatus and Portable Radios for Asheville Fire Rescue.

In recent years there has been improved technology in Self-Contained Breathing Apparatus (SCBA) and related equipment. Asheville Fire Rescue decided to switch to the improved technology SCBA manufactured by Scott. Each unit is \$2,800 so it is cost prohibitive for the Department to replace all of the units at one time. At the same time, it is essential that all of the fire vehicles operate with the same SCBAs so that all fire personnel are trained on the same type of equipment. In addition, this grant provides an opportunity to update other types of equipment, such as VHF Portable Radios to enhance interoperability.

Asheville Fire Rescue is requesting \$174,578 in grants from the Department of Homeland Security for 44 SCBAs and spare bottles, 130 SCBA masks and 24 Portable Radios. The grant requires a 30% local match, or \$52,373.40, which will require an appropriation of \$52,373.40 from the Contingency account. Upon notice of the grant award, a budget amendment will be brought to City Council for the full amount of the grant award, including the City's match.

The Fire Rescue Department recommends the City of Asheville apply for and enter into an agreement for grant funds to assist with the purchase of Self-Contained Breathing Apparatus and Portable Radios.

Clerk to Advertise Offer to Purchase Air Rights Adjacent to 21 Battery Park Avenue

Summary: The consideration of a resolution authorizing the City Clerk to advertise an offer of purchase for upset bids for a portion of the air rights adjacent to 21 Battery Park Avenue comprising a total of 1,210.80 square feet.

A bid from 21 Battery Park, LLC, in the amount of \$9,000.00, has been received for the purchase of a portion of the air rights adjacent to its property at 21 Battery Park. The bid is not less than the appraised value of \$9,000.00.

The property is zoned Central Business District and fronts on Battery Park Avenue to the south with an alley at the east and north. The proposed purchase is made up of three air right parcels and the appraisal by Mickey Foster dated December 1, 2002, estimates a value for each parcel.

North side:	507.17 sq. ft.	\$2,789
East side:	290.18 sq. ft.	\$1,596
<u>South side:</u>	<u>413.45 sq. ft.</u>	<u>\$4,548</u>
Total	1,210.80 sq. ft.	\$8,933 rounded to \$9,000

The appraisal takes into consideration that the air right parcels are not 100% of the air rights but limited in size to the space from 36' above ground level

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to 72' above ground level. Furthermore, the limited potential uses of the underlying land are considered.

There is no current or contemplated use for the air rights by the City. Staff recommends that the use of the air rights space be limited to roof overhang and/or open balconies. The sale of the air rights will enable 21 Battery Park, LLC, to proceed with construction of the proposed improvements at 21 Battery Park Avenue that include a multi-use building with six levels.

Approval of the resolution will initiate the sale of the property through the upset bid process as provided in N. C. Gen. Stat. sec. 160A-269.

Planning staff recommends adoption of the resolution.

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.

GREENWAY COMMISSION ANNUAL REPORT

Ms. Linda Giltz, Chair of the Greenway Commission, reviewed with City Council the 2002 Greenway Commission's Annual Report. She said the first greenway was developed in 1988 and in 1997 the Greenways Task Force was established. In 1998 City Council approved the Master Plan. In 1999, the Greenway Commission was established and in 2000 the Parks and Greenways Foundation was established. The greenways are consistent with City Council's goals of smart growth initiatives, increasing the "quality of life" and amenities in new developments. Greenways have economic benefits: (1) they attract economic development and provide new business opportunities; (2) enhance tourism and increase revenue from tourism and recreation; and (3) create economic opportunity through riverfront revitalization. Air quality benefits include: (1) greenways are transportation corridors; and (2) walking, biking are non-polluting forms of transportation. Water quality benefits include: (1) preserve wetlands; (2) reduce flood damage; (3) improve water quality of local streams. Other environmental benefits include: (1) preserve open spaces; (2) provide habitats for plants and animals; and (3) natural resource corridors for wildlife. Community health and safety include: (1) increase sense of community and neighborhood awareness; (2) provide connections to schools, parks, work and shopping; and (3) enjoyable, safe places for walking, running, bicycling and skating.

The Greenway Commission's philosophy and role include: invite neighborhood ownership; work jointly with other organizations; name after waterways; use/recruit volunteers; building on city-owned property and easements; encourage developers to build greenways; increase public awareness through presentations; and help solicit donations of easements.

Ms. Giltz reviewed with Council the completed greenway projects. She said that 4.83 miles of greenways have been constructed at an average cost/mile = \$100,000; average annual maintenance costs/mile = \$7,000; City funding to date = \$95,000;

outside funding to date = \$388,000; and total land value donated = \$450,000. Current greenway projects include the French Broad River Park, the Reed Creek Greenway, the Clingman Forest, the Azalea Road Park, the River Bend development, and the creek along West Asheville Park.

Ms. Giltz asked City Council to keep greenways as a high priority; encourage developers to incorporate greenways into their plans; be advocates for greenways with other agencies (NC DOT, MSD, etc.); and continue to support the Master Plan and its upcoming revision.

On behalf of City Council, Mayor Worley thanked Ms. Giltz and the entire Commission for their hard work and dedication on the Greenway Commission.

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UDO AMENDMENT REVIEW

City Attorney Oast said that this Unified Development Ordinance amendment is being brought before City Council in order that staff may respond to questions Council may have prior to the public hearing, which has been scheduled on March 25, 2003. He advised Council that it would be inappropriate for Council to receive comments from the public at this worksession.

Greater Front Setback Flexibility in a Variety of Non-Residential Zoning Districts

Planning & Development Director Scott Shuford said that this is the consideration of an ordinance to amend the Unified Development Ordinance (UDO) to provide for more flexible front setbacks in pedestrian-oriented areas in a variety of nonresidential zoning districts.

This code amendment provides for reduced front setback requirements in a variety of nonresidential zoning districts if pedestrian oriented design features are utilized. A definition of pedestrian oriented design is included as part of this ordinance. In effect, the incentive of a reduced front setback is provided as an option for developers if certain design standards are met and there is no conflict between the reduced setback and any scheduled road widening.

Affected districts include: Neighborhood Business District, Office II District, Office/Business District, Community Business I District, Community Business II District, Resort District, Institutional District, Highway Business District, Regional Business District, River District, Commercial Industrial District, and Industrial District.

On March 5, 2003, the Planning and Zoning Commission recommended approval of the proposed code amendment by a vote of 7-0. City staff recommends approval of the proposed code amendment as well.

Mayor Worley asked that the record show that City Council has received this information and instructs the City Manager to place this public hearing on the March 25, 2003, formal City Council agenda.

MINIMUM HOUSING CODE

Advocates for a Complaint-Only Inspection System

Ms. Bonnie Bailey, Housing Code Task Force member, passed out to Council the myths and realities regarding the Minimum Housing Code. She then reviewed with Council the history of the Minimum Housing Code and how their proposal became a compromise, which the majority of the Task Force members did agree on. She pointed out that people cause fires and the overwhelming majority of fires are not remotely related to the Housing Code. She explained how the Code is actually more defined or restrictive. She pointed out that our housing and rents, without substantial increases in personal income, have increased and the supply has only had a minimal increase. Other cities throughout the state and the country have progressive and aggressive programs to locate and address substandard housing. She explained how providers of affordable housing are impacted by fees, taxes, tax increases, re-evaluations and insurance costs. These costs are due and payable immediately and cannot be pro-rated over time. The mandatory inspection process is a cost where the City Council can make a positive difference and have a positive impact on affordable housing cost. Investors must feel they can have a fair return on their investment of money and their time or they will not take the risk. She then explained that the City should consider and adopt a complaint-based system with a mandatory component that is targeted and is focused on at risk properties, or irresponsible property owners whether the properties are single-family owner-occupied dwellings, single-family tenant occupied residents or multi-family residential structures.

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Mr. Steve Duncan, Housing Code Task Force member, briefly explained how their proposal outlines how to locate substandard housing by three methods (1) following N. C. General Statutes where 5 citizens may file a complaint; (2) complaints from citizens; and (3) a plan by the Building Inspection Department that fairly and systematically locates or identifies properties or areas of properties where substandard housing appears to exist. In addition, the proposal will include (1) a specifically designed Housing Complaint Inspection Form for City inspectors to follow; and (2) a Community Housing Inspection Board made up of representatives of homeowners, tenants and professionals from the real estate community.

Mr. Duncan said that the mandatory inspection and enforcement is applied when evidence is found that clearly warrants an inspection of any residential unit. He explained that should a warranted inspection show violations which substantially fail the Housing Complaint Inspection Form (25% or more of the identified areas of inspections or if the property was found to have any of the issues that may require immediate condemnation), the property owner shall be given up to 30 days to correct items that violate the safety checklist. The property will then be subject to a mandatory re-inspection program following the detailed City inspection guidelines and forms, until the owner corrects all violations and has successfully completed at least one additional mandatory inspection. He then explained when a property would be released from the mandatory inspection program.

Mr. Duncan then reviewed with Council the repeat offender program and the voluntary inspection incentive and recognition program.

Advocates for a Mandatory Inspection System

Mr. Jim Barrett, Housing Code Task Force member, reviewed the history of the Code, the case for regular code enforcement, the benefits of our Code, the affordability factor, the current Task Force's commonalities and differences and technical recommendations. They believe the code is best implemented by a fair and impartial schedule of inspections administered throughout the City. This position is in contrast to that of other members of the Task Force who believe the Code can be enforced through complaints and voluntary compliance. They disagree.

They feel a complaint-based system relies on the vigilance of tenants to complain about their landlords and risk retribution. Tenants have been known to move before they would complain for fear of losing their apartments. Furthermore, complaints can always be tainted by personal bias or a desire for retribution. The resolution of each complaint could become a cumbersome, and often adversarial process.

A system of inspections is designed to diffuse the interpersonal element in enforcement. Every housing structure is required to submit to a set calendar of inspections thereby avoiding the appearance that enforcement is singling out certain people for enforcement.

Complaints rely on what can be observed by a layperson. The most serious dangers affecting a house can only be seen by testing the electrical panel, examining the structure underneath the house, and going on the roof and inspecting the chimney flue.

Complaints react to a danger that is serious enough to be observed. A regular schedule of inspections are intended to be preemptive, to implement the elements of Code to catch deterioration before it causes more serious problems.

They endorse the present system of regular scheduled inspections, however, they believe improvements can be made by rewarding landlords who have proven themselves to be responsible and by eliminating redundancy.

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In conclusion, they believe that a well-enforced housing code is a benefit to our whole community. Our regular inspections and enforcement: (1) focuses on health and safety; (2) utilizes the experience of unbiased professionals to identify hazards – not the layperson's suspicion of what a hazard might be; (3) preserves our housing stock and neighborhoods; (4) strengthens and increase our tax base. Cuts the City's firefighting and demolition costs. Protects renters and homebuyers from deceptive and dangerous practices and conditions; (5) is fair as it expects and enforces compliance across the board; and (6) requires the private sector to maintain housing, rather than shifting that burden to the taxpayers. Provides a means for property owners to insulate themselves from liability – if they comply with the minimum standards.

Building Safety professionals know that complaint driven codes don't work. They know that to reduce the enforcement power of the code will be to render it unenforceable. As one county inspector stated "with a complaint system you'll see the return of widespread substandard housing in the city and you will begin to look like the county again."

Fire data, while controversial to some, is something that this Council should not ignore. Supplemental materials from the National Fire Data Center point time and time again to the increased incidence of fire in homes due to substandard conditions and the impact that this has had on the whole community. Let us remain a leader. Let us err on the side of safety.

Our city's housing policies should both produce and maintain good affordable housing. Housing code enforcement and compliance is good business. Support code enforcement and provide the financial resources needed to Building Safety so that they can do their job.

Mr. James Davis, third party inspector for the City, felt that the complaint-based system is putting the tenants and neighbors as the front line for inspections. Either the house has to look so bad outside for a neighbor to complaint, or the tenant has to have the knowledge and courage to make the complaint. As an inspector, he does things that are not immediately apparent, e.g., he crawls underneath the house looking for erosion that might undermine the foundation. If some erosion is found, it can be addressed before a real problem occurs in that foundation. In addition, he runs the furnace to determine if it's malfunctioning, he looks down the chimney for blockages, which allow gases to back up into the house, and he takes off the electrical panel to see if wiring is done properly. The point is that they address a problem before it becomes serious.

Mr. Gene Bell, Housing Code Task Force member, said that people need to be assured that their investments are protected. If we don't have some way to ensure the houses are maintained, there are a number of residents who are struggling and who have a tendency to compromise their safety to meet their dream and we don't want them to be victimized.

City Staff Presentation

Director of Building Safety Terry Summey thanked and commended the Housing Code Citizen Task Force. He said that during the past nine-months, staff and a 21-member Housing Code Citizens Task Force have been meeting to discuss the Minimum Housing Code. The Task Force discussed various issues from technical standards to issues of enforcement. Enforcement was the focal point of disagreement. The Task Force was unable to arrive at a compromise on changes to the Housing Code. The City's Risk Manager, John Miall, facilitated the last four months of the Task Forces' meetings and arising out of that facilitation were the two separate Power Points City Council has just heard. Some of the issues and concerns discussed by the Task Force include but are not limited to:

- Enforcement of the Code (Mandatory, Complaint or Hybrid of both)
- Technical changes to the housing standards.

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- Discussion about fees
- Increased penalties for those rental units not in compliance.

Councilman Peterson asked that City staff give Council a recommendation on what they feel would be the best system, which would not be based upon political considerations, but their experience and expertise. He felt that since this is such a complex issue, City Council might wish to review the inspection of rental dwellings and the inspection of owner-occupied dwellings at two separate worksessions.

Mr. Summey requested Council give City staff time to review both proposals and to come back to Council at a worksession with details, which would include a suggested recommendation as to the type of enforcement program and changes to the Code. As this is an educational process for Council, at the future worksession City Council will have a better understanding of the information presented today.

Vice-Mayor Bellamy asked Mr. Summey to provide some additional information: the differences between the City's Housing Code and Buncombe County's Housing Code; how did the voluntary compliance work prior to 1993; what are the condemnation requirements; what are our inspection fees; a copy of the existing complaint-driven form; and information on how often the complaint-driven form is used. In addition, Councilwoman Jones asked for a list of the technical changes that were generally agreed to by the entire Task Force.

It was the consensus of Council to review the information presented, have City staff report back to Council with some recommendations and then Council will be in a better position to ask questions and give their direction to staff and then set a public hearing.

N.C. DEPT. OF TRANSPORTATION AGREEMENT FOR PACK SQUARE RENAISSANCE PROJECT

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City Engineer Cathy Ball said that this is the consideration of a resolution authorizing the City Manager to sign a municipal agreement with the N. C. Dept. of Transportation (NCDOT) for transportation planning to include evaluating pedestrian movement to allow maximum use of the park area and to provide for adequate vehicular traffic as part of the Pack Square Renaissance Project.

The Pack Square Conservancy requested funds in the amount of \$25,000 from the NCDOT for transportation planning to include evaluating pedestrian movement to allow maximum use of the park area and to provide for adequate vehicular traffic as part of the Pack Square Renaissance Project.

Since NCDOT can only provide these funds to municipalities, Pack Square Conservancy and NCDOT requested that we accept the money from the state and pass it through to the Conservancy. The City will enter into a contract with the Conservancy for the \$25,000. This grant requires no match and will not cost the City any out-of-pocket costs.

The consideration of a resolution authorizing the City Manager to sign a municipal agreement with the NCDOT for transportation planning to include evaluating pedestrian movement to allow maximum use of the park area and to provide for adequate vehicular traffic as part of the Pack Square Renaissance Project.

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.

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N.C. DEPT. OF TRANSPORTATION AGREEMENT FOR NEW HAW CREEK ROADWAY IMPROVEMENTS

City Engineer Cathy Ball said that this is the consideration of a resolution authorizing the City Manager to sign a municipal agreement with the N. C. Dept. of Transportation (NCDOT) for roadway improvements to New Haw Creek Road from Arco Road north to Beverly Road.

In April 2001, City Council recommended that a task force be established to work on pedestrian safety issues within the Haw Creek Valley. The Task Force consists of City and NCDOT staff in addition to community residents. The group developed the first phase of the plan, which includes installing sidewalk from Arco Road north to Beverly Road on New Haw Creek Road and on Avon Road.

This agreement (which requires no match) will allow the City to accept money from NCDOT in the amount of \$150,000 to go toward roadway improvements to New Haw Creek Road from Arco Road north to Beverly Road.

While these funds cannot be used to install sidewalk on New Haw Creek Road, they will be used to install curb and gutter, resurface the street and install storm drainage pipes and structures needed to complete the sidewalk. This funding is from the NCDOT Small Urban Funds, which was limited at the time of our application to \$150,000. (Currently the maximum amount of the grant is \$250,000.) These funds are limited to improvements on State maintained roadways.

In Fiscal Year 2003-04 staff will request an additional \$250,000 for funds to extend the project from Arco Road south to the main entrance to Haw Creek on New Haw Creek.

In February 2003, City staff was notified that the City was awarded a TEA 21 Enhancement Grant in the amount approximately \$172,000 to install sidewalk on New Haw Creek Road and Avon Road. This \$150,000 was used as a match for the project in addition to \$40,000 from the City and \$5,000 from the Haw Creek Community Association. The City's portion of the project is currently budgeted in the Capital Improvement Program.

City staff recommends City Council authorize the City Manager to sign a municipal agreement with NCDOT for roadway improvements to New Haw Creek Road from Arco Road north to Beverly Road.

Ms. Ball responded to questions from Councilman Peterson regarding the TEA 21 Enhancement Grant.

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.

N.C. DEPT. OF TRANSPORTATION AGREEMENT FOR INSTALLATION OF PEDESTRIAN SIGNALS

Transit Services Director Bruce Black said that this is the consideration of a resolution authorizing the City Manager to sign

a municipal agreement with the N. C. Dept. of Transportation (NCDOT) to install pedestrian signals at three locations.

This agreement will allow for the installation of pedestrian signals at the following locations: (1) US 25 (Hendersonville Road) and Wal-Mart/Deerfield; (2) US 70 (Tunnel Road) and Riceville Road; and (3) US 25 (Biltmore Avenue) and Victoria Road.

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The NCDOT estimates the amount for this installation will be approximately \$43,000, all of which is allocated for this project in the Transit Services Department budget through the vehicle registration funds.

City staff recommends City Council authorize the City Manager to sign a municipal agreement with NCDOT for the installation of pedestrian signals at three locations.

Vice-Mayor Bellamy suggested two additional intersections in the future: (1) Hilliard and Clingman Avenues; and (2) Montford Avenue near Hunter Banks.

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.

FORMALIZING PARKING APPEALS

Transit Services Director Bruce Black said that this is the consideration of an ordinance authorizing the City Manager to institute and appeals process for the adjudication of parking citations and late penalties.

The City of Asheville currently handles parking appeals on a case-by-case basis. Citizens who think they have justifiable reasons for a parking citation to be dismissed have either filled out a City of Asheville Parking Services Appeals form or made their request orally or in letterform. In an effort to provide that all citizens can avail themselves of this process and that it be clearly posted in the City Code of Ordinances for their reference, staff recommends City Council adopt an ordinance allowing the City Manager to establish an appeal process for persons receiving a civil penalty.

Staff requests that City Council approves the ordinance.

Vice-Mayor Bellamy asked staff review the policy to make sure that people realize the 15-day penalty includes Saturdays and Sundays.

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.

Councilman Mumpower asked for the Mayor to research a way that the Consent Agenda items be outlined for the public at the formal meeting to show the good things that the City is doing.

GRANT FOR POLICE DEPARTMENT TRAFFIC UNIT

Police Chief Will Annarino said that this is the consideration of a resolution to apply for and enter into an agreement with the North Carolina Governor's Highway Safety Program for personnel and equipment funds for an Asheville Police Department traffic unit.

Aggressive driving is one of the top complaints received by Asheville Police Officers. The types of aggressive driving violations that are most problematic in the City of Asheville are speeding, red light/ stop sign, erratic lane changes, following too closely and driving while impaired. A dedicated traffic unit would be able to help reduce the incidences of aggressive driving through targeted enforcement, educational programs and focused traffic studies aimed at reducing the number of accidents on high incidence roads.

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The Governor's Highway Safety Program offers a four-year grant with graduated match requirements in the personnel, equipment and additional costs categories. The Asheville Police Department is requesting \$474,438 in grants from the Governor's Highway Safety Program to hire and train four officers and one supervisor, and to purchase five vehicles and computer equipment for the unit in the first year. The first year of the grant there is a 25% match on equipment and training, but there is no match for personnel. The match is \$71,365.82 for the first year, which will require an appropriation of \$71,365.82 from the Contingency

account. Upon notification of grant award, a budget amendment will be brought to Council for the full amount of the grant award, including the City's local match. The second year request is for \$202,109.72, with a local match of \$51,921.43. The third year request is for \$209,971.07 with a local match of \$106,379.54. In the fourth year the City is required to cover 100% of the grant, which will be \$218,146.87.

- City staff recommends the City of Asheville apply for and enter into an agreement for grant funds to hire and train a traffic unit with four officers and one supervisor to reduce the incidence of aggressive driving in the City of Asheville.

- Councilman Dunn questioned if this was a good grant in the long-run since in the fourth year the City is required to cover 100% of the grant.

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.

- At the request of Vice-Mayor Bellamy, Chief Annarino updated Council on the riot at the Asheville Mall. Vice-Mayor Bellamy asked that the notification system be expanded to Council members should an emergency situation arise. Mayor Worley explained that there is a system in place and suggested that any Council member who has a concern regarding a situation to call the City Manager or Police Chief.

WATER TREATMENT PLANT TOURS

- Interim Water Resources Director David Hanks said that this is the consideration of discontinuing the tours of the North Fork Water Treatment Facility and the Mills River Water Treatment Plant.

The Environmental Protection Agency (EPA) has mandated that all water systems serving more than 3,300 customers have a Vulnerability Assessment (VA) conducted effective January 1, 2003. The City of Asheville and the Regional Water Authority of Asheville, Buncombe and Henderson (RWA) applied for an EPA grant of \$115,000.00 to have the VA done per the EPA requirements. The RWA water system was one of only three (3) water systems in North Carolina to apply for and receive the EPA grant, which was voluntary in 2002. The grant required that the VA be completed by March 31, 2003. The United States Congress has since passed a law requiring all water systems to have a VA conducted which is the EPA mandate effective January 1, 2003, with completion by July 1, 2004, depending on the size of the water system.

The RWA VA was conducted by the engineering firm, Brown and Caldwell (B&C), which is nationally recognized as experts in the field of these assessments. The project manager for B&C was given carte blanche control of the process with the understanding that in no way did employees of the Water Resources Department want to skew the results of the VA. The entire water system was looked at along with the water treatment plants. The VA lists findings and proposals, which the consultant recommends should be implemented. One such proposal is limiting access to the water treatment plants and watersheds to essential access only, including eliminating tours of the facilities. The concern from the consultants was not only possible terrorist attacks from extremists groups but the liability from groups and tours that could have someone

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from an individual participating in the tour wanting to gain information about the water system because of sympathies toward some extremists group or a local grudge against someone, the City or the RWA. The other major liability identified by the VA is the personal liability and potential of injury and/or death due to encounters with wild life present on the North Fork watershed and directly around and near the water plant and lake. This includes bears and timber rattlesnakes, as well as the nature of the chemical processes and areas where children could fall and get hurt.

The potential for injury has always been at the water treatment plants and fortunately no one has been seriously injured on one of the tours.

Tours have been a major part of the water efficiency and conservation program for the City and the RWA. Water conservation still must be emphasized because our primary water source is a mountain lake, which is more susceptible to drought than rivers. The tour element of the program has been very successful and local schools primarily have taken advantage of this program and the scenic beauty the North Fork watershed provides to the participants. We have virtually no requests for tours of the Mills River facility by schools and/or civic groups.

The Water Treatment Plants and the watersheds are owned by the City of Asheville and the City of Asheville has the liability if someone is injured or killed on the property. That potential has now been identified along with other potential liabilities of the water system through the VA, which will be maintained by the EPA. If tours are maintained at the North Fork facility, we will be

required to perform background checks on all adults entering in to the facility. The current cost for background checks is \$25.00 to \$45.00 or more depending upon the extent of the check and areas checked, such as if a person currently resides in North Carolina but previous address was Virginia, then both areas will be checked.

Currently the Water Efficiency Division of the Water Resources Department has provided tours of the North Fork Water Treatment Facility and on a lesser scale, the Mills River Water Treatment Plant. The tours have been focusing on the outdoors area around the plant, such as a view of the lake, walking through the watershed near the plant and outdoor activities (primarily for school group). The tours have usually been through the lunch period with the tour groups, mostly school classes bringing lunch to have on the watershed. A portion of the tour is a classroom environment where the Water Resources Education Coordinator shows the tour group facts about water through visual aids at the education center, which is set up at the water filter plant.

The Water Efficiency Division is currently made up of two positions:

Education Coordinator – pay grade 15

Education Specialist – pay grade 13

The Education Specialist position is currently vacant and as part of the proposed Fiscal Year 2003/04 budget this position is being changed to a plant operator position along with another vacant position (Laborer I) in Water Production.

City staff recommends that due to the liability factor and to maintain compliance with the VA recommendation that tours of the Water Treatment Facilities be discontinued, but a Water Education Resource Center be provided at another City of Asheville facility (to be determined) or a mobile Resource Center that can be taken to schools or civic group functions so that groups and schools classes can still receive quality water education and conservation information. Also, a video presentation would be made showing some non-critical aspects of the water filtration process and views of the lake and water shed. The video would be used by the Education Coordinator along with other aspects of the water conservation and efficiency program at the Resource Center to enable groups, both school age and adults to learn about water conservation

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and how water is processed and travels to homes and businesses. The Water Education Coordinator along with a paid intern (when required) will provide additional classroom education at local schools and at the Resource Center.

Councilman Dunn agreed that it is remote that something would happen, but our water supply is key and he felt we should err on the side of safety and discontinue the tours. In addition, he felt it was dangerous for the children to be walking around in the woods.

Councilman Peterson felt that to discontinue the water plant tours was going to the extreme. He has heard that touring the water treatment plant is the second most popular outside tour the school children take. He suggested limiting the tours to only school children and teachers.

Councilman Mumpower felt that staff is concerned with the larger safety issue and this is a way to minimize safety factors in these difficult times.

When Councilman Dunn questioned how much 4th graders are able to understand the complicated process described in the tour, Mr. Hanks said that he wasn't sure how much education really occurs at the plants, but that most of the enjoyment for the students is being outside at the beautiful North Fork Reservoir, walking in the woods and having a picnic.

Councilman Peterson felt that by discontinuing the tours, we are losing a valuable educational opportunity.

Mayor Worley suggested a compromise of stopping the tours on a temporary basis, that the educational aspect be provided at another City facility so that groups can still receive quality water education, and revisiting the issue in six months. Then, depending on the natural security, Council could consider reinstating the tours with the requirements that background checks occur and that the cost of those background checks be borne by the tours.

Councilwoman Jones agreed with the compromise but didn't want to underestimate the component of tours because children learn in a lot of different ways.

When Vice-Mayor Bellamy asked if City staff took into consideration the Water Efficiency Task Force's recommendations, Mayor Worley said that City staff would review those recommendations when the issue is revisited.

When Mayor Worley asked what kind of direction City staff was seeking from Council, City Manager Westbrook said that this was an operational issue for Council's information. Mayor Worley then said that it was the sense of Council to cease the tours on a temporary basis, that the educational aspect be provided at another City facility so that groups can still receive quality water education, to research other innovative ways to provide water education, and to revisit the issue in six months. Then, depending on the national security, Council could consider reinstating the tours with the requirements that background checks occur and that the cost of those background checks be borne by the tours.

At the request of Ms. Hazel Fobes, Councilman Peterson read a proclamation proclaiming Saturday, March 22, 2003, as "World Water Day" in the City of Asheville.

CLOSED SESSION

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At 5:55 p.m., Councilman Mumpower moved to go into closed session to discuss matters relating to the location or expansion of industries or other businesses in the area served by the City Council, including agreement on a tentative list of economic development incentives that may

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be offered in negotiations, provided that any action authorizing the payment of economic development incentives will occur in open session. The statutory authority is contained in N. C. Gen. Stat. sec. 143-318.11 (a) (4). This motion was seconded by Councilman Dunn and carried unanimously.

At 6:12 p.m., Councilman Dunn moved to come out of closed session. This motion was seconded by Councilman Mumpower and carried unanimously.

ADJOURNMENT

Mayor Worley adjourned the meeting at 6:12 p.m.

CITY CLERK

MAYOR