

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:

Utility Agreement with NC DOT to Relocate Water Line on US 19-23 at Bridge 123

Summary: The consideration of a resolution authorizing the Mayor to execute a utility agreement with the N. C. Dept. of Transportation (NCDOT) to relocate a water line in the State right-of-way on US 19-23 at Bridge 123 (Smoky Park).

The Water Resources Department operates a 6-inch water main along 19-23 under the policies of the Regional Water Authority of Asheville, Buncombe and Henderson (RWA), which is owned by the City of Asheville. According to the 1996 Master Plan, this line needs to be upgraded to an 8-inch line. Under State law, NCDOT is requiring the owner, the City of Asheville, to relocate this water main during roadway construction. The NCDOT and the City staff agreed to relocate the 6-inch water line and upgrade it to an 8-inch main to meet the requirements of the 1996 Master Plan. The NCDOT has estimated the construction cost of this relocation at \$32,424.75. An additional \$4,875.25 needs to be added to include contingency and inspections, so the total amount that is budgeted is \$37,300.

The Utility Agreement will authorize NCDOT to include the water main relocation in the highway construction project, with NCDOT administering the construction and invoicing the City of Asheville upon completion of the project. The lump sum payment \$32,424.75 is due within sixty days of invoicing by NCDOT. Funding will be available in the 35 Fund – Water Major Capital Improvements Fund effective July 1, 2003. The Fiscal Year 2003-2004 Transfer to Capital will fund this NCDOT project as well as other NCDOT Projects, Annexation Projects, and Treatment Plant Improvements.

Staff recommends that City Council approve a resolution authorizing the Mayor to execute a Utility Agreement with NCDOT to relocate a water line in the State right-of-way on US 19-23 at Bridge 123 (Smoky Park).

Interim Resources Director David Hanks responded to questions from Councilman Peterson regarding this improvement.

Clerk to Advertise Offer to Purchase Property between Courtland Avenue and Houston Street

Summary: The consideration of a resolution authorizing the City Clerk to advertise an offer of purchase for upset bids for property located between Courtland and Houston Streets.

The subject property is an RS-8 Residential Single-Family High Density District parcel located on Courtland Avenue and extending south to Houston Street comprising of approximately 3.8 acres (PIN No. 9639.20-91-4343). The Fair Reuse Value for the parcel is \$65,600. The proposed land use for the property in the Head of Montford Redevelopment Plan is for residential

-2-

development. The property was appraised by Richard L. Smith, SRA, on May 22, 2003, at a value of \$65,600.

Flynn Christian Fellowship Home has submitted a bid to purchase the property in the amount of \$65,600. The proposal includes a plan to build three two-story buildings on Courtland Avenue for office and residential space along with an additional two story residential structure on Houston Street at an anticipated development cost of \$700,000.

Approval of the resolution will establish a minimum price of \$65,600 and initiate the sale of the property through the upset bid process as provided in N. C. G. S. 160A-269.

Community Development staff recommends adoption of the resolution authorizing advertisement for upset bids.

Municipal Agreement with the N. C. Dept. of Transportation for Sidewalk Along US 19-23/74A

Summary: The consideration of a resolution authorizing the City Manager to sign a municipal agreement with the N. C. Dept. of Transportation (NCDOT) for the installation of approximately 1,600 linear feet of concrete sidewalk along US 19-23/74A from Asheville School to the newly constructed bridge over the railroad tracks.

NCDOT is currently in the process of replacing a bridge on US 19-23/74A (also know as Smoky Park Highway). This bridge is located in front of Lowe's. As part of this project we have requested that sidewalk be installed along the section of roadway adjacent to the construction.

The agreement will require NCDOT to pay up to \$50,000 for the construction of the sidewalk. The City of Asheville will be required to pay any costs above this amount. The City has an additional amount of \$10,000 budgeted in this year's budget for this project. While the sidewalk has not been constructed, the cost of the sidewalk is not expected to exceed \$60,000.

As part of this agreement the City will be responsible for maintaining the sidewalk which is standard operating procedure for all sidewalks on State maintained roadways.

The consideration of a resolution authorizing the City Manager to sign a municipal agreement with NCDOT for the installation of approximately 1,600 linear feet of concrete sidewalk along US 19-23/74A from Asheville School to the newly constructed bridge over the railroad.

Modification of Fire Code Violations

Summary: The consideration of an ordinance amending the fire code violations in order to be consistent with the new State Fire Code.

The North Carolina State Building Code Council adopted the International Fire Code with North Carolina amendments as the Fire Code for the State of North Carolina effective January 1, 2002. Section C of Appendix B (Schedule of Civil Penalties) establishes Fire Code violations that coordinate with Chapter 6 of the Code of Ordinances, which is the Fire Code for the City of Asheville.

Staff recommends City Council adopt the ordinance amending Section C of Appendix B (fire code violations) of the Code of Ordinances in order to be consistent with the new State Fire Code.

-3-

Non-Warranty Deed on Westchester Drive

Summary: The consideration of a resolution authorizing the Mayor to convey by non-warranty deed whatever interest, if any, the City may have in a portion of Westchester Drive containing residential encroachments.

Westchester Drive is located between Chiles Avenue and Holland Place in the Kenilworth Community. Harry M. Weiss and wife Roberta J. Cole along with Mary Caudill Weiss own the real property located at the corner of Chiles Avenue and Westchester Drive, being 17 Chiles Avenue. Situated on the property at 17 Chiles Avenue is a residential structure with a garage. Approximately 3 ft. of the garage along with a portion of the porch and foundation wall, encroaches onto the right of way of Westchester Drive. It is unclear whether the encroachments existed before or after the right of way of Westchester Drive was established; although the evidence appears to indicate that the dwelling existed prior in time to the designated right of way. Due to future plans for the property, the property owners desire to resolve the encroachment issue as such is a potential cloud on title. City staff has investigated and determined that the encroachment of the garage and possibly the other encroachments have been in existence since 1925. The City has exercised neither dominion nor control of the area of the encroachments and has no interest in exercising such control. To the extent the City has any interest in the area of the encroachments, which the City believes it has no interest, conveying such interest is in the City's best interest.

The Public Works Department recommends adoption of the resolution authorizing the Mayor to execute a non-warranty deed conveying whatever interest, if any, the City has in the right of way containing the encroachments as specified above.

Demolition Contract for Haywood Street Parking Garage

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with E. Luke Green Co., Inc., in the amount of \$184,377 for the demolition of four structures on the proposed Haywood Street Parking Garage Project.

In an effort to remove buildings for the new downtown parking deck, City staff, through the capital improvement process,

has determined that four buildings have to be demolished. City staff solicited sealed bids from General Contractors, three of which were minority contractors, to provide demolition services. The following seven qualified bids were received:

E. Luke Green Co., Inc.	\$184,377
Jones Grading & Fencing, Inc.	\$224,000
Cherokee, Inc.	\$230,500
Buncombe Const. Co., Inc.	\$259,500
Still Enterprise, Inc.	\$288,995
Taylor & Murphy Const. Co., Inc.	\$327,889
Empire Dismantlement Corp.	\$345,670

City staff has reviewed all bids and determined that E. Luke Green Co., Inc., is the lowest bidder. City staff recommends acceptance of the total bid amount of \$184,377.

Approved funding is available in the capital improvement project account to pay for the demolition of these four buildings.

City staff recommends City Council authorize the City Manager to enter into an agreement with E. Luke Green Co., Inc., in the amount of \$184,377 for the demolition of four

-4-

structures on the proposed Haywood Street Parking Garage Project with the condition that the City own all the structures prior to authorizing the contract to proceed.

Upon inquiry of Vice-Mayor Bellamy, City Engineer Cathy Ball said that the contractor is responsible for removing the inert debris and they will probably take it to the Buncombe County landfill. Ms. Ball explained that there would be no surface parking where the structures will be demolished. A permanent construction fence will be built, noting that businesses and residents in the area are working with the schools to sponsor a program about the history of downtown Asheville, using plywood, which will be attached to the fence.

Upon inquiry of Councilman Mumpower, Ms. Ball said that the range of the bids are not uncommon for this type of project.

Upon inquiry of Councilman Dunn, Ms. Ball said that construction would start around August 1 and it will take approximately 45 days.

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.

UPDATE ON MINIMUM HOUSING CODE

Director of Building Safety Terry Summey said that this is the consideration of receiving options from staff and the Citizen Task Force teams concerning amending the Minimum Housing Code, and consideration of setting a public hearing on August 12, 2003.

Since July 1994, the City has been aggressively implementing one of the most proactive Housing Codes in the country. During that period over 90% of the rental units in the City are in compliance with the Code. At least 25% of owner occupied units have been inspected for compliance with the Code. The program has been highly successful with minimum City Council or court action. The current Code with its fees, penalties and enforcement tools has resulted in owners and landlords bringing their units into compliance with the Code. Nevertheless, it is the opinion of the Director of Building Safety that the Code should be modified to reduce the burden and expense upon owners and landlords that comply with the code. Consequently, several options have been developed. Options A and B reflect the recommendations of the Housing Code Citizens Task Force groups. Options C and D reflect the recommendations of City staff based upon the issues presented at the worksession on March 18, 2003, informal discussions with all City Council members as well as members of the Housing Code Citizens Task Force group. The informal meetings with City Council members focused on options 1-4.

Four options have been summarized on the a matrix for further consideration by Council:

- Option A Recommendation developed by the Citizen's group interested in a complaint based code, with a mandatory program only for units with major life safety issues
- Option B Recommendation developed by the Citizen's group interested in maintaining a mandatory program with some changes and reductions to the enforcement process

- Option C Staff recommendation with an emphasis on reducing the percentage of rental units inspected
- Option D Staff recommendation to address only life safety issues for owner occupied properties, and reduce the percentage of rental properties inspected

The above options include but are not limited to:

-5-

- Editorial and technical changes with an emphasis on reducing costs and having a more flexible Code; these changes will be finalized after Council has decided the type of enforcement program to be used by the City
- Technical changes will include updates to references to the North Carolina State Building Codes and State laws
- Proposed new penalties for units not in compliance
- Changes to the Fees and Charges Manual
- Update and finalization to the inspection forms

City staff recommends that Council consider setting a public hearing on July 22 for a public hearing on August 12, 2003, to consider changes to the Housing Code. Staff recommends that Council first consider changes to how the Code will be enforced, and upon adoption of those changes, that Council then continue the public hearing to a specified date to consider editorial and technical amendments to the Housing Code, and amendments to the Fees and Charges Manual.

After Mr. Summey briefly explained Options A-D and Options 1-4, he responded to various questions/comments from Council, some being, but are not limited to, what is the difference in penalties from the different options; how many structures have been inspected and how many people are still working on bringing them into compliance; what happens if people do not pay the penalties; what percent does a homeowner have to pay to administer the program; ability for abuse by staff who will be looking for noncompliance to pay for their positions; what is the difference of Option A of the Citizen Task Force's recommendation for owner occupied inspections; there is no way the City can guarantee that all life safety issues are addressed; how many complaint calls have been received from people living in substandard housing; where is hard core proof that shows that the Minimum Housing Code is reducing fires; how does Asheville's Code regarding commercial properties compare to other cities; request for background information about third party inspectors and if they are useful; why does it state "not determined" under Options A & B of the fees/penalties; what types of checks and balances does the City use to not get into family feuds regarding complaints; do we currently require names and addresses for complaints; what is the cost to the City of a fire; and are our inspectors licensed to be home inspectors.

Upon inquiry of Councilman Mumpower, Mr. Summey said that Options C and D are staff generated options.

It was the consensus of City Council to have Mr. Summey make a collective recommendation to Council at their August 12, 2003, public hearing, and to reformat the information presented by adding an additional column at the end. Mr. Summey said that he would email the reformatted chart to Council and would also place a hard copy of the chart in Council's mailbox.

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 July 22, 2003, formal City Council agenda to set a public hearing on August 12, 2003.

PUBLIC ART BOARD PRESENTATION – PURCHASE OF IDA KOHLMAYER SCULPTURE

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Dr. Barbara Cary, Chair of the Public Art Board, explained the history of the Public Art Board and the City's Public Art Policy. She explained how the Board is carrying out its charge. She said that this is the consideration of a resolution approving the purchase of a piece of public art to be installed on City-owned property.

-6-

Ms. Barbara Clark, member of the Public Art Board, read an article from USA Today entitled "Arts create economic powerhouse for N.C. City" that talks about public sculptures making Asheville a popular destination. She also briefed Council on information of Ida Kohlmeyer and her works.

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Ms. Pam Myers, member of the Public Art Board, said that the Board is requesting City Council approval for the purchase of a piece of art from the Ida Kohlmeyer collection known as "Conversation Piece #4C." As part of the approved Public Art Master Plan, the Public Art Board is given the authority to recommend the purchase of public art pieces for the City of Asheville. Currently, approximately \$50,000 is appropriated per the approved ordinance to go towards public art for the City of Asheville. The ordinance

requires the Public Art Board to raise half of the funds to be spent on the acquisition of public art. The Kohlmeyer piece will cost \$55,000 with 1/3 of the cost being provided by the Kohlmeyer Foundation, approximately \$18,000 raised by the Public Art Board through various fund raisers, and the balance coming from the funds already appropriated in the Public Art Board account by the City of Asheville. On June 22, 2003, another fundraiser was held in which an additional \$5,800 in donations was received. She said that they are requesting \$18,300 from the existing appropriation.

No decision has been reached on where the art piece will be placed. The Public Art Board is requesting City Council approval to proceed with the purchase of the Ida Kohlmeyer piece "Conversation Piece #4C."

Councilman Mumpower expressed concern about the investment in this piece of art. He believes that public art plays an important role in our community and he wouldn't want to do anything to harm the arts or to step beyond the reasonable perimeter regarding public art. However, he believes our public art money should be invested in what the majority of our citizens can embrace with acceptance and understanding and he was not sure that this piece of art accomplishes that goal. He was also concerned that the site has not been determined yet.

Mayor Worley spoke in support of the purchase noting that Asheville has been named as one of the top destinations for art. He thinks the piece will be a part of the uniqueness of Asheville.

Vice-Mayor Bellamy did note that this is a conversation piece and she felt we should try to meet the needs of all our citizens.

When Councilman Dunn asked what exactly the piece was supposed to be, various members explained what the piece meant to them.

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 4:50 p.m., Mayor Worley announced a short break.

UDO AMENDMENT REVIEWS

City Attorney Oast said that these Unified Development Ordinance amendments are being brought before City Council in order that staff may respond to questions Council may have prior to the public hearings, which have been scheduled on July 22, 2003. He advised Council that it would be inappropriate for Council to receive comments from the public at this worksession.

Revision to Requirements for Signs

-7-

Planning & Development Director Scott Shuford said that this is the consideration of an amendment to the Unified Development Ordinance to revise the requirements for signs.

This code amendment is a general "housekeeping" type amendment intended to add language allowing community identification signs, create sign code allowances for several new zoning districts, and to formalize prior interpretations of the code.

A summary of the Sign Code changes include:

- Adds language relating to approval bodies in first paragraph.
- Codifies community identification sign allowances and standards.
- Adds provisions for Urban Residential District, Urban Village District, and Neighborhood Corridor District.
- Achieves consistency with building code permitting requirements (previous requirement was for 60 day permit validity).

The Planning and Zoning Commission unanimously recommended approval of this code amendment on June 19, 2003 by a vote of 4-0. City staff also recommends approval of the proposed code amendment.

Upon inquiry of Councilman Mumpower, Mr. Shuford explained the different organizations that reviewed the ordinance amendment.

It was the consensus of City Council to place this public hearing on the July 22, 2003, formal City Council agenda.

Provision for Development Standard Bonuses in Residential Districts

Planning & Development Director Scott Shuford said that this is the consideration of an amendment to the Unified Development Ordinance (UDO) to provide for more flexible application of development standards, including density requirements, in all residential zoning districts.

- This code amendment provides for more flexible application of development requirements in all residential zoning districts. Affected districts include: RS-2, RS-4, RS-8, RM-6, RM-8 and RM-16. Under certain circumstances, a conditional use permit process can be used to modify development standards, including increasing density above the maximum permitted in each of these zoning districts, if the applicant successfully demonstrates that the project would exhibit exceptional site and/or structure design that is appropriate to the architectural and/or environmental context of the surrounding neighborhood, and would also achieve one or more of the following City goals:

- Promote the City of Asheville's affordable housing programs by providing housing that is affordable for purchase by people with household income below the area median or for rental by people with household income less than 80% of the area median, and particularly housing that meets the needs of people who have special needs or household income less than 60% of median income.
- Implement an officially-adopted development plan for the area.
- Exhibit exceptional site design that preserves critical environmental features on the site.
- Assist the City of Asheville in meeting critical infrastructure needs, including but not limited to the preservation of open space, the creation of regional stormwater retention facilities, and achieving greater interconnectivity of the street network.
- Effectively incorporate public transit as a primary mode of transportation to and from the development.

-8-

On June 19, 2003, the Planning and Zoning Commission unanimously recommended approval of the proposed code amendment by a vote of 4-0. City staff recommends approval of the proposed code amendment as well.

Councilman Peterson initiated discussion surrounding his concern that the protest petition process would be eliminated since the application of this amendment would not be considered a rezoning.

Upon inquiry of Councilman Mumpower, Mr. Shuford said that he has met with Mr. James Judd, who was very involved in the Ross Creek Commons Project, and Ms. Barber Melton, President of the Coalition of Asheville Neighborhoods (CAN), on this amendment. In fact, Mr. Judd provided good suggestions for the code amendment. He was not certain if CAN officially voted on this amendment, but they have been involved in the entire process.

Upon inquiry of Councilman Mumpower, Mr. Shuford said that Council directed him to make a more streamlined developer process with more flexibility with regard to Council's decision-making process. He felt this code amendment accomplished that. To add the protest petition process would require the amendment to be modified substantially.

Upon inquiry of Councilman Peterson, City Attorney Oast said that he would explore the conditional use zoning process which has been approved in Charlotte to see if that might be something City Council would be interested in.

Councilman Ellis felt he could support his amendment as staff is following the direction of City Council to make the UDO streamlined.

Councilman Dunn felt it was time to appoint a Task Force to review the entire UDO. Mr. Shuford said if Council chooses to do that, he would recommend that the review not be undertaken by staff, but a consultant so staff can work on their day to day activities.

Councilwoman Jones felt this would be another good tool for Council to work with.

When Councilman Mumpower suggested he meet with Mr. Shuford to discuss his concerns, Mr. Shuford suggested the public hearing be postponed until August 12, 2003, in order to give him an opportunity to meet with Councilman Mumpower and time for the City Attorney to explore the Charlotte process.

It was the consensus of City Council to continue the public hearing originally scheduled for July 22, 2003, until August 12, 2003.

BOARDS & COMMISSIONS

It was the consensus of City Council to wait until the Clean Air Community Trust Board makes its recommendations for Council to confirm members to the Board.

It was the consensus of City Council to appoint Laura Webb (Webb Insurance Services), Jacqueline Grant (Roberts & Stevens) and Daniel Prevost (Institute of Biltmore) as members to the Economic Development Strategic Plan Implementation Task Force, as recommended by the Task Force members.

It was the consensus of City Council to appoint Brian Kintner and reappoint Tommy Wilson, Ronnie McAbee, Terry Ponder and Harold Garland to the Board of Electrical Examiners.

-9-

It was the consensus of City Council to reappoint Frank Thomson and Curtis Walk to the Asheville-Buncombe Historic Resources Commission.

It was the consensus of City Council to reappoint James Fink (regular member) and Scott Fowler (alternate member) and to appoint Sieglinde Anderson (regular member) to the Noise Ordinance Appeals Board. It was also the consensus of City Council to amend the terms of members of the Board from two years to three years, effective immediately.

It was the consensus of City Council to appoint Jennifer Knudtson to the Transit Commission. It was also the consensus of City Council to amend the terms of the members of the Commission from two years to three years, effective December 31, 2003.

It was the consensus of City Council to arrange interviews for a vacancy on the Tree Commission.

ADJOURNMENT:

Mayor Worley adjourned the meeting at 5:55 p.m.

CITY CLERK

MAYOR