

Regular Meeting

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

Absent: Councilman James E. Ellis

**PLEDGE OF ALLEGIANCE**

Retired U.S. Marine Corp Gunny Sergeant Billy Cochran and Retired U.S. Navy Senior Chief Larry Owen led City Council in the Pledge of Allegiance.

**INVOCATION**

On this Veteran's Day, Councilman Dunn and Councilman Mumpower gave the invocation saluting and honoring all past, present and future veterans.

**I. PROCLAMATIONS:**

**II. CONSENT:**

- A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 28, 2003, AND THE WORKSESSION HELD ON NOVEMBER 5, 2003**
- B. ORDINANCE NO. 3066 - BUDGET AMENDMENT FOR HAZ-MAT EQUIPMENT GRANT FOR FIRE DEPARTMENT**

Summary: The consideration of a budget amendment, in the amount of \$90,900, to receive grant money from the U.S. Department of Justice, sub-granted through the North Carolina Division of Emergency Management, for procurement of weapons of mass destruction preparedness equipment for Asheville Fire and Rescue Department's Haz-Mat Team.

The City of Asheville Fire and Rescue Department requested \$90,900 from the NC Division of Emergency Management for equipment to better prepare the City for a hazardous materials or terrorism incident. Staff was successful in obtaining those funds. We received money to purchase a variety of equipment that includes chemical agent detectors, chemical protective clothing, multigas monitors, rescue equipment and a search camera. Twenty-two North Carolina cities received the \$90,900 grant.

City staff recommends City Council approve the budget amendment to receive grant money from the NC Division of Emergency Management.

**ORDINANCE BOOK NO. 21– PAGE 1**

- C. RESOLUTION NO. 03-185 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A FIRE PREVENTION AND SAFETY GRANT FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY**

Summary: The consideration of a resolution authorizing the City to apply for a fire prevention and safety grant from the Federal Emergency Management Agency (FEMA).

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The City of Asheville Fire and Rescue Department desires to request \$71,126 from FEMA for the purchase of fire safety education materials and promotion as well as a vehicle to transport previous granted equipment. The grant provides 70% of the total project, with the remaining 30% (\$21,338) from city matching funds.

The material, promotion and vehicle are integral to the Department's mission and the grant funding will enable the City to conduct these programs with minimal City funding.

The program will enable the department to distribute fire safety and injury prevention materials to children. In addition, a

vehicle for use in the Department to pull the department's safety houses is included in the grant. The safety house is primarily designed to educate adults about fire safety and home safety. Part of the mobile house is also to educate the public about residential fire sprinkler systems.

City staff recommends City Council authorize the City to apply for a fire prevention and safety grant from the Federal Emergency Management Agency.

**RESOLUTION BOOK NO. 28 – PAGE 49**

Mayor Worley said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Vice-Mayor Bellamy moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Jones and carried unanimously.

**III. PUBLIC HEARINGS:**

**A. PUBLIC HEARING TO CONSIDER THE PERMANENT CLOSING OF AN UNNAMED ALLEY OFF COLLIER AVENUE**

**RESOLUTION NO. 03-186 - RESOLUTION TO PERMANENTLY CLOSE AN UNNAMED ALLEY OFF COLLIER AVENUE**

Mayor Worley opened the public hearing at 5:12 p.m.

Assistant Public Works Director David Cole said that this is the consideration of a resolution to permanently close an unnamed alley off Collier Avenue. This public hearing was advertised on October 17, 24, 31 and November 7, 2003.

N. C. Gen. Stat. sec. 160-299 grants cities the authority to permanently close streets and alleys without regard to whether they have actually been opened.

Pursuant to this statute, the adjoining property owners have requested the City of Asheville close an unnamed alley off Collier Avenue, the entry of which is located approximately 200 feet north of the intersection of Collier and Banks Streets.

Public Works Department staff has researched and determined that this alleyway is not a City maintained street and is not in use as a means of ingress or egress for any of the properties abutting the alley. There are eight lots that abut this alley identified by PIN Nos. 9648.06-38-4514; 9648.06-38-3540; 9648.06-38-3620; 9648.06-38-4526; 9648.06-38-4684; 9648.06-38-5757; 9648.06-38-3750; 9648.06-38-3895; 9648.06-38-4514.

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Mr. Cole said that the only utility present in the alley is an overhead telephone service line servicing 120 Coxe Avenue. The petitioner has agreed to work with BellSouth to relocate or provide easements for the telephone line as necessary.

City staff recommends that City Council adopt the resolution to close an unnamed alley off Collier Avenue.

Mayor Worley closed the public hearing at 5:17 p.m.

Mayor Worley said that members of Council have previously received a copy of the resolution and it would not be read.

Councilwoman Jones moved for the adoption of Resolution No. 03-186. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

**RESOLUTION BOOK NO. 28 – PAGE 50**

**IV. UNFINISHED BUSINESS:**

**V. NEW BUSINESS:**

**A. RESOLUTION NO. 03-187 - RESOLUTION AUTHORIZING STAFF TO COMPLETE A STORMWATER**

## UTILITY FEASIBILITY STUDY

### ORDINANCE NO. 3067 - BUDGET AMENDMENT TO FUND A PORTION OF THE STORMWATER UTILITY FEASIBILITY STUDY

City Engineer Cathy Ball said that this is the consideration of a resolution authorizing the City Manager to direct staff to complete a study to determine if a stormwater utility is a feasible, equitable, and effective method for funding stormwater quantity and quality needs in the City of Asheville; and a budget amendment, in the amount of \$50,000, from fund balance to fund a portion of the study.

The City of Asheville must comply with the Environmental Protection Agency's National Pollution Discharge Elimination System (NPDES) Permitting and Stormwater Phase II Regulations as part of the Federal Clean Water Act. In March 2003, City Council approved a plan to comply with the "Six Minimum Measures" of the regulations, including strategies for:

1. Public Education and Outreach
2. Public Participation and Involvement in Implementing the Plan
3. Detection and Elimination of Illicit Discharges
4. Construction site Run-off Control
5. Post-Construction Run-off Control, and
6. Pollution Prevention and Good Housekeeping by the Municipality.

Once the plan is approved by NCDENR, Division of Water Quality, the City of Asheville must begin implementing the elements within the plan in order to comply with the State and Federal requirements. Staff has estimated that it will cost approximately \$150,000 to \$200,000 per year to implement this plan. The funding for this program has not been identified at this time.

In order to develop an effective program to improve water quality as part of the Phase II regulations, the City must also develop stormwater management approaches for drainage basins,

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assess existing outflows to creeks, identify capital improvement needs to manage stormwater, and increase infrastructure maintenance functions. Developing a Stormwater Utility is one means of developing a dedicated funding source for local stormwater management. Other options could include increasing property taxes or implementing an impact fee for development.

The feasibility study will:

- Establish a City Manager's Advisory Committee consisting of representatives from the development, environmental, residential, non-profit, engineering, as well as other stakeholders to manage and oversee the study's progress and make a recommendation to City Council,
- Analyze other possible sources of funding,
- Determine if a Stormwater Utility is the best method of developing a long-term funding source to address water quality issues and meet the required minimum measures, and
- Conduct financial analysis to determine the most equitable and effective framework to develop a utility.

Staff's goal is to complete the feasibility study in a time frame that City Council could review in conjunction with the Fiscal Year 2004-05 Budget. Staff estimates that the total cost of the study would be \$65,000 plus staff time. However, staff is requesting \$50,000 from the City's fund balance to cover the cost of hiring interns and leasing computer equipment for purposes of data collection and quality control. The remaining \$15,000 for some professional service would come from the existing budget.

Approximately \$25,000 of the \$50,000 could be reimbursed to the fund balance from the Stormwater Utility if the Utility is established by City Council.

City staff recommends City Council authorize the City Manager to direct staff to complete a study to determine if a stormwater utility is a feasible method for funding stormwater quantity and quality needs in the City of Asheville; and, a budget

amendment, in the amount of \$50,000, from fund balance to fund a portion of the study.

Some additional information brought up from Council's November 5, 2003, worksession will include (1) looking for methods to qualify what cleaner is and to be able to define those methods; (2) looking at the impact of fees or taxes on the public; (3) looking at the impact of the fees or taxes on the Joint Planning Area; and (4) reviewing previous agreements with other agencies.

Ms. Ball then answered various questions/comments from Council, some being, but are not limited to: when will this come back to City Council; who will be invited to participate in the stakeholders meeting; what kind of data will be gathered; and will the hardware and software be used on different projects once this project is complete.

Councilman Mumpower suggested talking with our legislative delegation expressing Council's frustration with the concept of unfunded mandates. Mayor Worley said that this has been underway since the early 1990's and felt it might be appropriate to continue working with the N. C. League of Municipalities, National League of Cities, and the Association of County Commissioners, all which have taken the position to educate our legislators on the burdens that unfunded mandates put on cities. City Manager Westbrook suggested waiting to talk to our delegates until after we know the cost of what the unfunded mandate will cost and then we would have some facts and figures on what the impact would be on our local citizens.

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Mayor Worley said that members of Council have been previously furnished with copies of the resolution and ordinance and they would not be read.

Councilwoman Jones moved for the adoption of Resolution No. 03-187. This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

#### **RESOLUTION BOOK NO. 28 – PAGE 52**

Vice-Mayor Bellamy moved for the adoption of Ordinance No. 3067. This motion was seconded by Councilman Dunn and carried unanimously.

#### **ORDINANCE BOOK NO. 21 – PAGE 3**

### **VI. OTHER BUSINESS:**

#### **A. ASHEVILLE FILM FESTIVAL**

Mayor Worley spoke about the tremendous job City staff and the Asheville Film Commission did on coordinating Asheville's first Film Festival.

Parks & Recreation Director Irby Brinson thanked the Asheville Film Commission, the Film Festival Committee, City Council and the tremendous number of volunteers and staff.

Councilman Peterson voiced praise also about the Festival and asked about possible revenues and the economic impact of the Festival.

Vice-Mayor Bellamy, member of the Film Commission, thanked Film Commission Chair Leni Sitnick, Event Specialist Melissa Porter, all the Film Commission members, Mr. John Cram, and the countless volunteers for their hard work on the successful Festival.

#### **B. RECOGNITION**

Vice-Mayor Bellamy asked that recognition be made to the Asheville High School Field Hockey Team, the Asheville High School Football Team, and the Asheville Youth Sports Program Youth League for their successful year.

#### **C. CLAIMS**

The following claims were received by the City of Asheville during the period of October 17-30, 2003: BellSouth (Water), Samuel Benjamin (Police), Old Dominion Freight (Parks & Recreation), Grant Contr. (Water), Emily R. Kasinecz (Transit Services), Charlotte Harrison (Streets), Big Lots (Water) and Cornelius Miller (Streets).

These claims have been referred to Asheville Claims Corporation for investigation.

**VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:**

Mr. Fred English hoped that City Council would show more support in their recognition of Veterans Day.

Mr. Iver Thomas, resident on Knob Street, spoke about his dedication to the protection and well-being of children and offered to work closely with the Asheville Police Department to stop drug trafficking in Asheville, in particular the Housing Authority communities.

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Mr. Walter Plaue agreed with Mr. English in that Council should prioritize their schedules, particularly on Veterans Day, in order attend ceremonies honoring our veterans.

**CLOSED SESSION**

At 5:50 p.m., Councilwoman Jones 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. The statutory authorization is contained in N. C. Gen. Stat. 143-318.11(a)(5); and (2) 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. The statutory authorization is contained in N. C. Gen. Stat. 143-318.11(a)(3). This motion was seconded by Vice-Mayor Bellamy and carried unanimously.

At 6:15 p.m., Vice-Mayor Bellamy moved to come out of closed session. This motion was seconded by Councilman Dunn and carried unanimously.

**VIII. ADJOURNMENT:**

Mayor Worley adjourned the meeting at 6:15 p.m.

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CITY CLERK

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MAYOR