

Worksession

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

Absent: Councilman Brownie W. Newman

CONSENT:

Multi-Family Housing Revenue Bonds for Battery Park Apartments by Housing Authority

Summary: The consideration of a resolution approving the issuance of revenue bonds by the Housing Authority for the Battery Park Apartments project.

The Housing Authority of the City of Asheville proposes to issue revenue bonds in the amount up to \$7,000,000 and to lend the proceeds of the bonds to Battery Park Senior Housing Limited Partnership to acquire and renovate an apartment development known as Battery Park Apartments to be operated for rental to elderly persons.

The Housing Authority held a public hearing on February 10, 2004, on the question of the issuance of the bonds. The bonds must now be considered and approved by the Asheville City Council.

The bonds being issued are "private activity bonds" under IRS regulations. Essentially, this is a form of financing that allows private entities (both for profit and not-for-profit) to engage in public purpose projects, with some of the advantages of tax exempt financing. There are many requirements and limitations in the use of the money derived from bond proceeds. One of the requirements is that the governmental unit having jurisdiction over the area in which the activity occurs must approve the issuance of the bonds, and this approval may only come after a public hearing. According to the Housing Authority's attorney, this public hearing requirement will be satisfied by the public hearing to be held by the Housing Authority prior to the City taking action, and a separate hearing by the City is not necessary. Our bond counsel has confirmed this, and this is the position of the Local Government Commission.

If City Council wishes to approve issuance of the revenue bonds for the Battery Park Apartments project, as required by Sec. 147(f) of the Internal Revenue Code, adoption of the resolution is recommended.

Upon inquiry of Councilwoman Bellamy, City Attorney Oast said that he would provide additional information on what other agencies City Council must approve the issuance of bonds.

Mayor Worley asked that the record show that City Council has received this information and instructed the City Manager to place this item on the next formal City Council agenda.

MUNICIPAL AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR PASSENGER RAIL FACILITY AND ASSOCIATED BUDGET AMENDMENT

Economic Development Director Mac Williams said that consideration of a resolution authorizing the City Manager to enter into a municipal agreement with the N. C. Dept. of Transportation (NC DOT) for 10% of funding for acquisition of the site for the proposed passenger

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rail station; and an associated budget amendment, in the amount of \$9,600, for funding the transit plan for the future multi-modal transit center.

As preparation for eventual passenger rail service to Asheville, the NC DOT Rail Division is in the process of securing the site for the proposed Asheville station in Biltmore Village. Property appraisals and estimates of related costs have been completed and a project budget for this site acquisition phase has been developed. Before the State can go forward with the actual purchase, by requirement, the NC DOT and the City of Asheville must first enter into a municipal agreement outlining the roles, responsibilities, and costs each agency will incur for this phase of the project. The municipal agreement requires the City provide 10% of the project cost. The project cost for this phase is estimated at \$1,418,830. Thus, the required City match would be (not

to exceed) \$141,883. While City funds are not needed immediately, the City commitment for the funding, via the municipal agreement, is requested immediately for the project to move forward. Actual funding would be contingent upon a future appropriation from City Council.

In addition, it is envisioned that an inter-modal City transit hub could be co-located with the passenger rail station. In order to access federal funding for that portion of the facility, it will be necessary to conduct a Transit Study for the Biltmore location. The study is intended to assess the suitability of the proposed location for the transit system. It will quantify transit needs. In addition, the study will explore facility size, number of bays, etc. and explore how transit would tie in with rail as well as assess the suitability of the location for transit, in light of the needs and plans in the southern part of the city. The estimated cost for the Transit Study is \$12,000 of which the City's share would be \$9,600. The NC DOT Rail and Transit Divisions feel the study is a priority and needs immediate funding. The NC DOT share of the funds for the study is currently available.

The upside(s) to the implementation of the recommendation include:

- Purchase of an economic development site for 10% of cost
- Demolition of existing site in preparation for construction at 10% of cost
- Potential to develop rail station at fraction of cost
- Potential to place something else prepped on site if rail does not materialize
- Information concerning cost and feasibility of locating a transit sub-station at Rail Station

The downside(s) to the implementation of the recommendations include:

- Expenditure of city funds needed to create asset
- Possibility that this location is not optimal for transit sub-station

City staff recommends approval of the (1) resolution authorizing the City Manager to enter into the municipal agreement; and (2) budget amendment appropriating \$9,600 out of Contingency as the City's share of the Transit Study.

There was considerable discussion by Council regarding these matters. From that discussion, Mr. David Bender, Project Manager for the N.C. Rail Division, Mr. Williams and City Transit Director Bruce Black responded to various questions/comments from Council, some being, but are not limited to: what is the chance the State will do the project; what if Asheville wanted to wait and not spend any money until there is something firm from Raleigh whether the project will move forward; request for statistically information on how Asheville has the density to support this program; is the study performed by NC DOT in 2001 accurate; has the 2001 report been updated for inflation and the cost of fuel; what are the 4 different alternatives and the times associated with each trip; what is the percentage breakdown on funding; where is the specific funding allocation from the Federal government coming from for rail service to WNC; what is the

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ridership of the Carolinian per day; what is the average subsidy for heavy rail across the country; what is the national average on cents per passenger mile; will the funding for this project take away money from other transit options; are there any successful models; are the successful models in high density areas; how fast do the trains travel; is the travel times factored into the times associated with each trip; why doesn't AMTRAK bring passengers into Asheville; what is the cost associated with the service between the Piedmont and Charlotte; what is the fare from Raleigh to Charlotte; what is the subsidy given to the Carolinian and the Piedmont; what is the anticipated passengers per day for WNC; what is the mileage between Asheville and Salisbury; what is the philosophy on why the NC DOT felt rail service was something to expand into; does Salisbury have a multi-modal transit center; what is the economic benefit having a multi-modal transit center; what is the impact on local investment with a multi-modal transit center; what is an estimated annual return on a multi-modal transit center; in Salisbury is their station multi-modal or just rail; need for explaining the whole financial picture regarding the subsidy; is the City going to have to subsidize rolling stock; does Asheville have a stake in subsidizing the train; will the multi-modal transit center enhance or save the City's Transit Department money; will there be operational data that comes out of the transit study; how long will the transit study take; request for a copy of the WNC study; request for copy of map showing density is 4,000 per square mile in the core area of the City; what will happen if the City wants to wait on the municipal agreement; how does the State back away from the project if the research doesn't support rail service; how can the City meet with NC DOT representatives to get specific questions answered; why does the City have to commit now when there is no reassurance that this will proceed; what is the position of the Chamber of Commerce in this; how much time does Council have before a final decision needs to be made on the municipal agreement; has local commitment been obtained up and down the rail line; and what is the time periods on the options to purchase the properties. When responses were unknown, City staff, along with Mr. Bender, said that they would provide additional information to Council.

City Manager Westbrook felt it might be appropriate for City Council to split the municipal agreement regarding 10% funding for the acquisition of the site for the proposed passenger rail station from the budget amendment for the City's share in the transit plan for the future multi-modal transit center.

Mr. Williams said that in anticipation that this project will have a regional impact, he is soliciting financial partnerships with AdvantageWest and the Buncombe County Tourism Development Authority to help with the City's match of \$141,883.

It was the consensus of City Council to place the budget amendment, in the amount of \$9,600, for the transit plan for the future multi-modal transit center on the next formal City Council agenda. Consideration of the resolution authorizing the City Manager to enter into a municipal agreement with the NC DOT for 10% of funding for acquisition of the site for the proposed passenger rail station will be postponed until March 16, 2003. City Manager Westbrook said that should give Council adequate time to visit NC DOT representatives to discuss the matter further.

LEAGUE OF WOMEN VOTER STUDY ON APPOINTED BOARDS AND COMMISSIONS

Ms. Kathleen Balogh, President of the League of Women Voter's of Asheville and Buncombe County (League), updated City Council on the League's study on appointed boards and commissions. The study is an outcome of recommendations by two committees of the League to the general membership at the 2003 annual meeting. Members shared a perception of the existence of barriers that prevented the appointment of a diverse membership to these boards and commissions – one that reflected make-up of the community in regards to race, gender and socio-economics. A Study Committee, comprised of League members, was convened to examine the application and appointment process used by City Council and the Buncombe County Commissioners in order to understand what works best for applicants, appointed

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members and the two government bodies they serve in order to support the most effective system of appointed boards and commissions for our community. Councilwoman Terry Bellamy has been City Council's representative on the Study Committee to insure communication between the Study Committee and Council. A representative from the County was invited as well to serve in that capacity.

Ms. Marsha Bate said that the Study Committee identified three distinct steps in the application and appointment process to explore: (1) The application process – what happens between the advent of an opening on a board or commission and the development of an initial list of applicants; (2) the selection process – the screening/review process that ends with a formal list of applicants to be submitted to the appointing body; and (3) the appointment process itself that is conducted by the appointing body.

Outcomes of the study include (1) a written report to include (but not be limited to) the following: (a) a description of how the study was conducted and who was involved; (b) a flow chart to help understand the application and appointment steps in the process; and (c) recommendations to the League Board and partner organizations (including but not limited to City Council and County Commissioners) for strategies to make the process more user-friendly and accessible to community members and support the appointment of a more diverse group of community volunteers; and (2) a community meeting to share the report and to gather feedback and determine if the study process was complete.

Vice-Mayor Mumpower, Chair of the Boards and Commissions Committee, said that he would be happy to be work with the Study Committee in any way they see fit.

Councilwoman Bellamy and Councilwoman Jones thanked the League for their work on this issue. They both felt it would be beneficial to Council as we move forward.

On behalf of City Council, Mayor Worley thanked the League for their efforts on this topic and will welcome them back for their recommendations.

PARKS & RECREATION CO-SPONSORSHIP

Parks & Recreation Director Irby Brinson said that this is the consideration of a resolution approving co-sponsored events for 2004.

This year, the Parks and Recreation Department has developed a matrix to assist in determining the minimum requirements for an event to be considered for co-sponsorship. This matrix includes specific points given for such areas as economic development, out-of-town spending, whether the event is designed for raising funds for local charities, or whether the event increases cultural understanding for the community. A total of 41 events were approved last year, which represented an estimated

cost to the City of \$90,000. This year, the number has been reduced to 30 events, resulting in a cost of approximately \$75,000, which represents a reduction of \$15,000 from the previous year. The following is a list of the events recommended for approval: Goombay; Greek Fest; Hard Lox Café; Taste of Asheville; Downtown After 5; The Human Race; Fiesta Latina; Light the Night Walk; Citizen Times 1/2 marathon; Walk America 2004; Shindig on the Green; Smokey Mountain Toy Run; Asheville Art Museum Boating Party; Day of Caring; The Sunset Stampede; Very Special Arts Festival; Biltmore Estate 15K; Children First Festival; Heroes for Hope; RiverLink Adventure Weekend; Anti-Cruelty Walk; Organic Fest; Sistahs on Stage; Holiday Parade; Cinema in the Park; Concerts on the Quad; Grove Arcade; October Harvest Festival; Light up the Holidays; Midday Musicals; and Grove Arcade Chili Festival.

Upside of Recommendation:

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- Generates in excess of \$15 million dollars for the local economy
- New matrix has reduced City's financial contribution
- Increases recognition of cultural diversity of the community
- Allows for fundraising opportunities for various charities
- Expands special events and festivals for the community

Downside of Recommendation:

- City costs for providing services estimated at \$75,000
- A few groups that applied will not be co-sponsored which may jeopardize the event
- Events do place a wear and tear on infrastructure and equipment provided to the organizers.

The Parks and Recreation Department recommends that City Council accept the list of co-sponsored events for 2004.

Mr. Brinson did note that a late application was received by Mountain Renaissance Fair. After a brief discussion by Council, it was their consensus to add that Fair to the list of co-sponsorship events for 2004.

Upon inquiry from Councilman Dunn, Mr. Brinson said that dollar figures are based on attendance from out of town visits using the Chamber of Commerce's multiplier.

Upon inquiry from Councilman Dunn, Mr. Brinson said that Bele Chere is not included in this list because it is a City-sponsored event.

Mr. Brinson responded to Councilwoman Bellamy regarding other events his department helps with, e.g., neighborhood block parties.

Mayor Worley asked that the record show that City Council has received this information and instructed the City Manager to place this item on the next formal City Council agenda.

At 5:10 p.m., Mayor Worley announced a short break.

UPDATE ON PEDESTRIAN/STREET DESIGN IMPROVEMENTS

Mr. Anthony Butzek, the City's Traffic Engineer, said that this is an update on the basic guidelines and principles used to make design changes to City streets.

The design of our streets becomes more critical and more complex with increasing levels of urbanization. While rural streets typically serve people in vehicles almost exclusively, city streets must serve a much more diverse cross-section of people, including those in vehicles, on bicycles, walking, in wheelchairs, with other disabilities, and sometimes even as venues for festivals and gatherings. Because of the distinct difference in the use of rural and urban streets, it is important to understand the differences associated with their design.

Rural streets are designed for comparatively high-speed travel. Wide travel lanes and shoulders, spacious intersections, and unobstructed visibility corridors are desirable. In urbanized areas, such design features lead to higher speeds, higher crash rates, and are rarely desirable.

Before World War II, streets were designed to accommodate people. In the 1950's and 1960's, transportation policy changed to accommodate the motor vehicle boom, with the principles of street design generally tending toward bigger, wider, faster, and mostly ignoring the needs of all but those in motor vehicles. Although vehicular injuries and fatalities initially declined due to the vast safety improvements rural Interstates afforded, they then increased dramatically as a result of the application of rural design principles to urban America. Urban planners and traffic engineers have, in general, come to realize that "context-sensitive design," the design of transportation facilities to match their context, is necessary.

Pedestrian concerns are of particular importance in cities. With about 42,000 people killed on our streets and highways every year in the U.S., over 5,000 pedestrians are among them. While vehicular fatalities tend toward rural streets due to their high-speed nature, 70% of pedestrians killed are in cities. The following are some additional figures:

- More than 40,000 people are killed every year on our nation's roadways, the leading cause of death among people from age one to 34.
- This number was 42,815 in 2002, or 117 per day, or more than 3,500 per month.
- Walking as a means of getting from here to there is 36 times more dangerous than driving.
- About 5,000 people are killed as pedestrians per year, and about 100,000 are seriously injured.
- Although pedestrian/bicycle trips account for only about 5-6 percent of trips, they account for 12-13 percent of fatalities.
- Less than one percent of federal transportation funds are used for either facilities or safety for these two travel modes.
- 70 percent of pedestrian deaths occurred in urban areas, with more than half of these occurring while trying to cross a street.
- In North Carolina, 10-11% of traffic fatalities are pedestrians, while 0.7% of federal funds are spent on pedestrian safety.
- Asheville has similar pedestrian fatality characteristics: 2001 – 2003: 6 fatal, 12 disabling, about 100 other injury pedestrian crashes.

Why is this important? Everyone is a pedestrian some of the time. Many others would walk more if better facilities existed. A 1996 report by the Federal Transit Administration found that nearly 1/3 of the American population is transportation disadvantaged. This includes the 56 million children under the driving age, 32 million senior citizens whose driving ability diminishes, and 24 million people with disabilities who depend on transit, paratransit, or expensive private transportation services. More than one-quarter of all trips are still one mile or less; At least 123 million car trips are made each day in the United States that are short enough to have been made on foot.

Designing safe crossings is the most challenging aspect of developing a safe pedestrian environment. The main risk factors are:

1. Exposure – duration during which the pedestrian is exposed to traffic
2. Vehicle Speed – affects reaction distance, stopping distance, and severity of injury
3. Visibility of Pedestrian – drivers must be able to see pedestrian to avoid them

The City of Asheville strives to provide a transportation system that supports the continued safety, quality of life, and economic needs of the residents of and visitors to the City. In the City, this means designing streets that everyone can use safely. All users are considered: cars, buses, trucks, pedestrians, bicyclists, wheelchairs, etc. Where pedestrian use is high, priority is placed on minimizing pedestrian crossing distance while still accommodating large

vehicles. Large vehicles are expected to use the full width of the street for turning, which is standard and accepted practice. Design right-turning speed is typically 6-10 mph. Excessive widths are avoided, as street width has been determined through research to correlate to high crash rates.

Design principles utilized in Asheville are based on successful projects and practice in other cities across the U.S. Projects involving narrower lanes, tighter corners, traffic calming, pedestrian features and amenities, bicycle lanes, and streetscapes have served many cities well to improve safety for pedestrians and motor vehicle occupants alike while serving as impetus for major economic redevelopment projects. He reviewed several such projects.

No action is necessary by City Council.

Discussion by Council resulted in Mr. Butzek responding to various questions, some being, but are not limited to: when did

design practices change, and where were the fatalities in Asheville.

City Engineer Cathy Ball said that if there is an opportunity to make something safe at a reasonable cost, e.g., MSD or another utility doing work in the street, the City will want to do it.

Vice-Mayor Mumpower felt that the City is trying to find a reasonable point of balance with our citizens and our street design.

Upon inquiry of Councilwoman Bellamy, City Manager Westbrook said that he would give Council a written report on traffic calming, improvements and sidewalks at Amboy Road.

UPDATE ON THE GREENWAY CONNECTOR FROM AMBOY ROAD TO HOMINY CREEK

Elizabeth Teague, Transportation Planner, French Broad River MPO, said that this is an update on the scope and status of the Amboy Road to Hominy Creek Greenway; a request to move forward with a survey of the project area, the development of preliminary plans for the project and right-of-way acquisition; and preparation of a Municipal Agreement with the N.C. Dept. of Transportation (NC DOT).

The City of Asheville has an allocation of \$300,000 in construction funds from the NC DOT to construct a greenway along the French Broad River from Amboy Road to Hominy Creek Park, overlapping Municipal Sewer District and Progress Energy easements. This portion of the City Greenway Master Plan will link the French Broad River Greenway and Park system to Hominy Creek Road and West Asheville. While no local match for these funds is required up front, the City is responsible for land/right-of-way acquisition, trail design and engineering, and any construction costs over the \$300,000.

This project was originally scheduled on the State Transportation Improvement Program (TIP) to be built in coordination with the 240 widening (I-2513) in Federal Fiscal Year 2006. With the projected time frame of that project extending beyond 2006, the State Bicycle Division would like to move the project forward and has amended the TIP to make funds available this fiscal year.

To receive these funds, the City must develop and execute a Municipal Agreement with NCDOT. The Municipal Agreement lays out the scope of the project that the City will undertake, and the amount – up to \$300,000 – that NCDOT will reimburse. To define the project scope and alignment, the City must survey the area and the survey will indicate right-of-way or land acquisition needs.

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City staff held a preliminary meeting at Southern Waterways with surrounding landowners on September 4, 2003, which indicated general support for the project. Preliminary discussions with representatives of Progress Energy and the Metropolitan Sewer District (MSD) have also been positive.

The positives of this project are that:

- The execution of a Municipal Agreement releases \$300,000 in reimbursement dollars to the City for implementation of the Greenway Plan;
- This portion of Greenway will connect West Asheville neighborhoods to the larger Greenway System along the French Broad River;
- This project will clean up and maintain an area along the river which has long attracted pedestrians and fisherman, making it safer and easier to patrol; and
- This project will establish a greenway that will be integrated into the I-240 widening project.

The potential negatives of this project are that:

- The execution of the Municipal Agreement will bind the City to complete construction within a three-year period and to cover any construction costs over the \$300,000; and
- The City will need to work with multiple land-owners to obtain the required right-of-way. This will require expenses for Phase I studies, appraisals, legal fees, and possibly out-right purchase of property in cases where the land-owners will not dedicate or donate the needed area.

City staff recommends that City Council authorize the City Manager to direct staff to move forward with a survey and a preliminary plan for the greenway and right-of-way acquisition. City staff will return to Council once the survey and preliminary

plans are complete and ask for approval of the Municipal Agreement.

Throughout the discussion, Ms. Teague responded to various questions/comments from Council, some being, but are not limited to: how wide is the MSD sewer easement, is there an opportunity to work with MSD on any line improvements in this area; and what will greenway security include.

Upon inquiry of Councilwoman Jones, City Manager Westbrook said that the City will not be over budget on this project.

It was the consensus of Council that the City Manager direct staff to move forward with a survey and a preliminary plan for the greenway and right-of-way acquisition.

NEW ECONOMIC DEVELOPMENT MARKETING TOOL

Economic Development Director Mac Williams said that consideration of a budget amendment, in the amount of \$20,000, for computer coding for the development of a web site to be used as a marketing tool for City development and redevelopment.

At last year's City Council retreat, staff presented an economic development program concept for the City of Asheville. This concept concentrates on building the tax base through the promotion of higher density, higher intensity development consistent with recommendations from the Sustainable Economic Development Task Force and City development policies. Since that time, City Council has adopted a comprehensive plan and a new Neighborhood Corridor zoning

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district for Broadway. City Council has also previously approved an Urban Village zoning district and, during the coming year, will receive redevelopment plans for the urban riverfront and the WECAN neighborhood. Downtown Asheville is seeing new growth, but has many areas still available for redevelopment. Additionally, we may see changes to a number of big box development sites, as a result of economic conditions, making these sites also suitable for redevelopment at a significantly higher intensity.

As one means of implementing this tax base enhancement plan, staff is now proposing a marketing program intended to provide the development community with a tool for evaluating the development feasibility of targeted redevelopment areas. This is not a new approach – it uses tools that other communities have developed to promote development and redevelopment of city-owned properties and brownfield sites. It is markedly different, however, in the scope and scale of its focus in that our proposed web site will promote broad but targeted areas of our city versus specific parcels; and, the marketing focus is on the real estate developer rather than the end user.

The marketing program (which we are suggesting be called "Priority Places") will use GIS technology to facilitate developer inquiry into suitable areas for high-density, high intensity type development. On the City web site, we will identify areas that have been designated appropriate for development of this type in the City comprehensive plan or in other official plans and documents. Developers will be able to access property appraiser records, census and other demographic information, existing and projected zoning, any available development incentives (such as the affordable housing trust fund, administrative rezoning, or permitting incentives), City staff contact points, surrounding complementary and competing uses, known environmental conditions, and other information necessary for the performance of their preliminary due diligence. Additionally, outreach marketing is planned to further facilitate developer interest in the PRIORITY PLACES web site, including mailings, articles and advertisements in trade journals, visits to developers' offices, and other measures.

Internal staff has been able to establish the framework for this GIS tool and we will provide Council with a simulation during our worksession presentation. However, there is considerable coding work that is needed to complete the tool and we will require a supplemental budget allocation of \$20,000 from the City's contingency fund to pay for this technical assistance.

Some points to consider as upside include:

- The Priority Places marketing program supports a wide variety of City goals and policies, including implementation of existing and proposed redevelopment plans, sustainable economic development policies and strategies, land use goals, and affordable housing policies.
- Other local/regional economic development agencies' marketing efforts are on attracting the end user business that will bring jobs. Further, while those efforts cover the City, they are not focused, as this program would be, solely on the City. The Priority Places marketing program is focused on attracting developers creating tax base in specific areas within the City.
- This effort is targeted to developers, both internal and external to the community, interested in this particular kind of development/redevelopment. This is expected to reinforce Council priorities that reflect Asheville as a "business-friendly" community interested in quality development and redevelopment.

- The City is already heavily invested in providing and applying GIS technology. This is an added dimension of its capabilities.

Some points to consider as downside include:

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- No funding in the current budget.
- For marketing to be effective, it has to be consistent over time. There will need to be some level of funding beyond this start up to support ongoing marketing of the web site, including GIS support and more traditional marketing efforts.

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City staff recommends City Council approve the budget amendment, in the amount of \$20,000, for computer coding to enable the Priority Places marketing program to be established as a marketing tool for City development and redevelopment.

Mr. Tim Minter, GIS Coordinator, showed Council a simulation of how the marketing tool would work.

Out of Council's discussion arose several questions/comments, which were responded to by Mr. Williams. Some include, but are not limited to: how does this coincide with zoning; will different areas be added to the data base; can the City try to reduce procedural requirements when someone uses this tool; who will maintain this tool; are there other incentives that will be added to this tool; how will this tool be marketed; does the City anticipate local or outside utilization; has the City shared this concept with other people who will use it; can we ask the Chamber of Commerce to add a link to their website to this tool; will we be able to monitor the number of hits on the site and evaluate the tool in a year; and are there companies that do this type of work for-profit.

Vice-Mayor Mumpower felt the City should run the concept by people who will actually be using it. Planning & Development Director Scott Shuford said that if Council endorses this tool, they intend to have a focus group made up of developers and realtors. He felt this is a wonderful opportunity for people to prepare their marketing plans.

Upon inquiry of Councilwoman Jones, Mr. Williams said that the cost of marketing is estimated at approximately \$10-15,000 a year, which will include mail outs to targeted groups, write-ups in publications, and some travel to follow-up on leads.

Upon inquiry of Councilman Davis regarding the importance of keeping this tool updated, City Manager Westbrook said that we have other GIS needs in the City and we may need to get approval for one additional staff person.

Councilwoman Jones noted that if Council approves this, the Contingency fund will only have \$26,000 left for the remainder of this fiscal year.

Mayor Worley asked that the record show that City Council has received this information and instructed the City Manager to place this item on the next formal City Council agenda.

INTERLOCAL AGREEMENT WITH BUNCOMBE COUNTY ON JOINT PLANNING AREA

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City Attorney Bob Oast said that this is consideration of a resolution authorizing the City to enter into an interlocal agreement with Buncombe County for the establishment and administration of a joint planning area.

In late 2002, as an outgrowth of the City's most recent ETJ expansion, the City and County undertook to explore the possibility of establishing an area on the periphery of the City within which the City and County would have joint responsibility for administration of land use and development regulations. What emerged was the Joint Planning Area (herein "JPA") concept.

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Drawing on various statutory authorities, along with a local law authorizing City-County cooperation, it appears that this type of joint regulatory authority can be provided for in an interlocal agreement under Article 20 of N.C.G.S. Chapter 160A.

The proposed interlocal agreement contains provisions regarding the establishment of the JPA, the classification of land within the JPA, and the adoption of regulations applicable within the JPA. The agreement relies on the laws that provide the extra-territorial jurisdiction for cities, and zoning ordinances for counties, and prescribes how the body of JPA regulations may be amended. The agreement also assigns primary responsibility for administration and enforcement of the JPA regulations. Also included are some provisions that are routine inclusions in agreements of this nature, and are required by law. Some blanks regarding dates remain to be filled in, and may be changed depending on what Buncombe County does.

As noted during an earlier presentation, this interlocal agreement does not by itself implement the JPA or its regulations; it

only puts in place the legal framework by which the JPA can happen. No regulations will be effective within the JPA except following an extensive public notice process and several public hearings.

The considerations important to both the County and the City have been discussed at length during many other meetings, are well known, and are too numerous to summarize here.

This is Council's first review of the text of the interlocal agreement; the County Commissioners have not considered it yet. Revisions may be made, and are appropriate at this time, and there may be some negotiation with the County. Once the agreement is in a form that is satisfactory to Council, adoption of it is recommended.

City Attorney Oast said that after he meets with the County attorney to identify and negotiate some points, he will ask that this item be placed on the next available formal City Council agenda.

FIBER OPTIC FRANCHISE

City Attorney Bob Oast said that this is consideration of an ordinance granting a franchise to DukeNet Communications, LLC, pursuant to the City's Telecommunications Ordinance.

Back in September the City considered and adopted Ordinance No. 2056 to provide for the granting of non-exclusive franchises to install telecommunications facilities in the City's right-of-way. Prior to that time, we had some discussions with DukeNet Communications, a Charlotte-based telecommunications service provider affiliated with Duke Energy. DukeNet and the City have since resumed these discussions, with the result that DukeNet now wishes to begin operation in Asheville.

Most of the substantive terms applicable to this franchise (or any telecommunications franchise) are already set forth in the Telecommunications Ordinance, and DukeNet, by accepting the franchise, agrees to abide by the provisions of the ordinance. The main issues to be determined in connection with this particular franchise are the fee that the City will receive and the length of the franchise term.

As to the franchise fee, a team consisting of representatives from Public Works, Engineering, Planning, Legal, Economic Development, and Information Services reviewed such issues as our administrative costs, wear and tear on our right-of-way facilities, other fees charged for right-of-way use in Asheville, and fees for similar right-of-way use charged by other cities. We determined that a two-tiered fee structure based on density would reflect the value of the right-of-way in high density areas while encouraging the extension of service into under-served and less

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dense areas. Within the downtown area (defined as Charlotte/South Charlotte Streets on the east; Beaumont/Hilliard Streets on the south; Clingman/Haywood Streets on the west; and I-240 on the north), the rate is proposed to be \$.10 per foot per month for each linear foot of right-of-way used for the installation. Outside of this core area, the rate drops to \$.02 per foot per month.

As to the length of the term, DukeNet has asked for a 10-year term, renewable for two 10-year terms, unless either party terminates. While we have no problem with the length of the term, we think that the rate should be subject to increase based on the CPI after the first five years.

Although DukeNet apparently has some potential customers, they have not revealed the location of their proposed initial installation. Any installation, however, would have to be approved by the City Engineer, at least as to the route and manner of installation, and would become part of the franchise.

Considerations:

- (1) This is the City's first telecommunications franchise, and we really have no local experience with such efforts, other than cable television, which is not directly relevant.
- (2) The City has the obligation to protect and preserve its right-of-way for public use, and the right to expect fair compensation for its use by profit-making enterprises. The compensation that we receive should be fair and equitable, and we may not prefer one provider over another, so the compensation paid by DukeNet will be a benchmark for future installations.
- (3) There is a significant public interest in enabling telecommunications providers to provide their service, and especially to enable, or at least not obstruct, provision of such service to less densely populated and underserved areas.

If Council wishes to grant a franchise to DukeNet, adoption of the ordinance is recommended. Council may suggest alternatives to the proposed fee schedule and the term, but most other substantive issues are already dealt with in the Telecommunications Ordinance adopted in September. Because this is a franchise ordinance, a second reading of it will be required.

Mayor Worley asked that the record show that City Council has received this information and instructed the City Manager to place this item on the next formal City Council agenda.

BOARDS AND COMMISSIONS

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It was the consensus of City Council to have the City Clerk arrange interviews of John Kiser, Jane Mathews, Lee McElrath, David Brown and Michael Anders for vacancies for alternate positions on the Board of Adjustment.

It was the consensus of City Council to have the City Clerk prepare the proper paperwork to appoint John Burchfield to the Citizens/Police Advisory Committee.

It was the consensus of City Council to have the City Clerk arrange interviews of Jim Lawrence, Lillian Alexander, David Schulman, Matthew Marquis and Jon Menick for vacancies on the Film Commission.

It was the consensus of City Council to have the City Clerk prepare the proper paperwork to appoint Sharon Bell to the Planning & Zoning Commission.

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ADJOURNMENT:

Mayor Worley adjourned the meeting at 7:12 p.m.

CITY CLERK

MAYOR