

Worksession

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

Absent: Councilman Jan B. Davis

**CONSENT AGENDA:**

**Ten-Year Plan to End Homelessness Appointments**

Summary: The consideration of a resolution to create a City-County Task Force to develop a Ten-Year Plan to End Homelessness and appointment of suggested Steering Committee members.

On March 23, City Council approved the formation of a joint City-County Steering Committee to develop a Ten-Year Plan to End Homelessness. The Downtown Social Issues Task Force stated at that time that they would come back to Council with a suggested list of appointees. Staff and Task Force members have worked to develop a list of suggested appointees that will represent the agencies critical to the writing and implementation of the Plan.

The Task Force will be presenting their recommendation and list of appointees to the Buncombe County Commissioners at their June 1, 2004, meeting. It is hoped that the Steering Committee will start meeting early in June.

Advantages:

- Key agencies from the County, the City and the private sector will be represented on the Steering Committee to oversee the preparation of the Ten Year Plan to End Homelessness. Investment of these agencies is critical to the implementation and success of the resulting plan.

Disadvantages:

- None noted

City staff recommends the adoption a resolution to create a City-County Task Force to develop a Ten-Year Plan to End Homelessness and appointment of suggested Steering Committee members.

Councilwoman Jones felt the Steering Committee was a little too heavy on the provider end and would like to narrow the service providers a bit and add some stakeholders with corporate clout. She suggested Council identify someone with visibility from the business world to chair or co-chair the initiative.

Discussion surrounded the size of the Steering Committee and the reasons behind the suggested members, who suggested the members, and the pattern of change in the mental health area.

Ms. Caplan said that the plan will come back to Council in draft form from the Steering Committee.

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Vice-Mayor Mumpower personally had apprehensions about the realism of this effort, but would be comfortable with “putting eyes on it” and exploring possibilities, but with the understanding that any plan developed City Council will vote on it in a visible fashion.

It was the consensus of City Council to add three additional people from the corporate section (business representatives). Ms. Caplan invited City Council suggestions for those three positions.

**Contract Renewal with Ball-Janik**

Summary: The consideration of a resolution authorizing the City Manager to renew the contract with Ball-Janik, LLP, for the provision of federal representation services.

The City of Asheville entered into the initial contract with Ball-Janik in April 2003 for a 12-month period. In doing so, it was suggested at that time to consider the approach of engaging federal representation for at least three years but using annual contracts. The initial contract called for monthly payments of \$5,000 "inclusive" of out-of-pocket expenses. The renewal contract is the same except that Ball-Janik is now asking for out-of-pocket expenses to be "exclusive" of the \$5,000 monthly fee. Ball-Janik is proposing that out-of-pocket expenses would not exceed \$5,000 annually.

The current Fiscal Year 2004-05 City budget proposal includes adequate funding for this proposed contract.

Support statement:

- Representation services enhance positioning of and advocacy for City agenda items by our own elected representatives as well as other Members of Congress and their staffs who also have influence over decisions affecting City agenda items.

Challenge statement:

- Representative Taylor, in particular, as a member of the House Appropriations Committee, is uniquely positioned to respond to City funding requests without the need for City funding of professional representation services.

Staff recommends approval of the resolution authorizing the City Manager to renew the contract with Ball-Janik, LLP, for the provision of federal representation services.

When Councilman Dunn asked if there have been any monies obtained for the City that we can directly attribute to our consultant's involvement, Mr. Williams said that there have been two specific funding earmarks for projects. One for \$300,000 for a new transit bus and the other is \$2,000,000 for traffic signal upgrades.

Upon inquiry of Councilman Dunn, Mr. Williams said that to date the City has paid Ball-Janik \$5,000 for 12 months, for a total of \$60,000.

Mr. Williams said that monies obtained for the City that can be indirectly attributed to Ball-Janik's involvement include: (1) they lobbied for inclusion of language in the reauthorization of the federal transportation bill known as TEA-21 which extends flexibility to Asheville and the Asheville Transit System to use federal transit funds for operational assistance. Without this legislative fix, the Asheville Transit System would lose approximately \$800,000 in federal funding that it now receives for operational assistance. This effort has been ongoing as Congress continues to debate the reauthorization of TEA-21. (2) they supported two additional earmarks that made their way into Omnibus spending bill – a \$1 million earmark to NC DOT for the WNC Passenger Rail Initiative which will be distributed to transit systems throughout the state for buses and bus facilities.

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Mr. Williams also promote the City's priorities to the Congressional delegation staff, subcommittee, committee staff and the delegation members on a regular, sustained and on-going basis. Given the time pressures placed on the members of the Congressional delegation, considerable behind-the-scenes work takes place at the staff level and our lobbyists work hard to maintain and build strong relationships with delegation and committee staff. In doing so, they are able to gain access to these staff at critical points in the legislative process and to remind them of the City's funding priorities.

Mayor Worley explained Ball-Janik's support during a trip to Washington. He felt they are instrumental in keeping Asheville's funding priorities in the forefront.

### **Community Meeting – June 29, 2004 – North Asheville Community Center**

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.

### **TRANSPORTATION ENHANCEMENT GRANT APPLICATIONS**

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Mr. Dan Baechtold, MPO Coordinator, said that this is the consideration of a (1) resolution authorizing the City Manager to apply for grants from the N.C. Dept. of Transportation (NCDOT), through the Transportation Enhancement Program, for New Haw Creek Road Sidewalk Improvements - Phase II, and for the French Broad Greenway Trail along Riverside Drive; and (2) resolution for City sponsorship of grant applications from Pack Square Conservancy and Mountain Housing Opportunities.

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Every two years, the NCDOT puts out a call for applications for transportation enhancement funds. These are federal funds for projects in specific categories such as pedestrian and bicycle improvements, streetscape improvements, beautification, and water quality improvements. If a project is awarded through the state selection process, costs are reimbursed at a rate of eighty percent (80%). The local match is twenty percent (20%).

Any public or private agency may apply for these funds, but each application must have a local government agency as the sponsor. In past years, the City of Asheville has received enhancements funds for projects such as the Urban Trail and the Weaver Boulevard Greenway. In 2002, the City received a grant for sidewalk improvements on New Haw Creek Road. Also in 2002, the City sponsored applications from the Pack Square Conservancy and Mountain Housing Opportunities. All three of these projects were partially funded in 2002. Construction will begin on these projects this year.

This year, the City of Asheville has prepared two applications: 1) Phase II of sidewalk improvements on New Haw Creek Road. 2) French Broad Greenway Trail on the Progress Energy site located along Riverside Drive. If awarded, the City of Asheville will provide the local match of twenty percent (20%) for both of these projects. If both projects are funded, the total City of Asheville match required would be \$43,000.

In addition to the application from the City of Asheville, both the Pack Square Conservancy and Mountain Housing Opportunities are applying for additional funding. The City of Asheville would be the local government sponsor for these applications. The City is not responsible for the local match for these two projects. The match will be provided by the applying agency. For these applications, the City of Asheville will be responsible for maintenance of any improvements that fall within public right of way, and may provide staff support for project implementation.

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The NCDOT will review applications and award Enhancements Grants in the Fall of 2004. Listed below are summaries of the four grant applications presented for approval.

1. New Haw Creek Road Sidewalk Improvements – Phase II

City of Asheville Match: \$ 25,000

Enhancement Funds Requested: \$ 229,200

Total Project Cost: \$ 354,200 (Total project cost with other match sources)

Project Description: The proposed project entails construction of sidewalk, curb, gutter and storm drainage along the south side of New Haw Creek Road from Arco Road west to the end of the NCDOT right-of-way. This project is adjacent to a Phase I project partially funded by a 2002 Enhancement Grant.

2. French Broad Greenway Trail on Progress Energy Site – Riverside Industrial District

City of Asheville Match: \$ 18,000

Enhancements Funds Requested: \$ 72,000

Total Project Cost \$ 90,000

Project Description: This greenway path project will complete another portion of the French Broad River Greenway that will be the primary north-south bicycle and pedestrian route in the City of Asheville. This 700 linear foot bike path segment will eventually be united with other greenway routes along the French Broad River and throughout the City of Asheville. Progress Energy currently owns the property that will be conveyed to the City of Asheville in 2004. The project site is bounded by Riverside Drive to the East and the French Broad River on the west. The property is comprised of existing Jean Webb Park and an undeveloped parcel that will be developed as a municipal park in the future.

3. Pack Square Streetscape Improvements – Phase II and III

City of Asheville Match: None

Match by Pack Square Conservancy: \$ 69,949

Enhancements Funds Requested: \$ 279,796

Total Project Cost: \$ 349,745

Project Description:

Phase II – Intersection of Biltmore Avenue and Patton Avenue to the west of Pack Square. Improvements include realigning the current on-street parking from diagonal to parallel spaces in an effort to make the intersection safer. Work will be comprised of new crosswalks located at the corners, sidewalks, curbing, and asphalt paving.

Phase III – Spruce Street, bisecting the center of the new park. This 155-linear foot segment of street will be resurfaced with decorative pavers to indicate it as a special route and encourage slower speeds by vehicular traffic. The pavers will also allow the space to be used as a pedestrian plaza during special events in the park. Other improvements include new curbs, sidewalks, and ADA ramps to work with the new layout and increase safety.

4. Clingman Avenue Streetscape and Greenway – Phase II

City of Asheville Match: None

Match by Mountain Housing Opportunities (and other sources): \$ 57,780

Enhancement Funds Requested: \$ 231,120

Total Project Cost: \$ 288,900

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Project Description: This project proposes a continuation of streetscape improvements along the Clingman Avenue and Haywood Road Corridor. This project includes the design and construction of a single-lane, traffic circle at the intersection of Haywood Road and Roberts Street, which will include sidewalks and pedestrian crossings. A second component of this project includes the design and layout of a greenway on the southern side of the West Asheville RiverLink Bridge over to Haywood Road. The greenway will include barriers separating pedestrians from vehicular traffic movement. Along with the greenway, the pedestrian area will feature benches, a sun shelter and safe crosswalks. The West Asheville RiverLink Bridge, one of three crossings over the French Broad River serving west Asheville has been traditionally the favorable route for pedestrian and bicycle transit commuters to and from downtown. These changes will enhance the existing corridor and reinforce its identity as Asheville's gateway to the riverfront and West Asheville. The proposal will create a safer intersection solution at Haywood Road and Roberts Street and provide over 1,000 feet of on-road greenway into west Asheville.

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CONSIDERATIONS:

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- If awarded, these grants will bring in federal funds to complete transportation projects in the City of Asheville.
- A local cash match of 20% is required on all of the projects. The City of Asheville would only be responsible for the cash match on two of the projects.
- This is a competitive process across the State of North Carolina. If the money is not awarded to local projects, it will be spent on enhancements in other Counties.
- Staff time will be required to manage and implement the projects.
- City of Asheville will assume maintenance responsibilities for the improvements that are installed. In the case of Pack Square improvements, however, the Conservancy is taking steps to provide for long-term maintenance.

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City staff recommends City Council (1) approve a resolution authorizing the City Manager to apply to the State of North Carolina for grant applications for New Haw Creek Road Sidewalk Improvements – Phase II, and for the French Broad Greenway Trail; and (2) approve a resolution designating the City of Asheville as the local government sponsor for grant applications for Pack Square Streetscape Improvements – Phase II and III, and Clingman Avenue Streetscape and Greenway – Phase II.

Upon inquiry of Councilman Newman, Mr. Baechtold explained how the funding for our division is decided, which limits the number and size of projects the City of Asheville can apply for. Parks & Recreation Director Irby Brinson also explained how the City of Asheville decides which projects move forward. He said that the projects have to be built to NC DOT specifications so they could not submit the Reed Creek Greenway as one of the projects, due to the topography around the Creek.

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

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UPDATE ON THE JOINT PLANNING AREA

City Attorney Bob Oast updated City Council on the progress of City staff discussions with the Buncombe County staff regarding the Joint Planning Area (JPA), and the joint meetings between the City's Planning and Zoning Commission and the Buncombe County Planning Board, also regarding the JPA.

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Legal Issues. Back in February, the City Attorney prepared a draft of an interlocal agreement for the implementation of the JPA designation and ordinance adoption. This draft was based on discussions with Council and among the City and County staffs.

The County staff has reviewed the draft agreement and noted a few procedural and other issues that will need to be addressed. These were covered in my March 17, 2004, report to Council. One of the issues was transmitting the JPA ordinances from the planning agencies of the City and County to the governing boards. The draft JPA interlocal agreement provided for

recommendations to be forwarded from the City and County planning commissions to the Council and Commissioners within a certain time period, or it would be forwarded automatically. Under State law applicable to counties; however, the County planning board must certify the ordinance to the Commissioners before the Commissioners can act on it. There is no parallel requirement for cities.

Largely for this reason, efforts have been refocused on working with the two planning boards to arrive at some agreement as to the ordinance to be forwarded to the governing bodies. The City and County staffs and planning commissions have continued to meet with this end in mind, but have failed to come to agreement yet on some issues that are important to both the City and the County. It is fair to say that those meetings have been – of necessity – detail-oriented discussions, and that they have taken considerable time, involving review of multiple drafts.

Planning & Development Director Scott Shuford said that the City Planning and Engineering staff continue to meet periodically with County staff and with both the City and County planning boards. The planning boards are meeting jointly at least once a month. They are methodically going through the draft JPA ordinance, making progress in both understanding its provisions and in making adjustments to it for both practicality and to meet certain basic policy goals (such as the JPA ordinance should generally not be more strict than the Unified Development Ordinance (UDO)).

City staff continues to hold firm on a few critical issues in our discussions with both the County staff and planning boards. These issues are listed below. Mr. Shuford will keep Council apprised of anything that appears to be moving us off these key issues.

- Large-scale development needs a heightened level of review to ensure that its infrastructure impacts are mitigated (including traffic impact analysis), that it generally fits the community character of the area where it is proposed to be located, and that its environmental impacts are addressed.
- Policy-related matters, such as Board of Adjustment (BOA) makeup, procedures for amending the zoning map and text, initial size and future expandability of the JPA, etc. must be consistent with earlier policy-level agreements between the Council and Commission.
- Infrastructure standards must be sufficient to ensure appropriate durability and function consistent with anticipated ultimate City responsibility for this infrastructure, with building and life-safety codes, with existing and anticipated future federal mandates, and with City Fire Insurance Service Office (ISO) ratings.

City staff is starting to see the need for a few additions to the JPA to provide greater flexibility for those property owners wanting to do higher quality development. We may shortly be broaching the idea of including opportunities for conservation subdivisions (where overall development is concentrated in a relatively small portion or portions of the property, allowing the remainder of the site to be undisturbed) and a City UDO overlay zone (where a developer could request review under the provisions of the UDO rather than the JPA code).

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Assuming that our differences with the County can be worked out, we will come to Council with a revised draft of the JPA interlocal agreement that reflects a new timetable for adoption and implementation, and addresses the other procedural issues that have been identified. At that time, the ordinances should be ready for transmittal to the governing boards. In essence, then, the planning boards are already deep into one of the phases of initial adoption that are outlined in the draft interlocal agreement. Accordingly, at least one of the steps outlined in the draft interlocal agreement for initial adoption of the JPA will have been completed, and it may be possible to remove it from the agreement.

Discussion surrounded a possible deadline of bring the interlocal agreement to the County Commissioners and City Council. City Attorney Oast explained that City Council deals with zoning every week, but it is a different concept for the Commissioners. Mr. Shuford felt that the meetings have been constructive and there has been no foot-dragging.

Vice-Mayor Mumpower wondered, since there are some key issues still pending, if it would be beneficial to bring those key issues to the Council to provide some policy support. He understands that the City is taking the lead role and being creative, positive and proactive, but suggested if a compromise can't be reached within a reasonable period of time (perhaps 30-60 days) that staff report back to Council for additional policy discussion.

Councilman Newman felt that as long as staff feels the meetings are productive, he would not be in favor of giving staff a different direction. However, if there is an impasse, then he felt a discussion on how to proceed would be warranted.

Councilman Dunn wanted to make sure that we don't bog ourselves down with too many regulations, some of which are already covered by various other Codes, e.g. State Building Code.

Mr. Shuford assured Council that if they feel they need additional policy direction they will bring the issues back to Council.

At 4:20 p.m., Mayor Worley announced a short break.

### **CITY COUNCIL'S STRATEGIC OPERATING PLAN**

Mayor Worley said that this is the result of Council's retreat and planning sessions over the past several months culminating into the development of Council's vision and Strategic Plan. He said there was great Council participation in that process.

There was discussion on the various goals, objectives and tasks, which included fine-tuning, additions, corrections, suggestions, etc. which were noted by City staff for revision prior to the next formal meeting.

Vice-Mayor Mumpower said that he would be voting against the Plan. He pointed out that when you look at specific content that is in the Plan, to sign off on it requires that we all support things that we don't necessarily agree with. Council as a whole has decided that we are willing to compromise or bend in certain areas in order to have a collective voice, which takes the City forward. He is not sure that that approach serves us or that we will honor it. He is hard-pressed to understand to what good place this document is going to take us. He recognizes the work that people have put into it, but he sees an effort to pull us together on paper that has not been supported in action and will not be supported from this point forth. He felt this document is about building a bigger government and it dances around services and emphasizes some good things and some not good things. He personally would like to see Council have a strategic plan, but he thinks it should be one that emphasizes what we really do – core services (things that

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people can't do for themselves), and not these other activities that may have value but, to him, just expand the cities government. An example is the discussion we have had about drug interdiction and public safety. He feels this document goes around those core services and not having an emphasis on those at all. He did emphasize that this is not personal and he does not feel bad toward any Council member because we disagree. But, he does feel it's a responsibility for all of Council to voice their philosophical position and then let the process move forward by a vote, which the majority then takes it forward.

Councilman Newman questioned what, in the Plan, is inappropriate for the City to deal with or outside the realm of what is Council's job is to do.

Councilman Dunn agreed that the document is not perfect and will always be subject to change. However, he does think the document contains basic thoughts and good ideas. He did stress that there will never been a united voice on every issue.

Mayor Worley echoed Councilman Dunn's thoughts. He also felt it goes chart a good future for Asheville.

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.

### **BOARD/COMMISSION VACANCIES**

It was the consensus of City Council to direct the City Clerk to prepare the proper paperwork for an appointment to the Civil Service Board.

It was the consensus of City Council to postpone taking action on the Downtown Commission vacancy until June 15, 2004, in order to give the Commission an opportunity to make a recommendation.

It was the consensus of City Council to direct the City Clerk to arrange interviews for two vacancies on the URTV Inc. Board of Directors.

### **MISCELLANEOUS**

After a brief discussion, it was the consensus of City Council to have the City Attorney bring to them the draft management

agreement on URTV in order for Council to give input and direction, prior to any negotiations with the URTV Inc. Board of Directors.

**CLOSED SESSION**

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At 5:40 p.m., Councilman Dunn moved to go into closed session for the following reasons: (1) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including lawsuits involving the following parties: Carolina Power & Light Company, City of Asheville, Lamar Outdoor Advertising, and Morris Communications d/b/a Fairway Outdoor Advertising. The statutory authorization is contained in G.S. 143-318.11(a)(3); and (2) 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). This motion was seconded by Councilwoman Jones and carried unanimously.

At 7:18 p.m., Vice-Mayor Mumpower moved to come out of closed session. This motion was seconded by Councilwoman Jones and carried unanimously.

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**ADJOURNMENT:**

Mayor Worley adjourned the meeting at 7:18 p.m.

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CITY CLERK

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MAYOR