

Tuesday - December 16, 1997 - 5:00 p.m.

Regular Meeting

Present: Mayor Leni Sitnick, Presiding; Vice-Mayor Edward C. Hay Jr.; Councilman M. Charles Cloninger; Councilman Earl Cobb; Councilwoman Barbara Field; Councilman Thomas G. Sellers; and Councilman O.T. Tomes; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Cobb gave the invocation.

I. PROCLAMATIONS:

A. PRESENTATION BY ALBEMARLE PARK MANOR GROUNDS ASSOCIATION

Mr. Rich Mathews, representing the Albemarle Park Manor Grounds Association briefed Council on the background of Albemarle Park's Centennial. He urged Council to celebrate their Centennial with them and presented each member with a ticket for the upcoming house and grounds tour. He also thanked Council for the opportunity to participate in the neighborhood matching grant program.

B. HOUSING AUTHORITY PRESENTATION

Ms. Annette Coleman, Chairman of the Housing Authority Board of Directors, presented City Council with two checks totaling \$76,749.82 for payment in lieu of taxes. This payment brings their total to \$1.1 million through 1996. She thanked Council for all of their support and assistance in helping the Housing Authority in its goal to provide affordable housing to our residents in the community.

II. CONSENT:

A. RESOLUTION NO. 97-244 - RESOLUTION APPROVING THE DISPOSITION OF REAL PROPERTY POLICY

Summary: The purpose of the Real Property Disposition Policy is to provide a clear and consistent process for the disposition of City-owned real estate which complies with applicable federal and state regulations; is understandable, accessible and fair to the general public; and maximizes the return to the City considering both monetary and public benefit.

The objective is to assign responsibility within the City for coordinating the disposition of real property, and to establish requirements for determining the availability of real property for disposition; procedures for carrying out the disposition of real property; and, conditions for participation by real estate brokers in the sale of City-owned real property.

Under the proposed policy the Director of Planning & Development will be responsible for maintaining an inventory of City-owned property and coordinating the sale of same.

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B. RESOLUTION NO. 97-245 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH SMITH PREMIER PHARMACY PLAN INC. TO ADMINISTER ITS EMPLOYEE DRUG BENEFIT CARD

Summary: The consideration of a resolution authorizing the City Manager to sign an agreement with Smith Premier Drug Company to administer the Employee Benefit Drug Card.

Since 1994 the City has contracted with Pharmacy Network National Corporation to administer its drug card. In the past several years there have been several problems with the administration of that card. Attempts to rectify those problems have been only partially successful.

In October, 1996 a letter was given to the current carrier outlining specific problem areas that needed to be addressed to continue its administration of the City's card. As of this date only about half of the problems have been corrected.

Further, since the advent of the card program the City has seen its drug costs increase at a fairly high rate. The proposal from Smith Premier Drug shows approximately a \$90,000 per year reduction in plan costs over the current administrator largely based on administrative fees, and drug costs.

One other proposal was considered, but it was marginally more expensive than the recommended contract, and did not adequately address some elements of cost relating to the program.

The cost for this contract is fully budgeted in the employee benefit line item, and will require no additional appropriation of funds.

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C. RESOLUTION NO. 97-246 - RESOLUTION APPOINTING A MEMBER TO THE AMERICANS WITH DISABILITIES ACT COMPLIANCE COMMITTEE

Summary: At the City Council worksession held on December 9, 1997, the City Clerk was instructed to prepare the proper paperwork to appoint Councilman Earl Cobb as a member of the Americans with Disabilities Act Compliance Committee to serve a term according to the length of his Council term of office.

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D. RESOLUTION NO. 97-247 - RESOLUTION APPOINTING A MEMBER TO THE POLICE OFFICERS & FIREFIGHTERS DISABILITY REVIEW BOARD

Summary: At the City Council worksession held on December 9, 1997, the City Clerk was instructed to prepare the proper paperwork to appoint Councilman Cloninger as the Chairman to the Police Officers & Firefighters Disability Review Board to serve a term according to the length of his Council term of office.

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E. ORDINANCE NO. 2441 - BUDGET AMENDMENT TO ALLOW THE STATE CONTROLLED SUBSTANCE EXCISE TAX BE APPROPRIATED TO ENHANCE LAW ENFORCEMENT ACTIVITIES

Summary: The consideration of a request that \$30,000 of the State Controlled Substance Excise Tax funds be appropriated to enhance law enforcement activities in fiscal 1997/98.

The City receives a share of the proceeds from the State Controlled Substance Excise Tax. To date, approximately \$37,000 has been received. These funds cannot be used to fund Police Department General Operations and must be appropriated to enhance law enforcement activities. The Police Department has identified specific uses for approximately \$30,000 of these funds, at this time. One use will be the preparation of an A.P.D. recruitment video. This action will establish a special appropriation within the Police Department Administration budget in the amount of \$30,000. Use of the funds will be monitored to ensure compliance with State requirements.

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F. ORDINANCE NO. 2442 - BUDGET AMENDMENT TO ADJUST EXPENDITURES IN THE FISCAL YEAR 1998 WATER RESOURCES DEPARTMENT BUDGET

Summary: The consideration of adjusting budget expenditures in order to more accurately match projected revenues for the FY 1998 Water Resources Department budget.

Within the last several weeks it has come to staff's attention of a need to make an adjustment to the FY 1998 Water Resources Department's budget. City staff continually monitors the budget to ensure that revenues and expenditures fall within an acceptable range during the budget year. Based on that review, staff recommended several adjustments to the expenditure side of the budget. These recommendations were presented to the Water Authority at their meeting on November 18, 1997. The Water Authority approved staff's recommendation.

As background, during the preparation of the FY 1998 budget, revenues for utility charges were projected to be \$18,253,660.00. The actual utility charges in FY 1996 were \$15,510,505.00 and for FY 1997 \$15,987,651.00. As a result of the review process, staff forecasts revenues in the current fiscal year to be \$16,307,404.00. Staff therefore recommends reducing the revenue budget to meet the forecast above.

A significant portion of the overstated revenue is as a result of a billing adjustment error that occurred during the prior year when the new billing software system was brought on-line. The old system and new system were run in parallel for approximately thirty (30) days when the old system went down and the new system had to be operated alone. The amount of the adjustment error used in the projections for utility charges was in the amount of \$783,484.00. This amount projected across the full year resulted in approximately a \$2.2 million over-projection of total revenue for FY 1997/1998.

Another item that affects the budget is the requirement as a part of the bond covenants to have 120 percent of the debt service. The additional twenty (20) percent "cushion" amounts to the need for an additional \$426,400.00.

Finally, an error in the computation estimated for the cost allocation plan resulted in a shortfall of funds. This error resulted in an amount of \$229,000.00.

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In order to meet the revised forecast revenue projections, the expenditure side of the budget would also need to be adjusted. The net budget adjustments consist of approximately \$2.2 million. Over the past month, City staff have begun a review of the monthly reports and yearly trends compared to first quarter data. These trends and forecasts are consistent with the most recent revenue projections provided by the City Finance Department. Staff met with Division Heads in the Water Resource Department to outline the budget adjustments necessary and solicit their comments, support and suggestions.

As a result of those meetings and detailed analysis by Water Resource Department staff, the following strategies were utilized in order to identify budget adjustments:

- The filling of vacant positions was postponed with the exception of one (1) meter reader position which was critical to on-going needs in this Division;
- The purchase of new capital equipment was delayed except for several pieces of equipment which were necessary due to safety concerns including backhoe trailers and portable lights;
- Various other line items were reduced based upon historical expenditure in the line item accounts;
- Capital Projects were analyzed in order to determine if any projects could be delayed until future years.

In moving forward with this strategy, it was our goal to not adversely affect any service programs and continue the high level of service the City is committed to providing. Several other line items which have not been reduced were identified and discussed with Division Heads as being essential that we not exceed the budgeted funds. Examples of these pertain to overtime and materials line items. Additionally, the Department has begun to examine various reengineering areas within the Department to provide increased productivity and try to reduce costs by trying to "work smarter".

City staff also looked at a couple of industrial water accounts which have announced closings. Even though these two (2) accounts would have no significant impact on the current year's revenues, staff reviewed these to determine future impact. In discussions with officials at Gerber, it is my understanding that they plan to close their production facility on April 3, 1998. Currently, the City receives approximately \$400,000.00 per year in water revenues from the water use by Gerber. Therefore, the impact for FY 1998 is projected to be approximately \$100,000.00 for the three (3) months they are expected to be closed during this budget year. The other industry which has a lesser impact is National Linen. It is my understanding that this facility closed on November 1, 1997. However, the water usage from this facility is approximately \$48,000.00 per year. Therefore, the revenue impact for FY 1998 is projected to be \$32,000.00. Staff will take these into consideration as a part of the revenue projections for next year.

The Regional Water Authority has reviewed and approved these budget adjustments. Staff will be glad to respond to any questions regarding the proposed budget adjustments. Upon approval of the necessary budget adjustments, the budget will also require approval by Buncombe County consistent with the agreement dated November 11, 1995.

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G. MOTION RELATIVE TO ENDORSING THE 1997 BELE CHERE ANNUAL REPORT

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H. MOTION SETTING A PUBLIC HEARING ON JANUARY 13, 1998, TO ESTABLISH A NEW THRESHOLD FOR THE PREPARATION OF TRAFFIC IMPACT ANALYSES

I. MOTION SETTING A PUBLIC HEARING ON JANUARY 13, 1998, TO REZONE PROPERTY ON GLENDALE AND SPRINGVALE AVENUES FROM RM-16 TO CI

J. MOTION SETTING A PUBLIC HEARING ON JANUARY 13, 1998, RELATIVE TO LEVEL THREE PLANNING REVIEW FOR THE MEADOWS APARTMENTS- PHASE II LOCATED ON ASCENSION DRIVE IN WEST ASHEVILLE

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

Councilwoman Field moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Tomes and carried unanimously.

III. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER REZONING PROPERTY ON AZALEA ROAD FROM RS-2 RESIDENTIAL SINGLE FAMILY LOW DENSITY DISTRICT TO RIVER DISTRICT

Mayor Sitnick opened the public hearing at 5:07 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that the original request was to rezone two lots on Azalea Road from RS-2 Residential Single Family Low Density District to River District.

The two parcels of land (PIN Nos. 9668.00-42-4133 and 9668.18-31-2659) are currently vacant. One has been used for placement of rock and soil and filled well above the floodplain and the other adjacent parcel (still in the floodplain) is used as access. However, the only access to these two parcels of land is across a 20 foot bridge that has been indicated to be substandard and on land not owned by the petitioner. This adjacent land is owned by the Blue Ridge Parkway which has not given permission to rezone their property and opposes the rezoning of the two lots. This area is basically farm land and open space and not suitable for any high intensity development. Information received from the Technical Review Committee revealed the infrastructure (water, sewer and street) is basically inadequate for the type of development permitted in the River District. However, MSD has indicated that a 48-inch sewer line does exist on the north side of Azalea Road across from this site. There is a private sewer line that exists underneath the bridge that runs to The Cove, but it would be the developer's responsibility to get permission to tie into that private line. The 2010 Plan designates this area to be parks and open space.

The Planning staff has reviewed the request and recommended to the Planning and Zoning Commission to deny the request. At their November 5, 1997, meeting, the Planning & Zoning Commission voted 5-2 to deny the rezoning request.

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On November 6, 1997, the petitioner appealed the Planning & Zoning Commissioner's decision to City Council.

On December 16, 1997, a letter was received by the petitioner's attorney withdrawing "PIN No. 9668.00-42-4133 from his rezoning application out of deference to the Blue Ridge Parkway and to show his intentions to work with RiverLink on turning this area into a river park." The letter also reads that it is his "client's intentions to remove the bridge spanning under the Blue Ridge Parkway Bridge as primary access to the property designated as PIN No. 9668.18-31-2659. Instead, my client intends to construct a bridge across the Swannanoa River to the City of Asheville's specifications, and dedicate that bridge to the City. That bridge could possibly be used by the City's Parks and Recreation Department in their plans for soccer fields on the adjoining land now being negotiated by the City for purchase."

Mr. Ownbey answered various questions from Council, some being, but not limited to, how the Blue Ridge Parkway Overlay relates to this property, if the property would be subject to a traffic impact study and who would make the improvements if the study showed a need for improvements, if floodplain restrictions would apply to this property, if the property is visible from the Blue Ridge Parkway, why would someone want to put a single family home on that property since it is so close to a railroad track, what kind of buffering would be required if the property were developed, and why the petitioner is requested the River District opposed to a Commercial District.

Upon inquiry of Councilwoman Field about this being a possible spot zoning, City Attorney Oast said that only a court can determine whether something is spot zoning or not. He felt that it depends on the facts and circumstances on each case. He has looked at some case law, and under at least one case on facts very similar to this (Godfrey v. Union County), the courts have found spot zoning.

Mayor Sitnick said that City Council has talked about developing the Lake Craig property which would probably be using Azalea Road for access. She questioned how would the developing of the Lake Craig property impact the rezoning of this property. Mr. Ownbey responded that it would depend on the development and whether the City would upgrade Azalea Road since it is a City street.

When Councilwoman Field asked about the amount of traffic Azalea Road could carry, Mr. Ownbey said it could carry about 4,000 cars a day if it were a standard City two lane road (22 feet wide). However, Azalea Road is maybe 16-18 feet in some places.

Mayor Sitnick asked about the reasoning behind the staff's and the Planning & Zoning Commission's denial. Mr. Ownbey said that staff felt it was inappropriate area for any kind of River District development. The 2010 Plan calls for this area to be an open and green space area for low intense development.

Discussion then surrounded the impact of rezoning this property in conjunction with the Lake Craig property, noting that if the City does develop the Lake Craig property for soccer fields, additional traffic would be on Azalea Road.

Councilman Tomes wondered how the City could justify developing parcels adjacent to this piece of property for recreational activities which will have a large gathering and deny the rezoning of this property because of the amount of traffic it will generate on Azalea Road.

Councilman Cloninger pointed out that the City is only speculating about the Lake Craig property.

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Mr. Craig Justus, attorney representing the petitioner Darius Corbin, urged City Council to rezone this property noting that the sole issue is whether this piece of property is suitable for the River District. He said that the purpose of the River District is set up to provide flexibility to turn unproductive land that is near the river into productive land. The River District provides incentives for those owners to promote public access and greenways that protect the river resources as well as to provide opportunities for people to actually come to the river and use it. This is a 20 acre tract that has problems being used for residential development. The Planning & Zoning Commission even said that this property is really not suitable for any kind of residential use since it is located close to the highway and the railroad track. He felt the ordinance has built in protections to the river resource as well as promoting opportunities from people to come down and use the river. He said that the 2010 Plan calls for this area to be parks and open space for the reason of holding property for the Lake Craig recreational soccer fields. He felt that an open space and park is not providing any productive uses for the City - no tax benefits and unless the City has the money to buy it, it's not providing any benefits to the public to use it. Regarding traffic, no matter if the property remains zoned RS-2 or River District, they will be problems on Azalea Road. He stressed that the ordinance is built to address these situations - the traffic impact study requirement. He said the buffer overlay is set up and it provides for height restrictions, but it also provides for buffering. He passed out pictures noting that while you're on the Blue Ridge Parkway on a bridge, you can only see the property for two seconds which property is about 1/4 mile away. He felt that with the buffer overlay district that exists to protect the Parkway, that that would be sufficient to address any visibility questions the Parkway may have. There is a large power line that runs through the middle of this property and to move the power line and acquire the easements to move the power line would cost \$305,000 - which is another reason why it's not suitable for residential. The N.C. Dept.

of Transportation reports that Azalea Road should be able to handle 3-5,000 vehicles per day unless they arrive and depart at the same time.

The following individuals spoke against the rezoning of this property for several reasons, some being, but not limited to: the neighborhood has submitted a petition from residents on Azalea Road, Gash Farm Road and Gashes Creek Road opposing the rezoning because of the traffic impact; Azalea Road is very narrow, windy, has blind curves, is caving in at some points and no shoulders; the development proposed is not just a flea market, but a big commercial business; flea markets should not be located in residential areas; the Dreamland Drive-In flea market is only a few miles down the road; the Dreamland Drive-Inn already has a lot of traffic congestion; the rezoning will add a tremendous traffic impact on Swannanoa River Road which is already a busy road; traffic safety of children who ride bikes at Recreation Park and people who bring their pets by the River; when tourists drive on the Parkway, we don't want them to see a flea market; this crossing is the only open area viewed along the Parkway in the Asheville area and this is significant to the Blue Ridge Parkway because there are only four river crossings in 470 miles of the Parkway; and some homes can see this property.

Nancy Richards, 23 Gash Farm Road (passed out a newspaper article)

Davon Heath, 15 East Hawthorne Drive - Beverly Hills Area (passed out pictures in front of Dreamland Drive-Inn showing congestion)

Susie Lapson, 13 Gash Farm Road (passed out pictures showing the view from the Blue Ridge Parkway)

Laura Rotegard, Community Planner representing the Blue Ridge Parkway

Brian McKenna, 137 Beverly Road in Beverly Hills

City Attorney Oast said that Council has heard indications on what the property will be used for. He reminded Council that if they rezone the property, any use in the River District is allowed. Councilman Cloninger read the uses allowed in the River District.

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Upon inquiry of Vice-Mayor Hay, Senior Planner Gerald Green briefed Council on the status of the design guidelines for the River District.

Upon inquiry of Councilwoman Field, Assistant City Manager Doug Spell indicated that the parking lots can be an impervious surface like gravel.

Ms. Bette Jackson, 128 Beverly Road and President of the Beverly Hills Neighborhood Association, said that when the Lake Craig property issue was first in the paper she spoke with Ms. Julia Cogburn and they agreed that there would be a team effort to work on the traffic patterns. She felt that they will be part of the planning process.

Mr. Darius Corbin, petitioner, presented City Council with a petition containing 8 names of people who live within 400 feet of the proposed rezoning which "do not oppose the flea market location on Azalea Road or the rezoning."

Mayor Sitnick closed the public hearing at 6:20 p.m.

Mayor Sitnick said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Sellers moved to rezone PIN No. 9668.18-31-2659 from RS-2 to River District. This motion was seconded by Councilman Tomes.

Councilman Sellers said that he felt that even though he is concerned about the traffic and respects the neighbors concerns, he feels that with the proper buffering the area is suitable for a River District rezoning.

Vice-Mayor Hay felt that there was a lot of debate about how to design the River District during the UDO process and Council ended up with a split vote. He was concerned that any thing can go in the River District and there is no other District in the UDO that is as wide-open as the River District.

Councilman Cloninger felt this is an issue of viewshed protection for the Blue Ridge Parkway. He felt that the previous Council took aggressive action to try to protect the viewsheds along the Parkway and if Council were to rezone this property that would be inconsistent with the previous efforts made to protect the scenery along the Parkway.

Councilman Cobb felt that while the property is not developed yet, with the growth in Asheville we need to protect our neighbors.

Mayor Sitnick said that she has great respect for the 2010 Plan in that it helps create our visions for the future. She too was concerned about the traffic on Azalea Road and will also be concerned with any potential development of the Lake Craig property as well. She expressed concern about the infrastructure and given the high intensity of the development proposed, she felt it would be a burden on the existing infrastructure already there.

Councilwoman Field stressed that Azalea Road needs to be looked at for improvements regardless what happens with this rezoning request.

Mayor Sitnick then called for a show of hands on Councilman Seller's motion. Said motion failed on a 3-4 vote, with Councilwoman Field and Councilmen Sellers and Tomes voting "yes" and Mayor Sitnick, Vice-Mayor Hay and Councilmen Cloninger and Cobb voting "no".

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B. PUBLIC HEARING TO CONSIDER AN ECONOMIC DEVELOPMENT APPROPRIATION TO LUSTAR DYEING AND FINISHING LOCATED AT 144 CARIBOU ROAD

RESOLUTION NO. 97-248 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH LUSTAR DYEING AND FINISHING TO PARTICIPATE IN CAPITAL IMPROVEMENTS

Mayor Sitnick opened the public hearing at 6:28 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. John Scitalia, City Development Director, said that Lustar Dyeing and Finishing, Inc. is looking to modernize and expand its manufacturing facility located at 144 Caribou Road. Plans call for the addition of 6,000 sq. ft. to the existing building and the major purchase of machinery and equipment in order to increase production. The company plans to hire an additional 20 employees by July 1, 1998. Wages will average \$12.50 per hour.

The firm plans to invest a total of \$3.6 million within six months in the renovation and equipment upgrades for this project.

Staff recommends that City Council provide a grant under the terms and conditions set forth in the City's

current economic development incentive policy. Specifically, it is recommended that the award be limited to no more than the maximum allowed under the current guidelines, estimated at approximately \$15,390. per year for five years, for a total of \$76,950 based on current assessments.

He went through the company profile by stating that they (1) are an international manufacturer of knit fabrics; (2) are a subsidiary of Ge-Ray Fabrics from New Jersey; (3) were established in 1972; (4) have been in Asheville for nine years; (5) have a current employment of 295 full-time employees; and (6) have an annual payroll of \$7.8 million.

He then explained their request of \$3,600,000 which includes a capital equipment expansion of 6 dye machines - \$1,989,000; dryer, compactor - \$1,107,000; and the expansion of their existing facility of a 6k sq. ft. addition - \$500,000.

He reviewed their current revenue of real property totaling \$1,632,200 (land - \$302,700 and buildings - \$1,329,500); personal property totaling \$5,362,270 for a total assessed valuation of \$6,972,950. The City tax is \$39,746.

He explained the following grant and projected revenue:

Assessment One Year Five Year

\$3.6 M x. 0057 \$20,520 \$102,600

Level 1 (75%) \$15,390 \$ 76,950

*Act. Tax Paid \$44,876 \$224,380

*Current taxes of \$39,746 plus after-grant tax of \$5,130

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Combined Assessment (end of grant period)

\$10,572,950 (assessed valuation)

\$60,266 taxes (plus 51.6% change)

He outlined the additional benefits being job creation (direct new jobs - 20; direct and indirect - 32); wages \$500 (\$469.14 ESC); community earnings \$1,144,000; cost of job - \$3,847.50 and economic return per dollar grant - \$14,87.

Mr. Scaralia answered various questions from Councilman Tomes regarding what standards are required to qualify for the grant, and what instruments have been put in place to by the City to ensure that the standards are met.

Councilman Tomes said that he has been somewhat disenchanted with incentive grants, especially on the part of government, because they don't actually address the problem of trying to enhance the economic base of people who are in the workforce. He feels that not only is there a responsibility, but there is some sense of accountability that we must be sensitive to as we deal with grants.

Mayor Sitnick asked that the City Manager furnish all Council members with a copy of the economic development policy.

Mayor Sitnick was pleased that this grant will benefit a local company which provides jobs for Asheville

residents. When a company comes in from another area, she hoped they would hire a large percentage of local people and not just bring a lot of their workforce.

Vice-Mayor was pleased that the first grant is to a local company.

Mr. Larry Casper, General Manager of Lustrar Dyeing and Finishing, explained their workforce and thanked Council for their support with this grant.

Mayor Sitnick closed the public hearing at 6:49 p.m.

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

Councilwoman Field moved for the adoption of Resolution No. 97-248. This motion was seconded by Councilman Sellers and carried unanimously.

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C. PUBLIC HEARING TO CONSIDER THE FILING OF AN APPLICATION WITH THE FEDERAL TRANSIT ADMINISTRATION FOR A TRANSIT OPERATING ASSISTANCE GRANT

RESOLUTION NO. 97-249 - RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE FEDERAL TRANSIT ADMINISTRATION

Mayor Sitnick opened the public hearing at 6:50 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

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Mr. Carl Ownbey, Urban Planner, said that this grant will assist in offsetting the operating cost of the Asheville Transit Authority. These funds will be used for operating the fixed route transit system and assists in funding the City's comparable paratransit program operated under "BOOST".

The estimated net project cost is \$1,362,741. The federal share is estimated at \$367,091, the local share is estimated at \$813,485, and the state share is estimated at \$182,165.

Mayor Sitnick closed the public hearing at 6:51 p.m.

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

Councilwoman Field moved for the adoption of Resolution No. 97-249. This motion was seconded by Councilman Cloninger and carried unanimously.

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D. PUBLIC HEARING TO CONSIDER THE VOLUNTARY ANNEXATION OF PROPERTY LOCATED NORTH OF THE HOLT AT BILTMORE PARK (SECTION 10 OF BILTMORE PARK)

ORDINANCE NO. 2443 - AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO PROPERTY LOCATED NORTH OF THE HOLT AT BILTMORE PARK (SECTION 10 OF BILTMORE PARK)

Mayor Sitnick opened the public hearing at 6:52 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner, said that Biltmore Farms, Inc. has submitted an annexation petition for a 3.9 acre area located north of Holt Lane identified as Biltmore Park, Section 10. The applicant has requested a six month delay of the effective date to June 16, 1998. This is the tenth annexation petitioned by Biltmore Farms Inc. This area is contiguous to the existing corporate limits, specifically to Biltmore Park, Section 5, which was annexed on August 21, 1995.

Upon inquiry of Councilman Cobb, Mr. Benson explained that the developer requests the effective date of the annexation be six months after adoption because that allows them time to develop the property and sell the lots prior to the annexation becoming effective.

Mayor Sitnick closed the public hearing at 6:55 p.m.

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

Councilwoman Field moved for the adoption of Ordinance No 2443. This motion was seconded by Councilman Sellers and carried unanimously.

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IV. UNFINISHED BUSINESS: -12-

V. NEW BUSINESS:

A. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE DOCUMENTS FOR THE SALE OF PROPERTY OWNED BY THE CITY OF ASHEVILLE KNOWN AS MEMORIAL STADIUM AND ASSOCIATED PROPERTY TO ROBERT CAMILLE JR. IN THE AMOUNT OF \$1,400,000

Mr. Irby Brinson, Director of Parks & Recreation, said that the Parks and Recreation Department has been working for several months on the possibility of selling Memorial Stadium and using the revenue to further develop and enhance recreation facilities in the community.

The Department has been in contact with a local architectural firm who has expressed interest in purchasing the property. The sale of this property is authorized under N.C. General Statute sec. 160A-266 which authorizes cities to dispose of real property. This sale was subject to the upset bid process established by N.C. General Statute under Section 160A-269.

Recognizing that approximately \$20 million is necessary over the next 15 years in order to enhance recreation facilities in the community, the Parks and Recreation Department has been exploring alternative financing to meet these needs without a tax increase. The revenue generated from the sale of Memorial Stadium will be used to develop and renovate other recreation facilities within Asheville. These include development of a multi-field youth baseball complex at Richmond Hill for use by the North Asheville Little League. In addition, a youth football field would be constructed to be used by the West Asheville Youth Football and the Asheville Rugby Club. The sale of Memorial Stadium also includes the purchase of approximately 100 feet of right-of-way at the end of Richmond Hill Drive into the Richmond Hill property. Funds will also be used to renovate the existing Mountainside Park to include new playground equipment and play area.

On November 25, 1997, City Council authorized the City Clerk to advertise an offer to purchase City-owned

property known as Memorial Stadium. No upset bids have been received.

Discussion surrounded the draft Offer to Purchase and Contract, which was only furnished to City Council earlier in the day.

City Attorney explained the ways in which City Council can dispose of its property.

Councilman Sellers noted that there is only 6-7 acres of this property that is suitable for development due to the steep grades. Councilman Tomes felt, however, that given the technology available, there may be ways in the future to develop the other acreage.

Upon inquiry of Councilman Cobb, Mr. Brinson said that the Parks & Recreation Department is currently doing a Master Plan for parks and recreation. At the Master Plan meeting held last night, the central area has more park land than any other area of the City. He stressed that what will come out of the master plan will be to enhance what we have and expand park facilities to those other areas.

Upon inquiry of Councilman Cobb, Mr. Brinson explained that he contacted the users of Memorial Stadium and that from a recreation standpoint, the neighborhood would be enhanced with the renovation of Mountainside Park.

Mr. Brinson said that since Memorial Stadium is not on the tax rolls, with the sale not only will it be put back on the tax rolls, but we will get tax revenue from that sale.

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Council then discussed the pros and cons of selling Memorial Stadium.

Mayor Sitnick was a firm supporter of parks and recreation but felt that this issue has been brought to the table, especially with three new Council, without ample time for not only their review, but for public comment as well. She supported a city-wide parks bond and felt the community would support one as well. She felt it was poor public policy to sell parks reminding Council that she urged the prior Council for a parks designation as part of the UDO. She was concerned we are in the middle of doing a Master Plan for parks and recreation and wished Council could wait until that was finished to see how Memorial Stadium fits into the scheme of the plan. She felt the opportunity for upset bids was too short. She said that she would like to postpone this issue until she had more time to assess all of the ramifications of selling a City park.

Councilman Tomes agreed that the matter should be postponed so he could review the documents in detail.

Councilman Cobb felt that a public hearing might be in order to see if anyone else had a better idea for the use of the Stadium property.

When Vice-Mayor Hay asked if delaying action on this matter would interfere with the plans for development in a significant way, Mr. Robert Camille responded that since there is a third party involved and they have been working with the City for over a year, he was unsure how much longer they would be willing to wait. He noted that Memorial Stadium is rarely used and out of the six or seven developable acres, the City is retaining three of those for a playground.

Mr. Doug Claxton, attorney representing Mr. Robert Camille, said that all the concerns expressed at this meeting have been addressed and carefully considered.

Mr. Brian Peterson, on behalf of the Coalition of Asheville Neighborhoods, asked City Council to reject the bid or to postpone action on this matter. He urged Council not to be short-sited and sell the property.

Ms. Susan Andrew, 419 Beaucatcher Road, urged Council to allow additional public comment on this issue and suggested contacting the immediate neighbors as well.

Councilman Cloninger felt that if the City were to sell this property and use the proceeds for something other than parks, he would be against it. However, he stated that the sale of this property will result in badly needed parks in other parts of Asheville.

Mr. Tom Asick, 1998 President of the North Asheville Little League, urged City Council to proceed with the sale of this property and briefed Council on the need for a suitable field in North Asheville.

Vice-Mayor Hay said that for several years City Council has been trying to find a place in North Asheville to build a field and Richmond Hill is the only place.

Mayor Sitnick said that she is not against recreation because she feels it is the best investment on the front-end for our children, but she still preferred to have additional time to review this matter and solicit public comment.

Mr. Jim Orr, Vice-Chair of the Parks and Recreation Advisory Board, said that the Board unanimously supported moving forward with the sale of Memorial Stadium.

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Mr. Tom Wilson, resident of North Asheville, realized the need for a ballpark in North Asheville, but voice opposition to selling Memorial Stadium for that purpose.

Councilman Tomes moved to delay action on this matter and set a public hearing for February 10, 1997. This motion was seconded by Councilman Cobb.

Councilwoman Field said that this is a culmination of a lot of hard work from the Parks & Recreation Department staff who have absolutely the best interests of the City at heart. She has seen the property and knows how difficult and expensive it would be to development.

Mayor Sitnick asked for a show of hands on Councilman Tomes' motion. This motion carried on a 4-3 vote, with Mayor Sitnick, Vice-Mayor Hay and Councilmen Cobb and Tomes voting "yes" and Councilwoman Field and Councilmen Cloninger and Sellers voting "no".

City Manager Westbrook stated that the Parks and Recreation Department is nationally accredited and exceeds national standards for their work.

Councilman Cloninger understood the request for postponement, but was concerned that there was a potential for losing the buyer.

Councilman Tomes then moved to reconsider the motion. This motion was seconded by Vice-Mayor Hay and carried unanimously.

Councilman Tomes moved to delay action on this matter and set a public hearing for January 27, 1998. This motion was seconded by Councilman Cobb and carried unanimously.

At 8:15 p.m., Mayor Sitnick announced a ten minute break.

B. RESOLUTION NO. 97-250 - RESOLUTION DIRECTING THE BELE CHERE BOARD NOT TO ACCEPT CONTRIBUTIONS OR SPONSORSHIP FROM BUSINESSES THAT PROMOTE GAMBLING

City Attorney Oast said that at general direction from City Council, he has prepared a draft resolution directing the Bele Chere Committee to turn down proposed offer of sponsorship by Harrah's Casino.

Councilman Sellers said that he has worked the last couple of years toward making the Bele Chere festival a little more family oriented. He felt that this resolution will help to work toward that goal.

Councilwoman Field said that mentioning Harrah's name specifically in the resolution concerns her in that it makes it look like the people who work at, and who own, Harrah's are bad when they are actually doing something absolutely legal where they are doing it (in Cherokee). She didn't see how accepting sponsorship by Harrah's can possibly hurt the Bele Chere festival and would not support the resolution. She wondered why we were singling out not accepting sponsorship from gambling businesses and not alcohol businesses.

City Attorney Oast then read the resolution deleting the reference to Harrah's Casino.

Councilman Sellers moved for the adoption of Resolution No. 97-250. This motion was seconded by Councilman Cloninger and carried on a 6-1 vote with Councilwoman Field voting "no".

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RESOLUTION BOOK NO. 24 - PAGE

C. RESOLUTION NO. 97-251 - RESOLUTION REAFFIRMING SUPPORT FOR EFFORTS TO DESIGNATE THE FRENCH BROAD RIVER AS AN AMERICAN HERITAGE RIVER

City Attorney Oast said that at the direction from City Council, he prepared a draft resolution reaffirming support for efforts to designate the French Broad River as an American Heritage River.

Vice-Mayor Hay felt that the designation is an excellent opportunity to do some special things for the French Broad River and whole-heartedly supported the application for designation. He then read the resolution.

Ms. Karen Cragolin, Executive Director of RiverLink, spoke in support of the designation listing the many organizations and people who also supports the plan.

Vice-Mayor Hay moved for the adoption of Resolution No. 97-251. This motion was seconded by Councilwoman Field and carried unanimously.

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VI. OTHER BUSINESS:

A. APPROVAL OF THE MINUTES OF THE FORMAL MEETINGS HELD ON NOVEMBER 25, 1997, DECEMBER 2, 1997, AND THE WORKSESSION HELD ON DECEMBER 9, 1997

Councilman Cobb moved for the adoption of the minutes of the formal meeting held on November 25, 1997, as amended by Mr. Jim Skalski and City Clerk Burleson; the formal meeting held on December 2, 1997, and the worksession held on December 9, 1997. This motion was seconded by Councilman Cobb and carried unanimously.

B. RESOLUTION NO. 97-252 - RESOLUTION RATIFYING ACTION OF THE CITY MANAGER REGARDING A GIFT OF STOCK TO THE CITY'S URBAN TRAIL PROGRAM

Audit/Budget Director Bob Wurst said that Ms. Martha Gentry wishes to donate Barnett Bank shares with an approximate value of \$10,000 to the Urban Trail Program in memory of her husband Hugh E. Gentry. This

resolution will authorize the City Manager to accept said donation and to execute an agreement authorizing Wachovia Bank & Trust to sell the aforementioned stock on behalf of the City and remit the proceeds to the City of Asheville.

Mayor Sitnick said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Hay moved for the adoption of Resolution No. 97-252. This motion was seconded by Councilman Sellers and carried unanimously.

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C. CITY COUNCIL RETREAT

City Manager Westbrook announced that the City Council retreat would be held on February 6-8, 1998, at Highland Lake Inn.

Mayor Sitnick requested that City Council submit their "lists" to the City Manager or City Clerk as soon as possible for culmination of one list for the Retreat Committee to review.

D. PRIMARY ELECTION RESULTS - CITY OF ASHEVILLE - OCTOBER 7, 1997

GENERAL ELECTION RESULTS - CITY OF ASHEVILLE, NOVEMBER 7, 1997

Attached hereto as Exhibit "A" is the abstract containing the number of legal votes cast in the Primary Election, City of Asheville, held on October 7, 1997. Also attached as Exhibit "B" is the abstract containing the number of legal votes cast in the General Election, City of Asheville, held on November 7, 1997.

E. TELECOMMUNICATION TOWERS

Councilman Cloninger said that a company is proposing to build a telecommunication tower in East Asheville outside the City's jurisdiction. He requested, and the City Council concurred, that the City Manager prepare a statement making them aware of the goals of the City Council and how we are attempting to meet those goals with our telecommunication tower ordinance. He was directed to encourage them to use stealth technology instead of a conventional tower if at all possible.

F. LAUREL EIDE

Ms. Laurel Eide presented Christmas center pieces to Vice-Mayor Hay, Councilman Cloninger and Senior Planner Gerald Green for their hard work regarding zoning issues on the Blake Mountain area. She noted that her "buffer" gift was made with the pine needles and holly bushes.

G. CLAIMS

The following claims were received by the City of Asheville during the week of November 21-28, 1997: Heather Taylor (Water), Jeremy Sizemore (Water), Richard Bowden (Water), Shelia Balentine (Water), Sonny Johnson (Water), Melissa Watkins (Water), Steven Lee Poore (Water), and James Griffie (Water).

The following claims were received during the week of November 28-December 11, 1997: Jeri Swaim (Water), Shelia Davis (Water), Bell South (Streets), Marilyn Schlosser (Fire) and Wayne Erbsen (Water).

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

H. LAWSUIT

On December 8, 1997, the City was served with a Notice of Charge of Discrimination from Teresa L. Flowers. The nature of the proceeding is sexual discrimination charging the City of Asheville, naming Steve Hughes, former Operations Manager of the Asheville Civic Center.

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This lawsuit will be handled in-house.

I. CLOSED SESSION

At 8:45 p.m., Councilwoman Field moved that City Council go into closed session in order to consult with an attorney-client employed by the Council in order to preserve the attorney-client privilege between the Council and its attorney - statutory authorization is G.S. 143-318.11 (a) (3). The parties in the lawsuit about which the Council expects to receive advice are the City of Asheville, C.C. & J. Enterprises Inc. and the Jackson-Woolsey Neighborhood Association. This motion was seconded by Councilman Sellers and carried unanimously.

At 9:15 p.m., Councilwoman Field moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

City Attorney Oast announced that City Council directed him to institute an appeal in the matter of C.C. & J. Enterprises Inc. v. the City of Asheville.

VII. ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 9:20 p.m.

CITY CLERK MAYOR
