

Tuesday - December 15, 1998 - 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**

Mayor Sitnick gave the invocation.

### **AGENDA CHANGE**

Vice-Mayor Hay requested that the issue of appointing an additional person to the Future of the Civic Center Task Force be added to the Agenda.

### **I. PROCLAMATIONS:**

#### **A. PROCLAMATION PROCLAIMING DECEMBER 15, 1998, TO JANUARY 1, 1999, AS THE PERIOD OF CELEBRATION FOR ALBEMARLE PARK'S CENTENNIAL**

Mayor Sitnick read the proclamation proclaiming December 15, 1998, to January 1, 1999, as the period of celebration for Albemarle Park's Centennial. She presented the proclamation to Ms. Juanita Landolfi, President of the Albemarle Park Manor Grounds Association, who briefed City Council on some activities taking place during that period of time. She also invited City Council to The Manor Inn's New Year's Eve Celebration.

#### **B. RECOGNITION OF RECIPIENTS OF HOUSING NORTH CAROLINA AWARDS**

Mayor Sitnick said that each year the North Carolina Housing Finance Agency gives "Housing North Carolina Awards" for outstanding examples of affordable housing development or supportive services. This year, eight awards were made, of which two came to Asheville - the only community to win more than one award. The winners were: Mountain Housing Opportunities and the Asheville Regional Housing Consortium for the River Glen Apartments, and the Housing Authority of the City of Asheville for its Community Health Services program for the elderly.

She recognized Lee McElrath, Board President, Althea Goode, Board Vice-President, Scott Dedman, Executive Director, and Cindy Weeks, Program Development Manager, for Mountain Housing Opportunities.

Mr. Dedman explained the River Glen Apartment project and presented Councilwoman Field, Chair of the Asheville Regional Housing Consortium, with the plaque for the Project.

Mayor Sitnick then recognized Annette Coleman, Board Chair, David Jones, Executive Director, Spike Gram, Gerontologist, Kay Clark, Nurse Practitioner, Georgia Crump, MSJ Community Health and Lead Trainer, and Carolyn Colvard, Program Coordinator, for the Housing Authority. -2-

Ms. Gram outlined the Community Health Services Program and thanked individual agencies for working together on this program.

On behalf of City Council, Mayor Sitnick congratulated the representatives of the two agencies for their outstanding programs.

## **II. CONSENT AGENDA:**

### **A. RESOLUTION NO. 98-198 - RESOLUTION AUTHORIZING THE SALE OF 110 MORRIS STREET TO CAROL LYNNE JONES IN THE AMOUNT OF \$79,600**

Summary: The consideration of a resolution conveying 110 Morris Street to Carol Lynne Jones in the amount of \$79,600.

On November 24, 1998, the City Council directed the City Clerk to advertise for upset bids on 110 Morris Street. The advertisement ran in the Asheville Citizen-Times on December 4, 1998, as provided in N. C. Gen. Stat. sec. 160A-269. Subject to no upset bid being received on or before December 14, 1998, the sale to Carol Lynne Jones in the amount of \$79,600 should be approved.

Community Development staff recommends adoption of the resolution.

### **RESOLUTION BOOK NO. 25 - PAGE 98**

### **B. RESOLUTION NO. 98-199 - RESOLUTION MODIFYING THE SCHEDULE OF CITY COUNCIL MEETINGS**

Summary: City Council will (1) tour the urban areas around the City on Tuesday, January 12, 1999, beginning at 12:30 p.m. in Room 209 of the City Hall Building; and (2) hold it's annual retreat beginning 1:00 p.m. on Friday, January 29, 1999, through 12:00 Noon on Sunday, January 31, 1999, at Highland Lake Inn in Flat Rock, N.C.

### **RESOLUTION BOOK NO. 25 - PAGE 99**

### **C. MOTION SETTING A PUBLIC HEARING ON JANUARY 12, 1999, TO CONSIDER ADOPTION OF A SMALL AREA PLAN KNOWN AS THE CHARLOTTE STREET CORRIDOR PLAN AS AN ADDENDUM TO THE COMPREHENSIVE PLAN FOR THE CITY OF ASHEVILLE (ASHEVILLE CITY 2010 PLAN)**

### **D. MOTION SETTING A PUBLIC HEARING ON MARCH 9, 1999, TO CONSIDER THE REZONING OF 25 WHITE PINE DRIVE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO HIGHWAY BUSINESS DISTRICT**

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

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

## **III. PUBLIC HEARINGS:**

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### **A. JOINT PUBLIC HEARING WITH THE HISTORIC RESOURCES COMMISSION OF ASHEVILLE-BUNCOMBE COUNTY TO CONSIDER THE DESIGNATION OF BILTMORE INDUSTRIES PROPERTY LOCATED AT 111 GROVEWOOD ROAD AS A LOCAL HISTORIC LANDMARK**

### **ORDINANCE NO. 2533 - ORDINANCE TO DESIGNATE THE BILTMORE INDUSTRIES PROPERTY**

## **LOCATED AT 111 GROVEWOOD ROAD AS A LOCAL HISTORIC LANDMARK**

Mayor Sitnick opened the public hearing at 5:20 p.m.

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

Vice-Chair Chris Knorr announced that a quorum of the Historic Resources Commission was present.

Ms. Maggie O'Connor, Historic Resources Commission Director, said that at their November 11, 1998, regularly scheduled meeting, the Historic Resources Commission ("HRC") voted to hold a joint public hearing with the Asheville City Council to consider if Biltmore Industries should be designated a local historic property.

When a property is designated historic, restrictions are placed on the property and to any exterior improvements or interior improvement where interiors are designated as significant. Any modification to the structures or land must receive a Certificate of Appropriateness from the HRC and all improvements must follow the Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings.

Designation of this building as a local historic landmark makes the property owner eligible for a 50% reduction of property taxes. Currently the assessed value of the property is \$1,561,300 and the total taxes paid for this year were \$21,077.55. If the Biltmore Industries property building is designated historic, the taxes would be reduced by half to \$10,338.78.

Before the Asheville City Council can adopt an ordinance designating the Biltmore Industries property located at 111 Grovewood Road as a local historic landmark, the HRC must find that the Biltmore Industries property has integrity of design, setting, workmanship, materials, feeling, and has architectural and cultural significance. At this joint public hearing with the Asheville City Council, the HRC will determine if the property is significant and possess integrity and will recommend to the Council to adopt or reject an ordinance designating the property as a local historic landmark.

Ms. O'Connor described the project in detail while using a slide program. She said the property to be included in the designation is (1) the building exteriors of (a) Eleanor Vance Building; (b) Charlotte Yale Building; (c) Carding and Spinning Buildings; (d) Weavers' Building - Antique Car Museum; (e) Boiler House; (f) Gatehouse, and (g) Guardhouse; (2) the 11-1/2 acres of land with the existing landscape features including rock walls, steps and stone patios; (3) the interior features of historical significance including, but not limited to, the quotes painted on walls and doors in all buildings, the beams, two chandeliers, and the Roycroft lantern in the Weavers' Building, the dye vats and washing machines in the Carding and Spinning Building; and (4) the smokestack connected to the Boiler House. She said that she has received a favorable comment from the State of North Carolina on this designation.

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Ms. Betty Lawrence, member on the HRC, moved that the HRC Commission adopt the following Findings:

1. That notice of a public hearing on this designation was published in the Asheville Citizen on 2nd day of December, 1998
2. That at this hearing the applicant and the public were all given the opportunity to offer oral and documentary evidence to the Historic Resources Commission members.
3. The North Carolina Department of Cultural Resources has been provided with the opportunity to review and comment on the proposed designation.

4. That the historic landmark designation criteria, as set forth in Part 3C of Article 19 of Chapter 160A of the North Carolina General Statutes and in Chapter 8 of the Code of Ordinances of the City of Asheville, is as follows:

a. Deemed and found to be by this Commission to be of special significance in terms of its historical, prehistorical, architectural or cultural importance and to possess integrity of design, setting workmanship, materials, feeling and/or association.

b. Deemed and found to be by this Commission to be of historical and cultural significance, suitable for preservation or restoration, and of educational value, when taking into consideration the cost of acquisition, restoration, maintenance, operation or repair; possibilities for adaptive or alternative use of the property; appraised value; and administrative and financial responsibility of any person or organization willing to underwrite all or a portion of such costs.

5. This application meets the criteria for significance and aspects of integrity for the following reasons:

a. The use of the property by Biltmore Industries survives as a direct and important link to the arts and crafts movement of England and America of the nineteenth and early twentieth-century and is thereby of historical and cultural importance.

b. The property is associated with the lives, work, and ideals of Mr. & Mrs. George Vanderbilt and Fred L. Seely, leading figures of the twentieth-century in the Asheville/Buncombe County area.

c. The Vanderbilt's established Biltmore Industries in order to make it possible for girls and boys to become productive and useful citizens of their own community and to use Biltmore Estate's natural resources of wool and timber in a practical and honorable way.

d. In 1917 Mrs. Vanderbilt sold Biltmore Industries to Mr. Fred Seely, builder of the Grove Park Inn. Seely directed the construction of shop structures adjacent to the Grove Park Inn to house all facets of Biltmore Industries and to allow for expansion. The shops were built to complement the "organic" architecture of the Grove Park Inn and they form a compact grouping of cottage-like buildings with stuccoed wall surfaces, casement windows, and broad sloping roofs with rounded eaves that mimic those of the Grove Park Inn, thereby possessing integrity of design, setting, workmanship, materials, feelings and/or association. The grounds are landscaped with dense plantings of evergreens and flowering shrubs.

6. Based upon the foregoing reasons, the Historic Resources Commission of Asheville and Buncombe County **deems and finds** that the Biltmore Industries property is significant in terms of its historical, architectural or cultural importance; that the structure possess integrity of design, setting, workmanship, materials, feeling, and/or association and that the property is suitable for preservation and is of educational value, taking into -5-

consideration the cost of maintenance, use of the property, appraised value of the property and responsibility of the owner for maintenance of the property. Based upon the foregoing, the Historic Resources Commission recommends to the Asheville City Council adoption of an ordinance designating Biltmore Industries, located at 111 Grovewood Road, as a local historic landmark.

This motion was seconded by HRC member Fred Eggerton and carried unanimously.

Mayor Sitnick closed the public hearing at 5:31 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. 2533. This motion was seconded by Councilman Tomes and carried unanimously.

## **ORDINANCE BOOK NO. 17 - PAGE 196**

### **B. PUBLIC HEARING TO CONSIDER THE DESIGNATION OF A STATE DEVELOPMENT ZONE**

#### **RESOLUTION NO. 98-200 - RESOLUTION TO APPLY TO THE SECRETARY OF COMMERCE FOR DESIGNATION OF A STATE DEVELOPMENT ZONE FOR THE CITY OF ASHEVILLE**

Mayor Sitnick opened the public hearing at 5:32 p.m.

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

Ms. Charlotte Caplan, Community Development Director, said that the NC Economic Opportunity Act of 1998 builds on the existing William Lee Act by recognizing that areas of economic disadvantage exist within otherwise prosperous counties. It creates State Development Zones ("SDZ") which are urban areas of high poverty within which certain types of businesses creating new jobs or investing in new equipment can claim significant state tax credits. Similar tax incentives have been available for some time under the Lee Act but at very much lower levels because Buncombe County qualifies only for the minimum ("Tier 5") incentives.

#### **Eligible Areas**

- Contiguous census tracts or block groups with total population more than 1000, in a municipality with population more than 5000
- More than 20% poverty within SDZ
- Part of each census tract and/or block group must lie within the municipality

#### **Eligible business types**

- Manufacturing
- Warehousing and wholesale trade
- Data processing
- Air Courier Services
- Central Administrative Offices (must create at least 40 jobs to qualify)

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#### **Tax credits available in SDZs**

• Eligible businesses with 5 or more employees receive \$4000 tax credit for each new job created, in addition to credit under Lee Act (\$500 in Buncombe County)

- 7% tax credit for investment in machinery and equipment - no threshold

- 7% tax credit for costs of establishing a CAO creating at least 40 jobs
- Up to \$1000 tax credit for new employee training

### **Restrictions**

- New jobs must not be offset by job loss at another NC location
- New jobs must pay average weekly wage no lower than 110% of County average (currently \$493 a week, or \$12.32 an hour)

### **SDZ Designation Procedure**

- Local government or individual taxpayers can request designation
- Local government request requires public hearing and Council action
- Simple request form to be submitted to Dept. of Commerce after November 2, 1998
- Secretary of Commerce will designate SDZ after 10 day eligibility review period
- Lasts for four years - SDZ can be enlarged in that time, but not made smaller.

The legislation becomes effective January 1, 1999. We need to get the application to the State by mid-December. Any jobs created after January 1 but before the designation is approved would not receive a tax credit.

### **Description of Proposed SDZ**

SDZ options were studied by a task force comprised of City Planning and Development staff and representatives of Asheville Chamber of Commerce, Asheville Merchants Association, Asheville Business Development Office, Buncombe County, Land of Sky Regional Council, Pisgah Legal Services, and the NC Department of Commerce (as advisor). She reviewed a map which designated specific SDZ's recommended by the task force.

The proposed SDZ is based on eight complete census tracts with more than 20% poverty plus block groups from other census tracts selected either because they join up these tracts (the SDZ cannot contain non-contiguous areas), or because they contain significant areas with suitable zoning (e.g. along the rivers, near the airport).

The orange on the map represents areas included in the proposed SDZ that are zoned for the eligible business types. The brown represents the area with the same zoning, that will remain outside the proposed SDZ. The proposed SDZ includes a significant part of Buncombe County outside the City, mainly in Census tract 23, Block Group 9, which enlarges the SDZ and makes it possible to include the airport. A minority opinion within the task force wanted to limit the SDZ to the city core in order to concentrate job creation incentives in the area of highest poverty. The majority felt that low income persons would be best served by including as much developable land as possible, even though transportation difficulties might prevent some people from accessing new jobs. Location and land availability are key to business development. If suitable land is not available, businesses may simply choose another city.

City staff and the Task Force recommend that City Council authorize the Mayor to apply to the Department of Commerce for designation of the proposed area as a State Development Zone.

Upon inquiry of Richard Timothy Williams, Ms. Caplan said that she did not believe that there were any provisions in this legislation specific to handicapped persons. -7-

Mayor Sitnick closed the public hearing at 5:46 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. 98-200. This motion was seconded by Councilman Cobb and carried unanimously.

## **RESOLUTION BOOK NO. 25 - PAGE 100**

Vice-Mayor Hay said that this is consistent with and supportive of the City's economic development policy.

### **IV. UNFINISHED BUSINESS:**

### **V. NEW BUSINESS:**

#### **A. RESOLUTION NO. 98-201 - RESOLUTION ADOPTING THE COMPREHENSIVE PARKING STUDY FOR THE DOWNTOWN, BILTMORE VILLAGE AND WEST ASHEVILLE AREAS**

Ms. Cathy Ball, City Engineer, said that this is the consideration of adopting the Comprehensive Parking Study Recommendations for Downtown, Biltmore Village and West Asheville and directing City staff to begin implementing these recommendations.

On September 15, 1998, representatives from Walker Parking Consultants and Day Wilburn Associates, Inc., presented recommendations from the Comprehensive Parking Study of the Downtown, Biltmore Village, and West Asheville areas. Staff then met with several organizations to discuss the recommendations of the study. Staff met with the Asheville Downtown Commission, Asheville Downtown Association, Merchant Action Coalition, Haywood Road Small Area Planning Group, and Downtown Parking Task Force. In addition, staff has received phone calls from the Biltmore Village Merchants Association, Eagle Market Street Development and other individuals. Representatives from some of these groups provided input at the public hearing.

Following the public hearing on October 27, 1998, staff prepared specific recommendations along with approximate costs estimates and a schedule for Council adoption. She said that she plans to bring back to Council at least twice a year an update on what has been accomplished. All comments from interested parties have been either included in the recommendations or addressed.

Ms. Ball then briefly highlighted some of the major recommendations as follows:

Downtown Area: A. Parking Garages: (1) Explore the possibility of increasing the number of monthly parkers in the Wall Street and Rankin Street garages; (2) Look for opportunities to increase parking in the City-County Plaza area; (3) Investigate the possibility of allowed one hour free parking on weekdays and three hours free parking on Saturdays in the parking garages; (4) Actively pursue additional parking in the Biltmore Avenue/Patton Avenue area; (5) Investigate the option of a "park and rice" system; (6) Add a 550 space parking deck in the Battery Park area; and (7) Improve signage to and on the garages. B. On-Street Parking: (1) Request Council pass an ordinance prohibiting feeding on-street parking meters; (2) Work with businesses, residences in individual blocks to revise, add, or eliminate loading zones and handicap parking, including changing some loading zones to commercial vehicles only; (3) Work -8-

to provide bus parking for Pack Square; (4) Increase on-street parking meter rates from 25-cents per hour to

50-cents per hour; and (5) Replace manual meters with electronic meters. C. Pedestrian and Bicyclist: (1) Improve pedestrian crossing on College Street close to City/County Plaza. D. Transportation: (1) Optimize traffic signals. Ms. Ball said that in the downtown area they received a lot of comment from different organizations. After receiving those recommendations, they incorporated them into these recommendations. However, many of the recommendations need to be studied further before they are implemented and what was included in these recommendation is that they need to be studied or they need to be explored. Many are at no cost to the City - just means working with some downtown organizations to see how possible it would be to implement them. The only item they had any comment back on was adding parking in the Biltmore Avenue/Patton Avenue area.

Biltmore Village: A. Off-Street Parking: (1) Explore the possibility of adding additional surface parking lots that will add approximately 150 off-street parking spaces; and (2) Explore the possibility of building a 400 car parking garage to meet the off-street demand through the year 2018. B. Pedestrian and Bicyclist: (1) Add crosswalks at the intersection of Lodge Street and All Souls Crescent. C. Transportation: (1) Work with railroad to develop a plan to minimize the impact of the railroad tracks on Biltmore Avenue.

West Asheville: A. Off-Street Parking: (1) Work with private parking lot owners to develop standardized signs for customer parking lots. B. On-Street Parking: (1) Strip on-street parking spaces - work with property owners and business owners on the location of loading zones and handicap ramps). C. Transportation: (1) Request NC DOT study the intersection of Haywood Road and Burton Street to see if it warrants a traffic signal; and (2) Restripe Haywood Road to have two lanes of traffic, except at various intersections.

Staff recommends that City Council adopt the Comprehensive Parking Study Recommendations for Downtown, Biltmore Village and West Asheville and direct City staff to begin implementing these recommendations.

Ms. Ball responded to various questions from Council regarding the recommendations.

Councilman Tomes said that he might come back to Council with a suggestion along the lines of what Kansas City, Missouri, is doing. They have a large surplus fund as a result of an increase in their violation charges, which money is designated to the youth.

Vice-Mayor Hay said that he was not satisfied with the wording relative to the parking in the Biltmore Avenue area. He said there is an immediate problem in the Biltmore Avenue area now that is not being addressed. He suggested amending recommendation 7 Under Downtown Parking Garages to read "Develop a plan for additional parking in the Biltmore Avenue area." He felt the plan could include developers. The approximate end date on that recommendation should be "December 31, 1999."

Mayor Sitnick said that we have some areas behind the City Hall Building that has great potential to go beyond surface lots. The two areas would not only make a great multi-tied deck for the City and County buildings, but also for the Biltmore Avenue and Pack Place area. It could also act as a place for employers and employees to park with a shuttle to downtown.

Upon inquiry of Mayor Sitnick about any recommendation to temporarily park buses that load and unload at Pack Place, Ms. Ball said that it was not officially recommended in the parking study, however, a recommendation does state that when a structure is built in that area that it accommodate bus parking.

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Councilwoman Field said that in order for Council to issue revenue bonds in order to build any parking structure that the City had to have a parking study. That is one of the reasons why we went through this exercise. She felt that all of Council has identified the need for parking around the Pack Place area. She

suggested amending recommendation 7. Under Downtown Area On-Street Parking to read "Provide bus parking for Pack Place." She also felt a stronger statement needed to be made about coming up with a partnership with a developer to do a parking structure in the Biltmore Avenue area.

Regarding financing of the recommendations, Councilwoman Field suggested the City Manager come back to City Council in the Capital Improvement Program on how the recommendations will be financed.

City Manager Westbrook said that with regard to parking decks, the study recommends the one at the Grove Arcade/Civic Center area be the first one constructed. We will have to pledge the revenues of the parking system, however, even after that, we will have a short-fall in revenue to build that first deck. After the first one is built, we will need to find out how we can come up with the money to build the second one. He asked for general direction from Council based on the recommendations and staff will work on them based on the dates that the City Engineer has presented, starting with the parking deck in the Grove Arcade/Civic Center area first and then work toward the other in future years. Staff will also come back to City Council at various times to modify the plan.

After discussion of possible rewording, it was decided to amend recommendation 7 Under Downtown Parking Garages to read "Develop a plan to meet the parking needs in the Biltmore Avenue area." The approximate end date on that recommendation should be "December 31, 1999." Ms. Ball felt that might be a better recommendation because it may be that the plan would actually call for a surface parking lot.

Mr. Robert Griffin, representing the Biltmore Village Merchants Association and the Biltmore Village Historic Museum, encouraged City Council to strongly consider surface parking locations in the immediate vicinity of the existing Biltmore Train Station so as to accommodate parking for the Amtrak Station and potential locations on those surface locations to build future garages.

Ms. Diana Bilbrey, representing the Health Adventure at Pack Place, urged City Council's support in improving the parking situation on Biltmore Avenue. She noted that they are eager to cooperate with the City in any way they can.

Mr. Mickey Mahafee hoped that City Council would make sure that the concerns of pedestrians are incorporated into the recommendations.

Ms. Christy Pinkston, downtown merchant and also representative of the Merchant Action Coalition, stressed that the meter feeding is a huge problem in the downtown area. She suggested a program to educate people on other parking alternatives outside the City.

Ms. Pam Myers, Director of the Asheville Art Museum in Pack Place, urged City Council's assistance in solving the parking problem in the Pack Place area.

Ms. Linda Nelms, Chair of the Board of Directors for Pack Place, also spoke in support of solving the parking problem in the Pack Place area.

Ms. Regina Trantham, representing the Battery Park merchants, noted that some of the recommendations actually generate revenue immediately. She did feel that there needs to be more enforcement regarding parking.

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Ms. Judy Swan, downtown resident and member on the Downtown Association Parking Task Force, urged City Council to look closely at the recommendations of both the Downtown Association and Merchants Action Coalition that the 15-minute rate be raised to \$1 per hour.

Mr. John Fleming, President of the Asheville Downtown Association, encouraged City Council to not raise rates in one section of the community without looking to see the effect of that in combination of other rates in various facilities. The garages and parking rates from all the sectors of the City need to be looked at together.

Mr. Scott Jarvis, Chairman of the Downtown Commission, stressed that parking has been an issue of the Downtown Commission for a long time. He thanked different organizations and individuals on their time and efforts into the study.

Mr. Morrison was pleased that the loading zone areas on Biltmore Avenue is being looked at. He suggested that parking be placed on The Block area.

Mr. Neal Evans, Business Administrator of Pack Place, stressed the need for parking in the Pack Place area.

Ms. Jill Arrington, representing the Eagle-Market Streets Development Corporation, noted the desperate need for parking in the City/County area. She said that in developing that plan, active steps be taken to contact all interested parties to be included in the process, particularly given the historical significance of The Block and the Eagle-Market Streets area and any economic development that has happened there in the past.

City Manager Westbrook confirmed that if Council approves the study with the amended recommendations, staff will start bringing back these recommendations and studies to Council on the individual actions as they occur. Also, the City Engineer will be updating City Council twice a year and that would include starting to work on possible financing of a deck in the Grove Arcade/Civic Center area as defined in the study.

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

Councilman Cloninger moved for the adoption of Resolution No. 98-201 to adopt the Comprehensive Parking Study Recommendations for Downtown, Biltmore Village and West Asheville areas with the following changes: (1) Recommendation 7 Under Downtown Parking Garages be amended to read "Develop a plan to meet the parking needs in the Biltmore Avenue area." With the approximate end date to be "December 31, 1999" and (2) Recommendation 7. Under Downtown Area On-Street Parking be amended to read "Provide a plan for bus parking for Pack Place." This motion was seconded by Councilwoman Field.

Vice-Mayor Hay said that this is a good comprehensive plan and represents a consensus from the community.

Councilwoman Field said that this is the kind of citizen input and public participation in a process that she considered to be meaningful.

Councilman Cobb hoped that any future decks that are built in the City contain one level of business in it and not just be all parking.

Mayor Sitnick thanked all the citizens of the community who have worked on this diligently. She said it would be our greatest hope that as we move along in trying to implement this plan, which we consider a great significant part of economic vitality in this community, that -11-

we form the kinds of partnerships in implementing the plan both fiscal and physical that were formed in creating the plan.

The motion made by Councilman Cloninger and seconded by Councilwoman Field carried unanimously.

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**B. RESOLUTION NO. 98-202 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT AND RESTATEMENT OF AGREEMENT REGARDING CONSTRUCTION OF A HIGH-TECH/FLEX BUILDING TO BE LOCATED IN BILTMORE PARK TECHNOLOGY CENTER (FORMERLY TECHNOLOGY PARK AT BROADLANDS)**

Assistant City Attorney Patsy Meldrum said that this resolution is to authorize the Mayor to execute an Amendment and Restatement of Agreement by and among the City of Asheville, Western North Carolina Regional Economic Development Non-Profit Corporation and Biltmore Farms, Inc. regarding the construction of a high-tech/flex building to be located in Biltmore Park Technology Center (formerly Technology Park at Broadlands)

On November 28, 1997, the City of Asheville, Western North Carolina Regional Economic Development Non-Profit Corporation and Biltmore Farms, Inc. entered into an agreement regarding the construction of a "high-tech/flex building" in a technological business park to be named Technology Park at Broadlands (now Biltmore Park Technology Center) (hereinafter the "1997 Agreement"). Biltmore Farms, Inc. owns the land on which the technological business park is located and on which the "high-tech/flex building" is to be located.

The 1997 Agreement described the construction of the "high-tech/flex building" which would be constructed by Biltmore Farms, Inc. on property it owns with financing in an amount of up to \$2,500,000 from certificates of participation which the City of Asheville would cause to be issued. The 1997 Agreement further provided that the City of Asheville would reimburse Biltmore Farms, Inc. for water and sewer lines and an access road for the Building and the technological business park, with total costs not to exceed \$310,000.

Biltmore Farms, Inc. agreed to provide security for the funding from the certificates of participation for the construction of the building, Western North Carolina Regional Economic Development Non-Profit Corporation agreed to market the building for a suitable high-tech user and to provide funding for the interest portion of the debt service on the certificates of participation during the first 24 months after completion of the building.

Construction of the access road and water and sewer lines and issuance of the certificates of participation have now been completed. Biltmore Farms, Inc. desires to relocate the space where the building will be constructed. As a result of these and other changes, it is necessary to revise the 1997 Agreement. An "Amendment and Restatement of Agreement" has been prepared in order to include those revisions.

At the request of Vice-Mayor Hay, City Manager Westbrook gave City Council a status report on the project noting that it is coming along as expected.

Ms. Meldrum said that since they are still working on finalizing the language of the agreement that some language be inserted in the resolution that the final agreement is subject to the approval of the City Attorney's Office. If there are any material changes from what City Council has seen, she will bring those back to City Council. -12-

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

Councilwoman Field moved for the adoption of Resolution No. 98-202. This motion was seconded by Vice-Mayor Hay and carried unanimously.

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**C. RESOLUTION NO. 98-203 - RESOLUTION APPROVING ASSIGNMENT OF GROVE ARCADE LEASE**

Because Councilman Cloninger's firm represents the Grove Arcade Public Market Foundation, he asked to be excused from voting. Due to a conflict of interest, Councilman Sellers moved to excuse Councilman Cloninger from voting. This motion was seconded by Councilman Cobb and carried unanimously.

City Attorney Oast said that this is the consideration of a resolution approving assignment of the Grove Arcade Lease.

In August of 1997, the City approved the lease of the Grove Arcade Building, acquired from the US Government pursuant to the National Monuments Act, to the Grove Arcade Public Market Foundation.

GAPMF and the City have received a \$1 million grant from the Economic Development Administration to finance part of the renovation, scheduled to begin in January, 1999. GAPMF proposes to finance part of the remainder of the renovations through the use of a mechanism known as tax credit syndication.

Tax credits are available for the cost of work done on historic structures, provided the work preserves or restores the structure and meets certain other requirements. Syndication is a way of selling the tax credits in exchange for financial participation, not unlike certificates of participation. One requirement for the use of tax credit syndication is that the entity doing the work and using the credits must be a tax paying or "for-profit" entity. GAPMF is a non-profit entity.

In order for GAPMF to use tax credit syndication, it has organized a wholly owned for-profit subsidiary corporation. Grove Arcade Preservation, Inc. ("GAPI"), and proposes to assign the lease to this subsidiary in order to market the tax credits. GAPI will then enter into a partnership with the purchaser of the tax credits, and this entity will perform the work on the building.

GAPMF has been working with the National Park Service and the General Services Administration, the federal agencies responsible for the building, and will obtain written assurances that this transaction will not violate any of the deed restrictions; GAPMF's attorneys have been consulting with a Philadelphia law firm that specializes in such transactions, and has handled several of them around the country. A local example of tax credit syndication involving the use of public funds is a recent project by Mountain Housing Opportunities.

One of the requirements of the N.C. law governing the City's lease of the Grove Arcade to GAPMF is that the lessee or purchaser be a non-profit corporation, and that the disposition be subject to a preservation agreement that guarantees the preservation of the structure. The Operating Agreement between the City and GAPMF is such an agreement, and it would continue to bind GAPI. As long as the preservation agreement remains in effect, assignment or other -13-

disposition is not prohibited by the statute. Finally, our bond counsel has indicated that the transaction will not affect the validity of the 1997 COP's issuance, because only the taxable part of the issuance is being used in connection with the Grove Arcade renovations.

City Attorney Oast said that Council will need to take two actions: (1) approve the resolution allowing the assignment; and (2) a motion approving our execution of the appropriate covenants to Economic Development Administration to allow us to fulfill the conditions of grant.

Mr. Lou Bisette spoke in support of the assignment of the Grove Arcade lease.

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

Councilman Tomes moved for the adoption of Resolution No. 98-203. This motion was seconded by Councilman Sellers and carried unanimously.

Councilman Sellers moved to approve the execution of the appropriate covenants to the Economic Development Administration. This motion was seconded by Councilman Tomes and carried unanimously.

## **RESOLUTION BOOK NO. 25 - PAGE 104**

### **D. UPDATE ON ZEALANDIA BRIDGE**

Ms. Suzanne Molloy, Assistant Public Works Director, said that his report outlines the findings and recommendation based upon staff's evaluation of the measures necessary to rehabilitate the Zealandia Bridge located at Beaumont Gap.

On July 21, 1998, City Council directed staff to: 1) Determine temporary measures needed to make the Zealandia Bridge safe; and 2) Provide cost estimates to permanently repair the structure. After additional engineering analysis and subsequent bidding of the project, staff determined the structure can be stabilized to prevent safety hazards (until Spring, 1999) for \$20,000. For \$50,000, the structure can be stabilized to prevent safety hazards for an estimated 3 years, and potentially up to 5 years. Permanent rehabilitation efforts would need to be initiated at the end of either of these time periods with an additional cost of \$350,000. An additional \$4,000 will be needed for surveying and easement acquisition. The bids received by the City must be acted upon in a timely manner or the bid proposal can be withdrawn by the Contractor.

Staff also evaluated other issues which must be addressed in order to rehabilitate the bridge. These issues include: 1) Ownership of bridge property outside of the right-of-way; 2) Buy-in from adjoining property owners who will need to dedicate property or easements to the City for rehabilitation access and linkages to a potential greenway system; and 3) Identification of organization or responsible individuals who will spearhead planning, easement acquisition, and fundraising efforts.

#### *Ownership of the Bridge*

The City of Asheville does not currently own all of the property upon which the Zealandia Bridge is located. A 30 foot right-of-way exists on Beaumont Street; however, portions of the structure are located on the property owned by Robert D. Armstrong and Juanita Brown.

#### *Dedication of Property or Easements*

The Historic Resources Commission has just recently mailed correspondence to the two key property owners who would need to dedicate permanent easements for access to the bridge for -14-

rehabilitation, reconstruction, or long-term greenway development. The correspondence provides an overview of the bridge preservation concept, costs, and necessary easements. A response has not been received from these two property owners.

#### *Organizational Sponsorship and Fundraising*

On December 7, 1998, Joshua Warren agreed to organize and temporarily chair a "Save the Bridge" Committee to work with the Historic Resources Commission on fundraising over the next three years. The Preservation Society, though interested in the structure, has decided not to take on this project. Public Works is not aware of any funds that have already been raised for stabilization or long-term options. A preliminary fundraising plan would be initiated by the Committee to raise necessary funds.

#### *Greenway System*

The *Master Greenway Plan* identifies a neighborhood greenway along Beaucatcher which could link up to the Zealandia Bridge; however, neighborhood greenways have not been prioritized in the plan. The Parks

and Recreation Department will focus on the 14 corridor greenways as outlined in the implementation plan. Land acquisition for greenway development will be necessary and no budget (current or planned) has been identified for this specific type of project in the future. Should a greenway system eventually be linked across the Beaumont Gap, a pedestrian bridge could be constructed for approximately \$60,000.

*Petition from Residents of Windswept*

Residents of Windswept Drive submitted a petition to the City of Asheville requesting that the Zealandia Bridge not be rehabilitated for reasons outlined in their petition. The residents have requested that this petition be presented to City Council as a part of the consideration of the bridge discussion.

The Zealandia Bridge is not designated as "historic" by virtue of not being in the National Register of Historic Structures. The primary issue is that of public safety due to the condition of the structure. Considering potential liability, the structure should either be demolished or rehabilitated to a condition to allow for private fundraising to restore the bridge. If temporarily stabilized, fencing should be installed to prevent access to the bridge and avoid tampering with stabilization system.

Based upon the public safety concerns outlined herein, staff recommends that City Council take action according to one of the following two (2) options:

Option #1 Authorize staff to remove the Zealandia Bridge and salvage any potential materials that can be feasibly incorporated into other City projects;

Option #2 Appropriate funds in the amount of \$54,000 and authorize the City Manager to enter into a contract in the amount of \$50,000 with the lowest bidder Precision Contracting Inc. for stabilization of the structure and easement acquisition, contingent upon the following:

- a. Permanent easements for access to the Bridge can be acquired within 30 days; and
- b. An agreement be prepared between the "Save the Bridge" Committee and the City outlining the Committee's commitment to raise \$330,000 no later than January 2, 2002, and to repay the City the \$50,000 for stabilization if the fundraising efforts are not successful.

Upon inquiry of Councilman Cobb, Ms. Molloy said that it would cost approximately \$5-7,000 of in-house labor to tear the bridge down.

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Councilman Cloninger tried to determine whether there was enthusiasm in the community to save the bridge, or whether the City is trying to talk people into becoming interested. He felt if the City was trying to prod people along, that would not be a good indication that we should spend the \$50,000.

Upon inquiry of Councilman Tomes about where the \$54,000 would come from to stabilize the bridge, City Manager Westbrook said it would have to come out of either contingency or fund balance.

Mr. Robert Griffin said that with his previous offer to volunteer to raise \$5,000 and the City's \$7,000 for demolition, those two figures could be combined for a total of \$13,000 toward the \$50,000 to stabilize the bridge. He urged Council to give more time in order to save this historical artifact.

Mr. Jody Kuhne, representative of the Historic Resources Commission, felt this was a difficult time to raise money in the year. He said that people are interested in the project but they are not quite sure what will happen to the bridge. Since the City has a greenway master plan, he felt that we should put this together as a package that the public is willing to support. Personally he felt the property should become a greenway and

if it would be organized through Parks and Recreation, he would be willing to spearhead the original public foray into developing this into a greenway since it is not currently a priority under the greenway plan. He took this issue to the N.C. Dept. of Transportation Maintenance Department and they said that if we had someone willing to do this type of work for \$50,000, we should do it. He sees this as a \$50,000 investment into property the City already owns. He said the people at Peppertree have expressed their willingness to see the park developed and the easements granted up to the bridge on their side. They have been unable to contact the other property owner on the other side. He felt that in stabilizing the bridge for three-five years will give the community an opportunity to raise the \$300,000 through grants and ICTEA funds. He encouraged City Council to take steps to save the bridge.

Mr. Harry Weiss, Executive Director of the Preservation Society, said that despite the lack of official designation of this bridge, it is a bona fide historic resource that ties in with the Zealandia and ties into a whole 19th Century landscape. He felt that the concept of a park at this location is a viable one that may serve to leverage a financial solution for restoring the bridge, as well as making it a useful and functional element that the public can enjoy. You could treat it as a public monument in the sense that Vance Monument is a public monument owned by the City. He said that the Preservation Society is not in a position to take the lead to spearhead the work on saving the bridge, however, they will assist and support any efforts to save it.

Councilman Cloninger said that option no. 2 authorizes the expenditure of \$50,000 to stabilize the bridge for the next three-five years and then if the Save the Bridge Committee is not successful in their fundraising efforts, they would have to reimburse the City that amount. His concern is that if this Committee doesn't get off the ground at all and not even able to raise \$50,000, then the City won't get that money back and will have had to spent \$50,000 for basically nothing. He did not know enough about the Committee, any members, what their potential is for fundraising, or what their plan is. He only way he would be comfortable at this point to allocate \$50,000 is if the Committee was given a fairly short time-frame to come up with \$50,000 and put it in escrow so that it is sitting in an account waiting to be reimbursed back to the City in the event they are not successful.

Mr. Weiss felt that if the strategy of a park on the 12 acres is explored, they would be able to find public support for it if there was support from the adjacent property owners and some indication of interest on the part of City government as a whole. In talking with representatives -16-

of Peppertree and Zealandia, they have both indicated a comfort level and general support for the idea of a park at that location. They have also indicated a willingness to grant the necessary easements for repair and restoration of the bridge, as well as future pedestrian access across portions of Zealandia to make a better linkage between the bridge and any potential park there. He said their fundraising plan shows a three year schedule to raise the entire \$330,000, with \$50,000 being raised in 1999. He could not imagine \$50,000 could be raised in 30 days.

When Mayor Sitnick asked if there has been any effort in the past months, since this first came to Council to raise any funds, Mr. Weiss said that there have been private contracts made but until they knew a firm figure to go to people to raise funds, it was a difficult proposition. When they approach major funding sources, those sources will want more clarity on what the total cost of the whole project will be.

When Councilwoman Field asked what would happen if Council delayed action for 30 days to get clarity from the Committee, Ms. Molloy said that staff's concern is that Council really needs to decided soon because winter is coming and there is a contractor involved. She said that easements and temporary construction easements need to be obtained, and the property needs to be surveyed.

Mayor Sitnick noted that should a greenway system be eventually linked across the Beaumont Gap, a pedestrian bridge could be constructed for approximately \$60,000. Recognizing the sensitivity of the historic

aspect of Zealandia Bridge, how offensive would it be to construct the pedestrian bridge across the Gap for \$60,000 using the materials that were salvaged from the Zealandia Bridge and creating a plaque recognizing that this is a pedestrian bridge that was in part constructed out of materials from the Zealandia Bridge. Ms. Molloy responded that the \$60,000 cost is for a new pre-fabricated type of bridge that will probably be similar to what will go eventually be in the W.T. Weaver Boulevard Phase II Greenway. She said the City could look into that, however, the cost would go up substantially. However, there may be ways that you can incorporate some of that back into the design. But to actually totally re-create the structure in the same manner will be very difficult because it is stone and mortar and a lot of the cap stones are already missing on the bridge.

City Manager Westbrook said that the bridge is a danger to the public and that staff needs to block the street, take the bridge down or stabilize it. He said the first staff recommendation was to take the bridge down because there is nobody that uses it now, it is across public right-of-way, it is dangerous, and it would cost a lot of money to stabilize it. Because there are a lot of variations and if Council wants more time, he recommended blocking the street at this time because they feel the bridge is imminent danger. If the bridge were dismantled and at another time a pedestrian bridge was built, we could save the materials and perhaps build an entranceway or some pillars with a plaque that might be a trailhead for that particular interest. But to completely rebuild it, it will get back up to the \$350,000 figure. Staff is concerned about the safety and if there is any other delay, the road should be blocked.

Ms. Betty Lawrence said that the City has never spent any money on maintaining this bridge and has owned it for a number of years so the City should take some portion of responsibility for its condition. She encouraged Council to support the concept of a park.

After discussion, Councilwoman Field moved to continue this matter until January 12, 1999, in order for (1) the Public Works Department to report on whether they have or have not obtained the appropriate easements, (2) the Public Works Department to meet with the Director of Parks and Recreation to find out if the partnering of the bridge and parks will work with the Greenway Master Plan, and (3) the Historic Resources Commission, through HRC Director Maggie O'Connor, to report back with some clear, strong direction from the Save the Bridge -17-

Committee on a realistic timeline and their ability to raise the \$50,000. If after that time, Council will make a definite decision. This motion was seconded by Councilman Sellers.

Councilman Cloninger said that would like to see some evidence from commitments as to money.

The motion made by Councilwoman Field and seconded by Councilman Sellers carried unanimously.

Given the imminent danger concern, City Manager Westbrook said that staff will decide whether to keep the road open or close it.

Councilman Tomes moved to amend the agenda to discuss the Asheville Motor Speedway prior to the proposed Phase III water restrictions. This motion was seconded by Councilwoman Field and carried unanimously.

#### **E. RESOLUTION NO. 98-204 - RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE A LEASE FOR THE ASHEVILLE MOTOR SPEEDWAY**

#### **RESOLUTION NO. 98-205 - RESOLUTION DIRECTING THAT THE REVENUE FROM THE LEASE OF THE ASHEVILLE MOTOR SPEEDWAY FOR 1999 BE USED FOR PLANNING AND DEVELOPMENT OF THE PROPERTY**

City Attorney Oast said that on October 13, 1998, City Council acquired approximately 31 acres of property known as the Asheville Motor Speedway from RiverLink to be used for park and greenway purposes. Over

the past few weeks staff, RiverLink and the racing community have been working to resolve issues that would allow the property to be used for racing for another season.

He said that pursuant to the direction from City Council at their November 24, 1998, meeting, a Lease Agreement was drafted incorporating the basic terms that Council reviewed and approved at that meeting. The City received three inquiries about leasing AMS for 1999, and furnished a copy of the draft lease to each person who requested one. Some changes were made to the draft, and those changes were also supplied to the interested parties. Meetings were arranged with each of the three parties, but one party pulled out prior to the meeting, and only two meetings were held. One group that was interviewed included John Huffman, the South Carolina businessman who owns the Hickory Motor Speedway; the other group (Carolina Motorsports) included Danny Jones, who is seeking to develop a speedway in Henderson County.

Both parties agreed to the essential operational aspects of the lease: length of season, insurance and indemnity, noise restrictions; and both submitted strong proposals.

The main difference between the two proposals was in the amount of rent offered for the season. The Jones group offered \$200,000, a substantial part of which will be paid before the season begins. The Huffman proposal offered significantly less money. The figure is significant not only because it is higher than the other figure that was offered, but because one of RiverLink's donors have suggested the \$200,000 minimum lease amount that the City should request. He felt that \$200,000 is a fair rent and that we had some information that the track's recent income history would support an income of \$200,000 for a season. He also was advised that it will take between \$30-80,000 to make the racetrack operational for next year. -18-

Accordingly, the City's staff recommends that the City accept the proposal made by Danny Jones and Carolina Motorsports for leasing the speedway for 1999, and that it authorize the City Manager to negotiate and sign the lease in substantial conformity with the draft lease, and for a rent of \$200,000. The lease, and Council's approval of it, are subject to the contingency to that appropriate waivers and approvals be obtained with respect to the Conservation Easement and deed restrictions. The discussions on these points are already underway. The details are subject to further negotiation, and the City will insist on reviewing a financial statement prior to executing the Lease.

City Attorney Oast said that the City cannot guarantee racing but the best thing the City can do is everything to make it possible for racing to occur. If we can come up to an agreement, and again this is not a "done-deal", it will be up to the racing community to make that racing happen. If Council agrees with staff's recommendation to accept the proposal made by Danny Jones and Carolina Motorsports for leasing the speedway for 1999, there are still some details that need to be addressed, for example, they want to establish a timetable for getting certain things done and a schedule of payments to be received needs to be established depending on the kinds of financial assurances that the City receives.

City Attorney Oast said that the Parks and Recreation Department is requesting that funds from the lease of the Speedway for the 1999 season be dedicated for the future development and design of the Speedway property, consistent with the terms of its acquisition.

City Attorney Oast thanked Councilman Sellers, Representative Martin Nesbitt Sr., Martin Nesbitt Jr., Ron Crane, Doug Wilson, Karen Cragolin, Jim Westbrook, Irby Brinson, John Huffman, the Young family, Danny Jones and everyone who expressed interest in operating the speedway. He said everyone had good ideas about what should be incorporated into the agreement. He said that the revenue for the operation of the Speedway during the final season may go a long way towards providing the City's plan for developing the property. Also, the Asheville Motor Speedway, which is 40 years old, will soon be replaced with a bigger, better and faster facility that will better serve the needs of the racing community and may provide for some economic development.

Mayor Sitnick wanted to make sure that some kind of recognition of the Speedway's four decades long cultural historical contribution to this community be acknowledged. City Attorney Oast said that the best way to address that issue is when the 1999 racing season is over, that the raceway will be the City's property and what is appropriate to do with it should be left up to the City. City Manager Westbrook said that in talking with the Director of Parks and Recreation, it is in his plan to incorporate whatever happens to that property there a proper recognition for what has occurred there in the past in terms of the racetrack.

Mr. Ron Crane, member of the Speedway 99 Committee, said that personally, he was resentful that a Black Flag Committee that is trying to recall City Council tied the issues of the racetrack to the recall petition. He does not support any of their issues and they have found this Council to be open-minded to their needs and wants concerning the racetrack. He said Bob Oast was very precise in his information he has given them and he has worked very hard with the Speedway 99 Committee. He said that Councilman Sellers, who is liaison to the Speedway 99 Committee, has certainly done a worthy job. Parks & Recreation Director Irby Brinson and City Manager Westbrook have shown their concern for all the citizens' needs in the community and addressed all issues in a most professional manner. He said City Council has done a stand-up job and he personally thanked them. He thanked RiverLink and its donors for allowing racing to continue for another year.

Mr. Don Yelton said that he was with MSD Associates who has been retained by the Black Flag Committee to circulate the recall petition. He thanked the Mayor for her comments -19-

relative to the historic nature of the racetrack. He suggested that City Council use some of the \$200,000 to take a canoe ride down by the old racetrack and look at all the old cars sticking out of the bank causing an environmental hazard.

Mr. Peter Dawes, partner in MSD Associates, suggested City Council use some of the \$200,000 to clean up RiverLink's old Mill property down by the River that burnt down. He said the tape that is around the building is not sufficient to keep people out of there.

Representative Martin Nesbitt thanked Councilman Sellers, City Attorney Oast, all City Council members, RiverLink and the racing community for their work with this. He said that it is almost unbelievable to think that we are here only two months after it looked like there was no answer to this question. He said it was important for everyone to remember that when the racing community approached City Council there were no solutions. It took communication, good will and people working together to find a solution to this problem. He couldn't think of anything else where this many people in our community have come together in such a quick period of time to do what he felt was the appropriate thing to do for the community. He said that when people question the historic significance of the racetrack, they may be just thinking that some people have a soft spot in their hearts, but in the NASCAR magazine this week, on the front page inside from the editor there is a piece on the historical significance of Asheville to NASCAR. He again thanked all the individuals involved.

Councilman Cloninger said that a tremendous part of being able to work out an agreement was due to the cool level headed leadership that Representative Nesbitt approached this matter. On behalf of City Council, he expressed Council's appreciation.

Mayor Sitnick said that in reference to the Wadley-Donovan report which consistently bad-mouthed this community, said we don't get along, said we don't know how to work together, and said we don't know how to come to resolution, she would like to compliment the racing the community. There was a shock, there was a stunning blow, there was anger, there was emotional upheaval and everybody worked together and found a win-win solution. The Wadley-Donovan report said that doesn't happen in this community. She rests her case on the quick resolution of the speedway issue.

An audience member said that the 20,000 people who signed the petition requesting that racing be allowed

at the racetrack for another season thanked City Council.

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

Councilman Sellers moved for the adoption of Resolution No. 98-204. This motion was seconded by Councilman Cobb and carried unanimously.

#### **RESOLUTION BOOK NO. 25 - PAGE 105**

Councilman Tomes moved for the adoption of Resolution No. 98-205. This motion was seconded by Councilwoman Field and carried unanimously.

#### **RESOLUTION BOOK NO. 25 - PAGE 106**

### **F. PHASE III DROUGHT RESTRICTIONS AND RATE SURCHARGES**

Mr. Tom Frederick, Water Resources Director, said that at the Water Authority meeting on December 15, 1998, the Authority adopted a resolution declaring Phase III Water Use Restrictions and Surcharges which continue to enforce Phase II restrictions adopted October 20, -20-

1998, and add rate surcharges of \$1.40 per one hundred cubic feet for all consumption during this restriction greater than 80% of the customers average consumption in the past year. One action the Water Authority did not enact delaying putting in taps for new customers that come in and begin an application during this Phase III condition. It was decided by the Authority to keep that process as it currently exists.

Continued above normal temperatures and below normal rainfall in the Asheville area has resulted in further depletion of the City's water supply reservoirs. As of December 9, 1998, the combined reservoir levels have reached a record 67.35 feet below normal and recent staff calculations have projected that if current temperature and lack of rainfall persist, the current stored water in the reservoirs may not last beyond 90 more days.

On Thursday, December 3, 1998, the Water Authority held a public forum at the City of Asheville Public Works facility where a draft of Phase III restrictions were introduced for public comment. A resolution has been amended to incorporate some effective comment from this forum. In addition, the staff received many suggestions from the public on areas to target better public information.

Along with the proposed resolution, the Water Resources Department is increasing public information on conservation through various news media, billing inserts, and five business round tables in the next two weeks with landscapers, lodging facilities, multi-family residential facilities, industry, and restaurants. In addition, the staff are focusing on responsive leak repairs in the Water System, implementing purchase of water from Hendersonville and evaluation of other alternatives, and continuing to evaluate the latest conditions at the two water treatment plants to anticipate as early as reasonable changing conditions requiring operating adjustments or other contingencies.

Upon inquiry of Councilman Sellers, Mr. Frederick said that if necessary to go to Phase IV, that would be mandatory rationing of water to customers and curtailing of non-essential uses.

Mr. Frederick responded to various questions from Council, some being, but not limited to, what is the feasibility of brining in water from the French Broad River to our treatment plant, can industries use the French Broad River water, when will the Mills River Plan be operable, is there any kind of surcharge for commercial industry, is there a penalty clause in the Mills River Plan construction documents, and can the City look to FEMA for help.

Mayor Sitnick said that this crisis makes a case for on-going conservation. This community has attempted to do some public relations and education efforts in the past regarding on-going conservation. Since we can't control the weather and there will be future droughts, while we are trying to keep up with a 200 year old infrastructure that is very expensive, that we consider creating an ongoing, much more accentuated water conservation program throughout the City to not only keep people on their toes, but so that if we get to this point of drought again that we are not in such a desperate situation. Conservation should be part of our daily lives. When we are fiscally conservative everyone thinks that's great, but the minute you talk about conservation of nature

## **VI. OTHER BUSINESS:**

### **A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 8, 1998**

Councilman Tomes moved for the adoption of the minutes of the regular meeting held on December 8, 1998. This motion was seconded by Councilman Cobb and carried unanimously.

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### **B. FUTURE OF THE CIVIC CENTER TASK FORCE**

Vice-Mayor Hay, who is also Chair of the Future of the Civic Center Task Force, moved to appoint John Winkenwerder to the Future of the Civic Center Task Force. This motion was seconded by Councilwoman Field and carried unanimously.

### **C. JOINT MEETINGS WITH BUNCOMBE COUNTY ELECTED OFFICIALS**

City Manager Westbrook said that he received a letter from Buncombe County Manager Wanda Greene which suggested the dates of Friday, February 19-20, 1999, or Friday, February 26-27, 1999, as possible dates for the brainstorming session with all the elected officials in Buncombe County. He said the retreat would be at Owen Conference Center at UNC-Asheville. It would be held on Friday from 4-8:00 p.m. and then again on Saturday from 8-4:00 p.m.

Mayor Sitnick asked that City Council contact the City Manager directly the next day to let him know of which dates City Council would prefer to meet.

### **D. CLAIMS**

The following claims were received by the City of Asheville during the week of December 3-10, 1998: Kristy Penland (Water), Pat Blair (Finance), Clifton Dozier (Inspections), Michaela Denny (Sanitation), Clements Flower Shop (Sanitation), Freida Mitchell (Traffic Engineering), Gary Strickland (Sanitation), Walter Koester (Water) and Mike Zenowitz (Inspections).

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

### **E. LAWSUIT**

The following Petition in the Nature of Certiorari was received on December 10, 1998: SBA Inc. and BellSouth Carolina, PCS, L.P., d/b/a BellSouth Mobility DCS and Paul Tescione v. City of Asheville. The proceeding is an appeal to Superior Court from City Council's adoption of Order Denying Conditional Use Permit for wireless telecommunications tower proposed to be located at 754 Merrimon Avenue.

This matter will be handled in-house.

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

### **A. COMPLAINT BY RICK WILLIAMS RELATIVE TO SONNY'S TOWING**

Mr. Rick Williams was very upset at the towing practices of Sonny's Towing Service in private lots. He said that he has researched this issue and has found out that City Council does have the authority and can regulate towing in the Asheville area.

Mayor Sitnick said that the City Attorney will look into this matter and that she would contact Mr. Williams with what he finds.

### **B. MASSACRE IN MEXICAN STATE OF CHIAPAS**

Mr. Bill Gorz, representing Sister City Solidaridad, said that the Mexican City of San Cristobal de Las Casas is one of Asheville's Sister Cities. On December 22, 1997, approximately 65 members of a right-wing paramilitary group drove into a community of Mayan -22-

Indians on the outskirts of San Cristobal de Las Casas and went on a killing spree. Twenty-one women, 14 children, one infant and nine men for a total of 45 people were killed. At least 25 more were injured and the whole town was terrorized. While this was happening, the Chiapas state police watched from a few hundred yards away and did nothing. Investigations by both the Mexican Federal Attorney Generals Office and the Zapatista Command Council revealed that the perpetrators had links to the Mexican Institutional Revolutionary Party, which is the Mexican federal government, the Chiapas State Governor's Office and local governor's offices, and furthermore that these contacts had supplied the perpetrators with the weapons, ammunition, vehicles and radios used in the assault.

After an investigation, approximately 40 people were identified and formally charged with participation in the massacre. One was the Mayor of Chenalhol which is nearby-town. Also, the material that was used in the assault was paid for by the U.S. Government so our tax dollars were used for this outrage.

Almost a year has gone by and the people responsible for this tragedy have not been brought to justice. The PRI government of President Zedillo has not pursued the indictments handed down by the Attorney General's Office and without any outside pressure being brought upon the Mexican government, it is likely that the whole thing will be swept under the rug.

The fact that there is no pressure, recently Amnesty International and the United Nations Commission against torture have released reports that have been raised international awareness of the problem in Mexican and the European Union has made an extensive investigation, has condemned the massacre and the Mexican government's complicity. In the United States, Senator Leahy and Representative Pelosi introduced a bill requiring the Mexican government to spend the money that we send them for defense and anti-drug efforts actually for defense and anti-drug efforts rather than oppressing their own population.

We hereby call upon the City of Asheville to support it's Sister City and join this growing international movement in forcing the Mexican government to bring this gang of killers to justice. In support of this we request the following points: (1) That the City Council formally condemn the massacre; (2) That the City Council send a letter to the office of President Zedillo deploring the government's lack of action in this matter, and urging him to support immediate hearings so that justice may be served; and (3) That the City Council send copies both of the condemnation and the letter to President Zedillo to the people of our Sister City San Cristobal de Las Casas n case of the office of their mayor, so they will know of our support.

Councilwoman Field said that the Sister Cities group is very much aware of what is going on and is monitoring it. She said that because Sister City relationships are government to government, we are working with the system and with the Red Cross as much as we can. She suggested our City Attorney look into the

situation to see what City Council can do.

Mayor Sitnick suggested Mr. Gorz contact Councilwoman Field to exchange information.

### **C. COMPLAINT BY DEBBIE LEDFORD RELATIVE TO SONNY'S TOWING**

Ms. Debbie Ledford, speaking on behalf of her mother, urged City Council to stop the towing practices of Sonny's Towing. She said that he if he is operating within the law, it is barely. She urged City Council to support their efforts.

Mayor Sitnick said that City Council has been discussing this issue.

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### **B. COMMENTS BY MR. MORRIS RELATIVE TO CANNABIS**

Mr. Morrison said that he would be contacting City Council members and try to inform them about his issue of cannabis use and not abuse.

### **VIII. ADJOURNMENT:**

Mayor Sitnick adjourned the meeting at 9:17 p.m.

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CITY CLERK MAYOR

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