

Tuesday - August 5, 1997 - 3:00 p.m.

## Worksession

Present: Mayor Russell Martin, Presiding; Vice-Mayor Barbara Field; Councilman M. Charles Cloninger; Councilman Edward C. Hay Jr.; Councilman Thomas G. Sellers; Councilman James J. Skalski; and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

Vice-Mayor Field introduced and welcomed Ms. Margaret O'Shay who was the tour guide and translator on the Sister City trip to San Cristobal, Mexico.

### CONSENT:

#### Hummingbird Park

Summary: The consideration of City property located at the corner of Starnes and Cumberland be named Hummingbird Park as requested by the Parks & Recreation Department Advisory Board.

In July of 1996, property located at the corner of Starnes and Cumberland was transferred to the Parks and Recreation Department to be used as a passive park. Over the past year, Montford residents have been soliciting names for this park area. The general consensus of the Montford residents is to name this piece of property Hummingbird Park. The residents have suggested this is an appropriate name since the hummingbird has become the official symbol of the Montford historic neighborhood and is displayed on banners, T-shirts, and the newsletter.

The Parks and Recreation Department Advisory Board recommends City Council name City property located at the corner of Starnes and Cumberland as Hummingbird Park.

#### Regional Hazardous Response Team Contract Extension

Summary: The consideration of a sixty (60) day extension of an agreement for hazardous materials emergency response in Western North Carolina.

The N. C. Dept. of Crime Control and Public Safety's Emergency Management Division has asked the City to extend its present agreement with the State of North Carolina for hazardous materials emergency response in Western North Carolina pending submittal of a new two-year agreement for City Council consideration.

Two years ago, the Asheville Fire Department was selected by the state's Emergency Management Division to respond on behalf of the state to hazardous materials emergencies in Western North Carolina. After adoption of a two-year agreement by the state and the City Council, the Asheville Fire Department became the "regional response team" for hazardous materials incidents in Emergency Management Region F--Western North Carolina.

The Emergency Management Division has asked the City of Asheville to consider a new "regional response team" agreement for fiscal years 1998 and 1999. Pending delivery of that proposed agreement, the Emergency Management Division has asked that the City extend the present agreement for sixty days. Therefore, the extension would be for the time period of July 1, 1997, to August 29, 1997.

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The Fire Chief recommends authorization of the City Manager to enter into an agreement to extend the present City of Asheville/State of North Carolina "regional response team" agreement for a period of sixty (60) days.

#### Unattended Fuel Pumps at Dreamland Convenience Store

Summary: The consideration of a request for a permit to dispense motor fuel from unattended fuel pumps as required by Volume V of the NC State Building Code/Asheville Fire Prevention Code.

The North Carolina State Fire Code (adopted in Asheville as the Asheville Fire Prevention Code) authorizes public service stations to dispense vehicle fuel via credit card (with no attendants present) with approval of the Fire Chief and the City Council.

In 1996, the Asheville Fire Department established minimum safety requirements for such unattended fuel delivery. Those requirements include on-site absorbent that firefighters can use in event of a fuel spill, a telephone within 75 feet of the fuel delivery area for "911" notification of a fuel spill and a limit (either by dollar value or gallons) on how much fuel can be dispensed via credit card.

Paul J. Pless of the Dreamland Convenience Store at the Dreamland Drive-in site has requested a permit for unattended fuel dispensing at the Dreamland Convenience Store. He is familiar with the Asheville Fire Department's safety requirements, and has agreed in writing to meet those requirements.

Based on this agreement, the Fire Chief recommends City Council approval of this permit.

Staff recommends adoption of resolution authorizing Dreamland Convenience Store to dispense motor fuel at unattended fuel pumps, subject to Asheville Fire Department safety requirements.

#### Airport Grant Agreement

Summary: The Airport Authority has asked City Council to approve a grant from the FAA in the amount of \$4,196,897.

This grant, in the amount of \$4,196,894, consisting of \$3,082,947 for Fiscal Year 1997 and \$1,113,947 for Fiscal Year 1998, consists of a project to construct extended safety area, Runway 16 (Phase II) and improve airport access road.

Staff recommends adoption of the resolution.

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

#### ECONOMIC DEVELOPMENT - BROADLANDS TECHNOLOGY PARK

City Manager Westbrook said that as part of the 1996-97 budget, the Council adopted two goals. Those goals were to support City-wide economic development and the encouragement of an improved business climate. City staff has been diligently carrying out those efforts. Specifically, staff has been working

with Biltmore Farms Inc. and other partners to create some dynamic opportunities for economic development. We have been working with the partnership to develop a technology park within the City of Asheville. This would increase jobs, provide higher -3-

paying salaries and wages, and increase business in general within the City of Asheville and Western North Carolina.

This effort began with one of our partners, AdvantageWest, commissioning a study on economic development in this area. The study showed Asheville could become a center that attracts businesses that use high technology as opposed to creating high technology. The City, Biltmore Farms Inc., AdvantageWest, Carolina Power & Light Company, BellSouth, Buncombe County, and the Mission-St. Joseph's Health System are prepared to become partners in helping create the Broadlands Technology Park at Biltmore Park.

City Manager Westbrook then introduced Mr. Jack Cecil, President of Biltmore Farms Inc. who discussed the overall plan and the site at Biltmore Park.

Mr. Dale Carroll from AdvantageWest discussed the flex space building at Broadlands Technology Park, funding from AdvantageWest and the regional aspect and impact of this project.

Ms. Teresa Owen from the Institute at Mars Hill College discussed the Knowledge Center portion of Technology Park. She felt this was a new and exciting idea which will give Asheville the competitive edge in attracting the kind of business we are all looking form.

Mr. David Hester from Carolina Power & Light Company and Mr. Chuck Reiley from BellSouth also spoke about their involvement and commitment with this project.

City Finance Director Bill Schaefer discussed the particular financial aspects of this issue and felt this was a wonderful opportunity for the City.

Councilman Cloninger was impressed with the partners working together and felt this was an excellent opportunity for the City to become a partner as well.

City Manager Westbrook responded to questions from Councilman Hay relative to the payback to the City.

Mayor Martin spoke in support of this project and was pleased that the City is willing to participate in determining the future of development in our City.

Councilman Skalski was concerned about whether the City could afford to participate in this venture and questioned why build structures if we don't have any companies to come into them. He felt that he couldn't vote in favor of this project at this time without further information.

Councilman Worley felt that all too frequently a company is interested in our area but wants to move in immediately. If we don't have a space for them, the company is no longer interested.

Vice-Mayor Field spoke in support of this project and felt it was a win/win situation for all those involved.

Upon inquiry of Councilman Skalski, City Manager Westbrook responded to questions relative to why the Metropolitan Sewerage District isn't providing the sewer lines and why the Regional Water Authority is not involved.

City Manager Westbrook said that he would be happy to meet with Councilman Skalski and address any other concerns he may have.

The following information was available for City Council as well:

The City of Asheville has established an ongoing effort to team with private businesses, developers and other agencies to implement economic development opportunities of benefit to the City and surrounding areas. In cooperation with the City and other team members, Biltmore Farms, Inc., of Asheville is proposing to develop a regional, high technology business park called the Broadlands Technology Park. This site is a 110-acre parcel of land within Biltmore Park, a master-planned, mixed use development bordered by Long Shoals Road and I-26. Biltmore Farms, Inc., owner of the property, is requesting that the City of Asheville enter into a partnership with several other public and private entities to create this regional technology center and install the necessary water and sewer lines and help in the construction of a high tech/flex space building planned for this new development. Biltmore Farms, Inc. will petition for annexation into the City in order to come under consideration under the economic development policy.

In a March 1996 feasibility study released by AdvantageWest, it was determined that the Asheville/Buncombe area was well-positioned to be able to attract high tech firms if a park were developed which catered to their needs. Since that time, AdvantageWest and Biltmore Farms, Inc. have been working together to build a diverse coalition of public and private entities interested in the development of this type of concept. Due to the major economic impact this project would have on the entire WNC region, the partnership presently includes Carolina Power & Light (CP&L); BellSouth; Buncombe County; Mission-St. Joseph's Health System and as aforementioned, AdvantageWest and Biltmore Farms, Inc. Moreover, A. Max Lennon, President of Mars Hill College, is currently establishing a consortium of academe which includes the University of North Carolina at Asheville, Warren Wilson College, A-B Tech and other Western North Carolina community colleges, as well as state and regional educational leaders to aid in the development of a Knowledge Center at the site. Besides the Knowledge Center (approx. 40,000 sq. ft.), immediate plans also call for the construction of 50,000 sq. ft. high tech/flex space building.

In order to begin construction of the site and proceed with Phase I of the proposed regional technology park, a sanitary sewer extension and a water line extension is needed. Following is an overview of the estimated costs associated with this proposal:

1. The sewer extension will involve an 8" sewer line of approximately 2200' to connect from the location of the proposed facility to the existing Ducker Creek sewer interceptor. Estimated costs for the sanitary sewer lines, manholes, and laterals is \$150,000.
2. The water line size should be a minimum of 12" in diameter, and would require the expansion of approximately 3300' of line, installed within the Schenck Parkway right-of-way. The estimated costs for the water line, valves, and hydrants is \$160,000.
3. The high tech/flex space building will be approximately 50,000 sq. ft. Plans call for this building to be adjacent to the Knowledge Center. Estimated cost is \$2,500,000 and will require the City of Asheville to issue Certificates of Participation (COPs) in sufficient amount to handle the building construction cost. A triumvirate of the City, AdvantageWest and Biltmore Farms will design, build, market and either sell or lease to the ultimate tenant. Biltmore Farms will

subordinate its land, AdvantageWest will provide debt service payments for up to 24 months after which Biltmore Farms will assume all debt payments until the building is either sold or leased. (Biltmore Farms will provide a Letter of Credit guaranteeing any debt payments which may be required.) If feasible, the City will include the financing requirements of the high tech/flex space building in the same COPs issue as the renovation of the Municipal Building, repair of the City Hall roof and renovation of the Grove Arcade. Contracts for construction of the building will comply with North Carolina General Statutes (NCGS) governing Public Contracts (use of the formal bid process, multi-prime contractor requirements, etc.)

Although the information above addresses only Phase I (Pod 3) of the prospective development, it should be noted that once installed, both lines will have the capacity to serve three out of the five proposed pods, consisting of seven (7) building sites, with an estimated total of 370,000 sq. ft. (excluding Knowledge Center) of commercial building space ('96 estimated market value of \$23,225,000 for both land and buildings, excluding equipment and other personal property). He then reviewed a summary of the calculation for Public Investment.

It should also be noted that each of the partners cited earlier have offered to provide additional support to complete this portion of the project if certain thresholds, varying by partner, are met. Buncombe County will contribute toward the site improvement costs under its economic development incentive program; CP&L will construct a feeder line; BellSouth will construct a fiber optic line; Mission-St. Joseph's Health Systems will facilitate the development of the Knowledge Center and AdvantageWest will also support the development of the Knowledge Center and market the Center. Biltmore Farms, Inc. will donate four (4) acres, more or less, for the Knowledge Center to be constructed and will grant the roadway, water, sewer, power, and telephone easements and rights-of-way required for the improvements.

Conformance with City Economic Development Policy:

Below is information detailing the conformance of the Biltmore Farms, Inc. request with the City's Economic Development Policy.

CITY POLICY (CITE)	BILTMORE REQUEST
1. Apply to private investment taking place inside city or directly adjacent wherein voluntary annexation could occur if requested. (II).	1. Site adjacent to City. Biltmore Farms, Inc. will petition for voluntary annexation.
2. City participation consistent with NCGS and other pertinent laws. (II).	2. No conflicts known.
3. Funding levels for economic development improvements will be established annually. These funds will be granted for the creation or improvement of public infrastructure and site improvements, such as . . . water lines or sewer lines. (III.A.)	3. No funding budgeted. Would need appropriation.

<p>4. City investment in infrastructure will be publicly owned.</p>	<p>4. Sewer lines and water lines will be deeded to and maintained by Metropolitan Sewerage District and Regional Water Authority of Asheville, Buncombe and Henderson, respectively.</p>
<p>5. Project must involve creation of new jobs over and above what is currently available by the requesting company. (III.B.1.)</p>	<p>5. Based on buildable floor space, 500+ jobs can be projected for the first three pods.</p>
<p>6. Demonstrated need for City assistance. Necessary for project to go forward. (III.B.2. and III.C.1.)</p>	<p>6. Property is currently undeveloped. In order to build multi-million dollar regional technology center, public and private entities have formed partnerships to share in investment, as suggested in feasibility study.</p>
<p>7. The location and type of business is consistent with City plans and development policies. (III.B.3.)</p>	<p>7. The property is located outside city limits. Developer will petition for voluntary annexation. Due to its location along I-26 and Long Shoals Road near the Asheville Regional Airport, the site is particularly well-suited for a business park.</p>
<p>8. All projects meeting the criteria will be discussed on a case-by-case basis and are subject to available funds. (III.B.4.)</p>	<p>8. Council discussion.</p>
<p>9. City funds may not be used for predevelopment or engineering and architectural purposes. (III.B.5)</p>	<p>9. City funds will be for construction only. This provision can be stipulated in any agreement.</p>
<p>10. Staff will investigate financial stability of company. (III.C.3.)</p>	<p>10. Biltmore Farms, Inc.</p>
<p>11. Staff will calculate expected return on investment and present project to City Council for preliminary approval. (III.C.4.)</p>	<p>11. See expected return calculations which follow this chart.</p>
<p>12. Special consideration given to companies that pay employees the State</p>	<p>12. Park will attract information intensive industries, paying above-</p>

of NC average weekly manufacturing rate, plus 10%; minority and/or female owned businesses that are socially responsible and environmentally sensitive. (Not Policy Requirements).

average professional salaries. Firms will be environmentally sensitive. Will not store nor produce environmentally hazardous materials.

Based upon conformance with the City's Economic Development Policy, staff recommends that Council agree in principal to provide Biltmore Farms, Inc. with the requested water and sewer lines and provide funding for the high tech/flex space building. -7-

CALCULATION FOR PUBLIC INVESTMENT

City of Asheville

Economic Development Incentive Policy

(Resolution #94-211)

Pod 3 (Phase 1)

(Knowledge Center not included)

Real Estate Investment (Land/Buildings): \$ 6,225,000

City Tax Rate: \$ .57/\$100 a.v.

Annual Yield: \$ 35,482

Five-year Projected Yield: \$ 177,410

City Investment (90%): \$ 159,669

Pods 1, 2, 3

(Knowledge Center not included)

Real Estate Investment (Land/Buildings): \$23,225,000.

City Tax Rate: \$ .57/\$100 a.v.

Annual Yield: \$ 132,382.

Five-year Projected Yield: \$ 661,912.

City Investment (90%): \$ 595,720.

Should City Council agree in principal to provide Biltmore Farms, Inc. with the requested water and sewer lines and provide funding for the high tech/flex space building, City staff will continue working with those involved in the needed improvements to structure an agreement which will contain performance commitments addressing such factors as:

1. A commitment from Biltmore Farms, Inc. to develop the park site within a specified time period.
2. Detailed performance commitments from Biltmore Farms, Inc. including the commitment to petition for annexation.

3. A commitment from all partners to ensure participation in the project.
4. A schedule of disbursements of public funds.
5. Any other provisions Council may wish to add to insure that the public purpose is being served.

It was the consensus of City Council to agree in principal to provide Biltmore Farms, Inc. with the requested water and sewer lines and provide funding for the high tech/flex space building, and to have City staff continue working with those involved in the needed improvements to structure an agreement which will contain performance commitments outlined above.

#### ANIMAL CONTROL

Contract with Buncombe County Friends for Animals

Police Chief Will Annarino asked for Council's consideration of entering into a contract with Buncombe County Friends for Animals, Inc., -8-

(BCFFA) for the administration, regulation, care and enforcement of animal control services within the City.

The Police Department is seeking authorization to enter into a contract with BCFFA for a twenty one (21) month period beginning on the 1st day of October, 1997, with automatic renewal after the first twenty one (21) months, for twelve (12) month intervals, for the administration, regulation, care and enforcement of animal control within the corporate limits of the City.

Buncombe County Friends for Animals, Inc., is a non-profit organization whose mission is to improve the quality and standards of animal welfare. BCFFA currently operates the pet adoption center (Animal Shelter) as well as providing animal control services to the County of Buncombe.

A contract has been negotiated by BCFFA's and City of Asheville's Staff which describes responsibilities and requirements to be met by BCFFA and an agreed upon budget, for the term of the contract, provided by the City of Asheville.

Major features of the contract include:

1. The terms of the contract will be for twenty one (21) months beginning October, 1997, and renewable on a yearly basis thereafter unless either agency desiring not to renew shall provide the other agency with a one year notice.
2. The City shall compensate BCFFA \$72,127.53 for services rendered from October 1, 1997, to June 30, 1998, and shall compensate BCFFA \$96,170.00 for services rendered by BCFFA from July 1, 1998, to June 30, 1999. The source of all funds will be the City's general fund. The City budget for the Animal Control function for FY 1996/97 was \$80,558. Future funding will be determined through the City's budget development process.
3. BCFFA is authorized to act on behalf of the City of Asheville in the administration and enforcement of animal control services, to include enforcing any and all provisions of the City's Animal Control Ordinance and other responsibilities spelled out in the contract for administration of services. These include:
  - a. Be available to residents of the City on a 40 hour basis , Monday through Friday, five days per week and subject to on-call response, at all other times, to animal bites, animal injuries, dangerous animal complaints or other cases of



emergency.

b. Provide training to all animal control officers prior to their performing their duties.

c. Ensure that all policies, practices and procedures of BCFFA comply with federal, state and local laws, rules and regulations.

In reviewing the contract staff feels that the benefits which the City and our citizenry will realize from this contract include:

- Programs currently administered by BCFFA, such as
- Pet Adoptions;
- Spay and Neuter programs;
- Rabies clinics; and
- Pet care and pet educational programs.
- BCFFA can work with pet owners to vaccinate pets. -9-
- Some administrative duties such as follow up previously performed by Captain, Sergeant, or patrol officers will be eliminated.
- Certified Professional Animal Control Officers certified through National Animal Control Academy.
- Additional personnel created through County wide consolidation of Animal Control responsibilities

Staff recommends authorizing the City Manager to contract with BCFFA for the administration, regulation and enforcement of animal control services within the City of Asheville.

Mr. Richard Bass, President of Buncombe County Friends for Animals Inc., reviewed with Council the services the BCFFA can provide and have been providing to Buncombe County. He explained the role of BCFFA.

Ms. Barbara Bellows, Director of Animal Control, also spoke in support of this contract and how the BCFFA will be able to help the City in it's animal control.

Animal Control Ordinance Amendment

Police Chief Will Annarino asked for Council's consideration of

an ordinance amending Chapter 3 (Animals) of the Code of Ordinance of the City of Asheville.

The Asheville Police Department is seeking authorization to enter into a contract with Buncombe County Friends for Animals, Inc., for the administration, regulation, care and enforcement of animal control services within the City of Asheville. In order to do so, Chapter 3, Section 3-6 (Administration), of the current Animal Control Ordinance must be revised to allow the City Manager to designate a local agency to administer the City's Animal Control Services.

Staff recommends revising Chapter 3, Section 3-6 (Animals) of the Code of

Ordinances of the City of Asheville so as to authorize the City Manager to designate a local agency to administer the City's Animal Control Services.

Mayor Martin asked that the record show that City Council has

received this information and instructs the City Manager to place these items on the next formal City Council agenda.

#### HILLS OF BEAVERDAM

Ms. Suzanne Molloy, Assistant Director of Public Works, said that staff has negotiated the terms of a contract for upgrade and acceptance of the streets as City-maintained streets located in the Hills of Beaverdam.

The property owners of Hills of Beaverdam have requested for the City to make improvements to the streets located in the Hills of Beaverdam. Since the adoption of Resolution No. 96-216, staff has negotiated with the property owners as to the requirements of acceptance, necessary easements, and costs. All property owners on the following streets: Skyview Drive, Skyview Circle, Sunset Trail, and Crescent Lane have signed all necessary easements to proceed with the project.

The estimated cost of the project is \$137,000 for street improvements to Skyview Drive, Skyview Circle, Sunset Trail, Crescent Lane and the addition of several storm drainage improvements within the development. Upon execution of the agreement, all improvements would be -10-

in accordance with the contract and plans as prepared by the City of Asheville and William Lapsley G. Lapsley & Associates, P.A. The project is scheduled to begin in September.

Staff recommends the adoption of the resolution authorizing the City Manager to execute an agreement with the property owners of Hills of Beaverdam for street improvements.

Upon inquiry of Councilman Hay, a representative from the Hills of Beaverdam said that they didn't realize the extent of easements needed and was pleased that the project will now be able to proceed.

Mayor Martin asked that the record show that City Council has

received this information and instructs the City Manager to place this item on the next formal City Council agenda.

#### FIRE STATION 4/POLICE RESOURCE CENTER

Fire Chief John Rukavina said that at the City Council July 15, 1997 worksession, staff and City Council reviewed the status of bids for the new Fire Station 4/Police Resource Center facility in Skyland, in light of the fact that the lowest bid received exceeded the architect's estimate, as well as budgeted and available funds. During that review, City Council members raised questions and offered suggestions on how to respond to the variance between low bid and available funds.

On July 16, 1997, staff met with Barney Woodard to share the questions raised and suggestions made at the previous day's worksession. Mr. Woodard, in turn, agreed to review his design in light of those questions and suggestions, and to meet with the low bidder, H & M Constructors, to negotiate a reduction, if possible. On July 26, 1997, Mr. Woodard delivered a report and recommendations to staff.

Based on his conversations with a representative of H & M Constructors and his reassessment of the building design, Barney Woodard recommends the following:

- (1) The Fire Station 4/Police Resource Center bids currently in hand be rejected, and the building be redesigned and rebid; and
- (2) The redesign include a combination of reduction in size of living quarters, deletion of one of two apparatus bays, deletion of a second-floor storage area and/or deletion of certain contract

allowances, for total savings that would result in a bid of not more than \$600,000.

Staff recommends that the redesign incorporate the following recommendations by Mr. Woodard:

- (1) Reduction of living/office quarters by 2006 sq. ft., at an estimated savings of \$150,000;
- (2) Deletion of certain contract allowances for miscellaneous equipment and identification signs for a cost savings of \$34,000; and
- (3) As a bid alternate, deletion of one fire apparatus bay.

The Police Chief and Fire Chief concur in this recommendation.

Staff recommends that City Council reject all bids received on June 5, 1997, and adopt a resolution authorizing the City Manager to -11-

enter into an agreement with Barney Woodard, AIA, to redesign Fire Station 4/Police Resource Center in a manner consistent with staff's recommendation.

Vice-Mayor Field did not want to eliminate a bay when she felt sure we would need it in the future.

Mayor Martin asked that the record show that City Council has

received this information and instructs the City Manager to place this item on the next formal City Council agenda.

MEMORANDUM OF UNDERSTANDING WITH HABITAT FOR HUMANITY FOR PROPERTY OFF BROADVIEW DRIVE

Mr. Marvin Vierra, Community Development Director, said that the Memorandum of Understanding identifies responsibilities of the City of Asheville and Habitat for Humanity in the joint development of a Single Family Owner-Occupied subdivision off Broadview Drive.

The Memorandum of Understanding provides for a cooperation agreement between the Asheville Area Habitat for Humanity and the City of Asheville in the joint development of 12.23 acres of land off Broadview Drive into an affordable owner-occupied single family housing subdivision. Under cooperation with Habitat, the City will design the subdivision, construct the infrastructure and landscaping, and build five single-family homes within the subdivision. The City will also be working with the neighborhood in the area. The City will also transfer the ownership of the land to Habitat who will construct the remaining homes and sell them to low and moderate income families for homeownership.

The Community Development staff recommends adoption of the Resolution.

Upon inquiry of Councilman Sellers, Mr. Vierra said that there is a good possibility of a park could be built on that land.

Mr. Vierra said that even though the City doesn't have total support from the neighborhood, as concerns were expressed at the community meeting, the City will continue to work with community to show that these homes will increase their property values.

When Councilman Sellers asked about how many houses the City would be building, Mr. Vierra said that the City hoped to build at least 30 houses, noting that the zoning ordinance would allow a developer to come in and build 96 houses on that same property.

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

REQUEST TO USE CITY LOGO - ASHEVILLE TILEWORKS & POTTERY

Assistant City Manager Doug Spell asked for consideration of a request from Asheville Tileworks & Pottery to use the City logo on commemorative tiles.

The City of Asheville has received a request from Asheville Tileworks & Pottery to allow them to use the Asheville City logo for a tile they would create and sell locally for both residents and visitors. The tile would have the Asheville City logo printed on it and "Asheville" printed beneath the logo. In the July 23, 1997 letter, Mrs. Anne Alexander indicated that the -12-

tile would be completely handmade and hand decorated. She also indicated that she felt that the "city would benefit in the reinforcement of pride in our city."

As you may recall, in April 1996 a similar request was received from the Lewis Rathbun Wellness Center whereby they would use City Hall as a subject for their collector's series of ornaments. To staff's knowledge, this was the first time that such a request had been received. Therefore, we indicated that City Council could adopt a resolution authorizing the Lewis Rathbun Wellness Center to use the City logo as a subject matter on ornaments they would produce and sell. The difference with respect to this request is that the prior request was from a non-profit agency. In discussions with the City Attorney, he does not foresee any problem arising from the City granting permission to Asheville Tileworks & Pottery to use the City logo as requested herein.

City staff recommends that a resolution be adopted granting permission for Asheville Tileworks & Pottery to use the Asheville City logo as a subject for handmade and hand decorated commemorative tiles which they would create and sell.

City Attorney Oast said that he is investigating avenues which the City can take to ensure that the use of the City logo does not get out of hand if Council feels a request is not representative of the City. He said that he would have a report for Council at the upcoming retreat or at a meeting within the next few weeks.

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

BUDGET AMENDMENT RE: STATE SALES TAX

Assistant City Manager Doug Spell said that the Asheville Civic Center owes sales tax on alcohol sales to the State of North Carolina in the amount of \$17,111.54 for which funding is not currently available.

Many events at the Asheville Civic Center offer the sale of alcoholic beverages. Sales tax is due to the State of North Carolina on the sale of such beverages. It has been the practice at the Civic Center to collect such sales tax from the alcohol patrons. It is, therefore, the responsibility of the Asheville Civic Center to remit such sales tax to the State of North Carolina on a timely basis. For the period April, 1990 through June, 1997, the sales tax from alcohol sales was collected from the patrons but not remitted to the State. The amount of such taxes due for the period is \$17,111.54 and is currently due and payable. Sales tax due beginning July, 1997 will be remitted in a timely manner. The Civic Center is seeking additional funding in order to make the payment to the State of North Carolina for the back sales tax due as such funds are not appropriated in the current year. An appropriation of General Fund fund balance is required to meet the funding request.

Staff recommends the City Council approve the \$ 17,112 funding request from the Asheville Civic Center for fiscal year 1997/98. Funding shall be provided from an appropriation of General Fund fund balance.

Mayor Martin asked that the record show that City Council has

received this information and instructs the City Manager to place this item on the next formal City Council agenda.

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DISCUSSION REGARDING TOWER ORDINANCE CONSULTANT

Councilman Cloninger said that even though he was pleased with our current telecommunication tower ordinance, he felt that there are some areas which need to be improved. He noted the following four areas in particular: (1) maximizing the coverage area; (2) minimizing the number of towers; (3) maximizing the use of stealth technology; and (4) looking for opportunities to make money off of the companies looking to provide services in these areas. He felt that the City should hire a consultant to help us with addressing this very complicated issue. He was optimistic that the consultant could be paid through fees with minimal out of pocket expense to the City. He hoped that when we develop a more comprehensive ordinance, it is essential to get input from not only the community but also the telecommunication tower industry. Planning & Development Director Julia Cogburn agreed with Councilman Cloninger.

Vice-Mayor Field said that there is a need for better coverage but Council still needs to respond to the needs of the community and neighborhoods. She felt the ordinance should be something that allows us to move forward in the 21st Century in terms of technology and still protect the views that we have.

Councilman Worley also supported this request and stressed that we needed to get better coverage without hampering the views and detracting from the beauty of our area.

Councilman Hay noted that Asheville took a leadership role with the first good strong ordinance regulating telecommunication towers.

It was the consensus of Council to instruct the Planning & Development Department to proceed with preparing a Request for Proposals for a

telecommunication tower consultant.

Mayor Martin asked that the record show that City Council has

received this information and instructs the City Manager to place this item on the next formal City Council agenda.

RESOLUTION NO. 97-124 - RESOLUTION CALLING FOR A SPECIAL MEETING ON FRIDAY, AUGUST 15, 1997, AT 12:00 NOON AT THE GROVE ARCADE BUILDING FOR THE PURPOSE OF EXECUTING AGREEMENTS WITH THE GROVE ARCADE PUBLIC MARKET FOUNDATION FOR THE LEASE OF THE GROVE ARCADE BUILDING TO THE FOUNDATION, AND FOR THE PRESERVATION AND OPERATION OF THE BUILDING BY THE FOUNDATION

City Attorney Oast said that this Resolution sets a special meeting of the City Council for the purpose of executing the lease and operating agreements with the Grove Arcade Public Market Foundation. The Resolution outlines that the purpose of the special meeting is for the execution of agreements with the Grove Arcade Public Market Foundation for the lease of the building, and preservation and operation of the building by the Foundation. The meeting is to be held at 12:00 Noon on August 15, 1997, at the Grove Arcade Building.

Councilman Worley moved to waive the rules and take formal action on this item. This motion was seconded by Councilman Sellers and carried unanimously.

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

Councilman Worley moved for the adoption of Resolution No. 97-124. This motion was seconded by Councilman Sellers and carried unanimously.

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BOARDS AND COMMISSIONS

As an official duty of the Vice-Mayor to oversee the process of board and commission appointments and for her and the committee members to make recommendations to the entire Council, she recommended that if someone has served one term, is interested in reappointment and has met the attendance requirements, that that person be reappointed to serve a second term.

Subject to the City Clerk verifying the criteria above, the Committee recommended the following: Carole G. Williams and Glenda McDowell be reappointed to the Americans with Disabilities Act Compliance Committee.

Vice-Mayor Field said that because the Minority Business Plan is being revised and in that Plan the make-up of the Minority Business Commission will change, it was the Committee's feeling that City Council should re-appoint the following until the new Plan is adopted: Robbie Williams (YMI Cultural Center representative), Bonnie Habel (A-B Community Relations Council representative) and Ronnie Blythe (A-B Development Center representative) on the Minority Business Commission.

It was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork for appointments as outlined above by Vice-Mayor Field.

It was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to appoint Don Tomlinson to the Tourism Development Authority.

It was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to appoint Sam Powers as the Chamber of Commerce representative to the City Business and Development Commission, to serve the unexpired term of Jay Garner, term to expire October 1, 2000.

City Council instructed the City Clerk to determine if Toni Huskey was a City resident and if so, to arrange an interview for her for a vacancy on the Firemen's Relief Fund.

City Council instructed the City Clerk to contact Nelda Holder to see if she was interested in a vacancy on the Asheville Tree Commission.

City Council instructed the City Clerk to arrange interviews for Max Swicegood, Billie Buie, Jan Davis, Jerry Bailey, Arthur Anderson, Lionel Williams, Anne Campbell, Catherine Gallagher and Bill Moore for the Planning & Zoning Commission.

CLOSED SESSION

At 5:07 p.m., Councilman Worley moved to go into closed session for the following reasons (1) to consider the qualifications, competence, performance, character, or fitness of an individual public officer or employee - statutory authority is G.S. 143-318.11 (a) (6); (2) to prevent disclosure of information that is privileged or confidential pursuant to the laws of North Carolina, specifically, the Personnel Privacy Act, G.S. 160A-168 - statutory authority is G.S. 143-318.11 (a) (1); and (3) to consult with an attorney employed by the City in order to preserve the attorney-client privilege between the City and - 15-

its attorney - statutory authority is G.S. 143-318.11 (a) (5). This motion was seconded by Councilman Sellers and carried unanimously.

At 6:20 p.m., Councilman Worley moved to come out of closed session. This motion was seconded by Councilman Sellers and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:20 p.m.

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CITY CLERK MAYOR

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