

Tuesday - September 16, 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 (arrived in meeting at 3:15 p.m.); and Councilman Charles R. Worley; City Attorney Robert W. Oast Jr.; Assistant City Manager S. Douglas Spell; and City Clerk Magdalen Burleson

Absent: City Manager James L. Westbrook

CONSENT AGENDA:

Submittal of Homeownership Zone Application to HUD

Summary: The consideration of a resolution to approve submittal of funding applications to U. S. Department of Housing and Urban Development to expand homeownership opportunities in the target area.

Public Auction

Summary: Consideration of a resolution authorizing the Purchasing Director to dispose of City-owned personal property by public auction.

Municipal Records Retention & Disposition Schedule

Summary: The consideration of approving the N. C. Dept. of Cultural Resource's updated Municipal Records Retention and Disposition Schedule issued August 15, 1997.

Purchase of 285 Linear Feet of 8-inch Sewer Line from Beaver Creek Partnership to service Carter Cove Community

Summary: The consideration of authorizing the expenditure of funds in the amount of \$12,000 to Beaver Creek Partnership for 285 linear feet of 8-inch private sanitary sewer line to connect an existing Metropolitan Sewage District sewer line to a proposed 8-inch sanitary sewer line to service the Carter Cove community.

Transfer of Wind Song Subdivision Pumping Station Property to City of Asheville

Summary: The consideration of approval of the transfer of property to the City of Asheville for the Wind Song Subdivision pumping station property.

Acceptance of Regional Water Authority's Recommendation to award contract re: Bee Tree Dam Modification Project

Summary: The consideration of awarding an Engineering Services Contract to Applied Geosciences and Engineering, Inc.

Acceptance of Regional Water Authority's Recommendation to award contract re: Gap Creek/Cane Creek 12-inch Waterline Contract

Summary: The consideration of awarding a construction contract to Cooper Construction Company for the Gap Creek/Cane Creek 12-inch Waterline Contract.

65 Starnes Avenue Grocery Sign Request for Designation of Landmark Sign

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Summary: The consideration of a request from the owner of the Asheville Store for landmark designation of the Starnes Avenue Grocery Sign, located at 65 Starnes Avenue.

Resolution regulating Consumption and Possession of Malt Beverages and/or Unfortified Wine at the Greek Festival

Summary: The consideration of a resolution allowing alcoholic beverages at Asheville's 11th Annual Greek Festival on October 3-5, 1997.

Authorize City Clerk to Advertise Sale of Disposal Parcel 10.1 on Carroll Avenue

Summary: The consideration of authorizing the Mayor to execute necessary documents to effect an exchange of property with the Housing Authority of the City of Asheville in order to facilitate several beneficial projects.

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.

GREENWAY MASTER PLAN

Ms. Erin McLoughlin, Urban Planner, said that the Trust for Public Land has received a grant from the Janeirve Foundation to prepare a greenway master plan for the City of Asheville.

The Trust for Public Land applied for and received a Janeirve grant to continue their work on greenways in Asheville. They received a total of \$75,000 of which \$25,000 is for their continued work on the Broadway Greenway and \$50,000 is for a greenway master plan. The Janeirve Foundation stipulated that the master plan monies (\$50,000) would need to be matched dollar for dollar. The Planning and Development Department had \$30,000 in this year's budget for greenway planning. This money will be used to match \$30,000 from the grant. A budget amendment in the amount of \$20,280 is necessary for reimbursable expenses that will be incurred during the master plan process. The budget amendment will transfer \$20,280 from the General Capital Fund Contingency for this purpose leaving a balance of \$70,720 in Contingency.

The City will be responsible only for those expenses actually incurred. Any monies not used in the master plan process will be used to leverage other funds for future greenway work.

The Planning and Development Department recommends (1) that the City Manager be authorized to sign the Conservation Services Agreement with The Trust for Public Land; and 2) that City Council adopt a budget amendment in the amount of \$20,280 so that The Trust for Public Land can begin work in September on a master greenway plan for the City.

A representative from The Trust for Public Land responded to questions from Council relative to the Master Plan and stated that the Plan would be completed around June of 1998.

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.

DESIGNATION OF PORTION OF LAND CROSSING WATERSHED PROPERTY AS NORTH CAROLINA
"MOUNTAIN-TO-SEA" TRAIL -3-

City Attorney Oast said that this is the consideration of a resolution authorizing the designation of an existing trail through the North Fork Watershed Property as a segment of the North Carolina Mountains-to-Sea Trail.

The Carolina Mountain Club has approached the City to request the City's consent to an application for the inclusion of an existing trail through the North Fork Watershed as a segment of the "Mountains-to-Sea" Trail. The application is made to the N. C. Dept. of Environment, Health and Natural Resources. The Club initially communicated to the City that the City's action was not needed until late in the Fall, but later discussions indicated that the City's consent was needed earlier. An appropriate investigation was conducted and there was no apparent problem with consenting to the application. The investigation and results are detailed in a Memorandum and letter, dated August 25, 1997.

Mr. Dwayne Stutzman, Regional Trails Specialist with the N.C. Dept. of Environment, Health & Natural Resources, passed out some information in the history of the Trail.

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.

ADDITIONS TO THE FEES & CHARGES MANUAL

Audit/Budget Director Bob Wurst said that this is consideration of adding three fees to the Fees and Charges Manual to be effective September 23, 1997.

During the budget process, three items related to fees and charges were omitted from the information presented to City Council. Staff requests City Council consideration of these items so as to become effective September 23, 1997.

The Engineering Department of the City of Asheville is requesting that the Asheville Standards Specifications and Details Manual be sold in Manual form for \$25 per copy and the standard details be sold in a 10-Disk set for \$100, plus shipping charges if applicable.

The Engineering Department is also requesting that a maximum for street cut permit fees be set at \$2,500. Staff has evaluated the fee schedule for street cuts and feels that a maximum fee is appropriate for the large job size. This amount was reached based on a review of data from previous projects with large street cuts.

The Administration Department has included a copy fee policy that would be applicable to all City departments and addresses the different types of documents available for duplication.

Staff recommends that the City Council adopt the new fees effective September 23, 1997.

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.

RENOVATION OF CITY DEVELOPMENT BUILDING FACADE

Mr. Lyle Willis, Contract Administrator, said that this is consideration of the selection of a contractor to perform repairs of the facade of the City Development Building (Martin Building). -4-

Over the course of the last few years, it has been determined that the facade of the City Development Building (Martin Building) is in need of repair. There is evidence of stucco and structural fastener deterioration and several large pieces of stucco have completely fallen off the building. A consulting architectural firm, Camille Alberice Architects PA of Asheville, was hired to determine the extent of repairs needed, and bid specifications and plans were drawn up accordingly. The scope of work was outlined as follows: Repair the front and back sides of the parapet wall, sidewalk, drywall ceiling, and structural fasteners (Roof work was not included.).

On July 7, 1997, advertisement for bid letters were sent out requesting proposals for the above-described work. No bid proposals were received by the advertised bid date of July 18, 1997. The contractors were then contacted again, at which time they responded that the project was very specialized and they were therefore reluctant to bid. At that time there was a single contractor who expressed a willingness to research the project further and submit a proposal. On August 21, 1997, staff received a written proposal and, after review of these bid proposals, it was determined that Carolina Cornerstone Construction Inc. of Asheville would be selected as the successful bidder. It was then determined that City staff would seek Council approval to enter into a contract to perform work listed in its proposal for \$35,865.

Staff recommends Council approval of the lowest responsible bidder, Carolina Cornerstone Construction. Inc., and requests Council to direct the City Manager to enter into contract for \$35,865 for repairs of the facade of the City Development Building (Martin Building).

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 RESCINDING CONVEYANCE OF SURPLUS BUSES TO ASHEVILLE SISTER CITIES PURSUANT TO THEIR REQUEST

Mr. Carl Ownbey, Urban Planner, said that this is consideration to rescind Resolution 96-172 where the City of Asheville conveyed two of Asheville Transit Authority's surplus buses to the Asheville Sister Cities Program in September of 1996 to be sent to San Cristobal, Mexico, for their public use.

Through the Asheville Sister Cities Program, the City of Asheville had received a request from its Sister City of San Cristobal, Mexico, for surplus buses to be used for their school program. Since the Asheville Transit Authority had just recently replaced its entire fleet of transit buses, there were several buses available to be conveyed to the Sister Cities Program. In a 1996 resolution, the City Council conveyed two of the surplus buses to the Sister Cities Program and authorized the surplus buses to be conveyed for public use by the Town of San Cristobal.

Since the time of conveyance of the two buses, the Sister Cities Program has tried to accomplish the task of shipping the buses to Mexico; however, with limited resources to ship the buses to Mexico, the Sister Cities Program is now declining the offer of the two buses and is requesting that the City of Asheville take the buses back.

The City Planning Staff and the Asheville Transit Authority recommend that the

City Council take the two surplus buses back from the -5-

Sister Cities Program and place them in the next public auction (which is scheduled for October, 1997).

Vice-Mayor Field explained that the problem was that they could not cross the border with a vehicle licensed to someone different other than the driver of the vehicle and no one driving the vehicles were willing to take on the ownership.

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.

FURTHER DISCUSSION OF SIGN ORDINANCE

Councilman Cloninger said that he was encouraged by the report Council received from the Planning Department at the mid-year retreat about the progress being made in enforcing the sign ordinance. But, he believed the City can, and should, do more regarding signs. He said "before I explain what I do propose, I would like to first make clear what I do not propose. I do not propose that we made any changes in the current sign ordinance pertaining to on-premises signs - the signs that business owners use on the site of their business to let the public know that they are there. The current ordinance regarding on-site signs is a good one, and we should simply seek to enforce it, and to appoint people to the Board of Adjustment who are willing to enforce it.

"I do propose that we change our ordinance as it pertains to billboards. The benefits of billboards are outweighed by the harm they do to our number one asset - the natural beauty of our area. Furthermore, there are many alternatives to billboards, such as radio, television and the print media. Billboards make us less attractive to tourists and potential new businesses looking to move into the area. They send a message that we don't appreciate the unique natural environment we live in here in the mountains - that we are content to look like just another city.

"We need to send a different message - a message that we understand how fortunate we are to live here, that we greatly value our quality of life and that we want to be good stewards of the natural beauty of this area. One way we can send that message is by eliminating billboards over time.

"Here are my specific proposals for amending the sign ordinance as to billboards: (1) Prohibit any new billboards; (2) Require the removal of all existing billboards within 7 years. (The courts have actually held that cities can require removal in less than 7 years, but I would propose that the billboard companies be given a full 7 years of additional income before having to take them down); (3) As an alternative to #2, that we readopt the language of the 1990 ordinance regarding existing billboards and start a new amortization period as to that readopted language. Under this alternative, no new billboards could be erected and all existing billboards would have to be in compliance with the 1990 ordinance by the end of a new amortization period; this would effectively undo the grandfathering of signs done by the previous City Council in 1995. I prefer the proposals in #1 and #2 above rather than this alternative; and (4) That any change in the language of the ordinance pertaining to billboards not impair the ability of the City to enforce the current sign ordinance during the new amortization period.

"We do not have the authority to regulate billboards along interstates. -6-

"I am not asking City Council members to take a vote today on which, if any, of these proposals. However, I am asking that we today instruct the Planning staff to present to the Planning & Zoning Commission proposed ordinance language similar to these proposals for the Commission to consider at their next scheduled meeting."

City Attorney Oast confirmed that the law does restrict the ability of local governments to regulate signs along some federal highways.

Councilmen Skalski and Sellers both endorsed the idea of moving this forward to the Planning & Zoning Commission.

Planning & Director Julia Cogburn explained that her interpretation of a billboard is outdoor advertising. Councilman Cloninger then stated that this proposal is exclusively for billboards.

It was the consensus of Council to instruct the Planning staff to prepare information for City Council's review at their next meeting. City Council can then review the information and forward it to the Planning & Zoning Commission for their review at their October meeting. Said information should contain draft ordinances to achieve Councilman Cloninger's request, information on how the changes will affect existing billboards, how many billboards will be affected, etc.

REQUEST FOR PLAN REVIEW EXEMPTION

Mr. Terry Summey, Director of Building Safety, said that this is consideration to request The Building Code Council for the authority to review plans at the local level and be exempted from the requirements for certain plans to be reviewed by the Department of Insurance ("DOI").

The North Carolina State Building Code, Volume 1-A, requires plans for certain facilities to be submitted and reviewed by the DOI engineering staff. This review generally takes several weeks, or months, to complete and may delay the issuing of the building permit by the local jurisdiction. If the local jurisdiction has appropriately certified plan review personnel on staff, this requirement may be waived by written request to DOI.

An inspection department may apply to the Building Code Council to review plans and specifications on buildings listed in Table 602. Such authority shall be granted provided:

1. The inspection department shall submit a written request for approval.
2. The inspection department shall state it is adequately staffed and the staff possess Standard Level III Certificates in all areas from the North Carolina Code Qualifications Board.
3. The approval shall be for up to 12 months.
4. The inspection department shall submit an annual written request for approval for the subsequent year by May 1 to be approved at the June meeting for the following year.

The City of Asheville Building Safety Department and the Fire Department's Life Safety Division currently have the following Level III Certifications on staff: Building - 9 Certificates; Electrical - 7 Certificates; Mechanical - 3 Certificates; Plumbing - 8 Certificates; and Prevention - 7 Certificates.

Although the City of Asheville may be approved for local plan review, the below listed buildings will require review by the State Engineering Division, per Volume 1A-section 602.2.2.

1. High Rise (buildings in which the highest occupied floor is more than 75 feet above the highest firefighting vehicle apparatus access area)
2. Group A-1- Large Assembly
3. Group H- Hazardous over 100 people
4. Covered Malls
5. All buildings owned by a city, or county having a total gross area exceeding 10,000 sq. ft. and
6. All buildings owned by the State shall be submitted to the State Property and Insurance Fund Division.

Other jurisdictions which are currently approved for local plan review include: Mecklenburg County and the City of Raleigh.

The Director of Building Safety and the Fire Chief recommend that City Council approve the request to The Building Code Council for the authority to review plans at the local level and be exempted from the requirements for certain plans to be reviewed by DOI.

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.

REVISED CITY'S ECONOMIC DEVELOPMENT POLICY

Mr. John Scaralia, City Development Director, reviewed the revised City's Economic Development Policy which includes establishing grants for eligible firms.

As competition between municipalities for a limited number of business relocations and investments becomes more acute, communities are finding the need to become more proactive in positioning themselves as cost-effective destinations with strong pro-business climates. It follows that in order to expand economic development options and create more employment opportunities for the residents of Asheville, a program should be established which encourages business to locate and expand within the City.

The Economic Development Incentives Policy provides a new way to stimulate business investment within the City by establishing grants for eligible firms based on the amount of investment in the community, the number of quality jobs created, and their ability to meet certain financial and operational criteria.

On March 8, 1996, in response to a lawsuit which argued that business incentives provided by governments to companies are unconstitutional (Maready vs. City of Winston-Salem), the N.C. Supreme Court held "that N.C.G.S. [section] 158-7.1, which permits the expenditure of public moneys for economic development incentive programs, does not violate the public purpose clause of the N.C. Constitution." As a result, municipalities across the state have begun to develop and broaden their incentive policies in order to compete for expanding and relocating businesses.

This proposed revision is based on providing grants to companies seeking to locate and expand within the City, and follows the general format which other N.C. municipalities have adopted. It augments the original guidelines as set forth in Resolution #94-211, adopted by the -8-

City Council on October 1, 1994, and establishes new parameters to help increase the diversity of the tax base, offer quality employment opportunities for its citizens, and promote private business and industrial growth within the City of Asheville.

Staff is recommending that City Council review the draft proposal and consider adoption of the new policy.

City Attorney Oast said that it is important to point out that this is a grant that is based in part on the amount of tax that the City would receive, as the statute permits - not a tax rebate or a tax abatement program.

Councilman Worley stressed that not every company that makes an application will receive a grant. This is discretionary and every application will be researched by staff and reviewed by City Council.

Councilman Skalski pointed out that the City of Portland, Oregon, has a policy statement in their incentive package dealing with job training, which he felt was very important in a good policy. He showed Council a graph which showed that approximately 80% of all new jobs created in the United States come from companies with four or less employees. That statistic relates to the amount of grant money that should be allocated to the different sized companies and he felt that more emphasis should be placed on that. He would work with Mr. Scaralia on this issue. With respect to tax structure and how it relates to jobs, he said the higher your taxes are per capita, the harder it is to attract new businesses into an area. He then questioned Asheville's policies on annexation and showed Council a chart based on the 1994-95 revenues and expenditures taken from "Fiscal Summary of North Carolina Municipalities for the fiscal year ended June 30, 1995." He explained that the chart showed that any city over 50,000 in population has a dramatic increase in taxes and when you annex more land into the City, your taxes go up. He felt Council should look at those items when they are looking at economic plans. He stated he had several other suggestions for possible inclusion in Asheville's package and offered to work with Mr. Scaralia on fine-tuning our policy.

Councilman Cloninger was pleased to see that the incentive policy would also help existing businesses.

Vice-Mayor Field was pleased that we are tailoring our policy to the needs of our community.

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.

HAW CREEK AREA GREENWAY

City Attorney Oast said that this is consideration of a resolution authorizing the City, through the City Manager, to enter into a Memorandum of Understanding and other agreements on behalf of the City for negotiation of easements with certain property owners along the projected route of a proposed Haw Creek greenway.

The Haw Creek Homeowners Association has been working with the owners of the

Haw Creek Mews Apartments and the Ice Service Stores to acquire easements along Haw Creek across their properties. These are relatively large tracts of land, and, because of their location at the intersection of Haw Creek on Beverly Road, acquisition of easements -9-

across them is crucial to the success of this neighborhood-initiated Greenway project, and to getting the project off to a good start.

The projected sequence of events and documents, as with the recent greenway project which crossed a portion of UNC-A property, is to enter into a Memorandum of Understanding first, and then to negotiate construction easements and permanent easements as the plans for the greenway develop and construction is undertaken and completed. The Memorandum commits the parties to this process, subject to working out details. No money is committed by the City and no property interest is acquired by the City at this point.

The resolution authorizes the City, Mayor or City Manager, to obtain appropriate agreements for the acquisition of property interests for the Haw Creek Greenway, but contemplates that these agreements will be negotiated by the Haw Creek Homeowners Association. For the present, this resolution will only apply to the two owners named above, but

authorizes negotiations with other owners as well. No commitment of funding for construction or maintenance of a greenway is authorized at this time.

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.

PUBLIC WORKS FEES FOR SPECIAL EVENTS

Traffic Engineer James Cheeks said that this is consideration of the fees charged by the Public Works Department for non-sponsored events.

The City currently has a policy for providing City resources such as staff time (overtime), barricades, signs, sanitation services, street cleaning, tip fees, police security and traffic control at no charge to a sponsor(s) if an event is designated as a City co-sponsored event.

The Public Works Department is typically involved in street barricades, banners, signage, sanitation (trash pickup), street sweeping and general labor. He outlined the budgeted costs by the Public Works Department for City co-sponsored events.

Conversely, events that are not co-sponsored by the City are charged based upon an estimate of costs for the aforementioned resources which must be paid in advance. Also, many such events require Public Works, Parks and Recreation and Police staff to work after hours at overtime pay rates. Such events can have a significant impact to operating budgets. He outlined the actual cost assessments for recent non-sponsored events.

For fiscal planning purposes it is important for departments which are supporting co-sponsored events to budget the appropriate funds for necessary services under the current fee system. Non-sponsored customers requesting special event services are assessed estimated actual costs for labor, equipment and supplies, which may give some groups and organizations the perception that there is an inconsistent administration of this program. Secondly, the City may not always possess the appropriate number of barricades for a particular event

(due to use in normal operations), which necessitates the rental or purchase of additional barricades (the costs of which are passed on to the sponsor).

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He reviewed the information from a telephone survey conducted by staff of North Carolina's seven largest cities. In summary, the information collected provides no definitive or consistent policies among them with the exception of MUTCD standard traffic control plans.

Based upon this data, the unique characteristics of each City were in all likelihood considered in developing each policy.

Aside from wear and tear on vehicles and equipment, the use (or loss) of supplies related to special events is primarily due to the damage or theft of traffic control barricades and cones. Thus, in order to maintain the appropriate level of barricades necessary for routine/non-routine public works projects, special construction activities and special events needs, it is necessary to purchase them on a regular basis.

An alternative to the rental and placement of barricades by City staff would be for event sponsors to rent such from private suppliers and placement and removal in accordance with the approved traffic plan.

It is important to strike a balance between the needs of the community and the general public, individuals and businesses potentially affected by special use (and restrictions) of rights-of-ways, through staff accommodation and a sensible policy for the administration of such events.

Based on a balance of needs, following are recommendations as related to Public Works services:

1) City co-sponsored event (as budgeted in approved annual budget): No Cost

2) Non-sponsored events utilizing City resources:

a) Labor: Full cost recovery (to include overtime if necessary)

Customer may contact DPW prior to event for estimate of costs.

b) Barricades (to include rental rates for Special Construction Activities):

• Type III: \$25 each per day

• Type II: \$10 each per day

• Cones: \$5 each per day

• Detour signs: \$5 each per day

• Meter bags: \$5 each per day

c) Vehicles: (based on fuel, operations, maintenance, and wear and tear)

• Pickup truck: \$12 per hour

• Aerial bucket truck: \$20 per hour

• Forklift: \$15 per hour

- Sanitation truck: \$40 per hour
- Tipping fee (solid waste): \$31 per ton
- Street Sweeper: \$40 per hour
- Street Flusher: \$40 per hour

d) Banners/decoration installations:

- \$100 deposit
- \$5 per banner (no size limit)

There are currently concessions made for use of City/County Plaza for smaller events (waiver of barricade fees) in an effort to accommodate smaller events.

It is staff's opinion that the above rate schedule represents a fair and equitable compromise between the event sponsor's use of public space and the City's support services. -11-

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.

CONTRACT FOR ENGINEERING SERVICES FOR BROADVIEW DRIVE SUBDIVISION

Mr. Marvin Vierra, Community Development Director, said that the City of Asheville is seeking engineering and site design services for the development of a single family, owner occupied housing subdivision affordable to low and moderate income families.

The Community Development Division issued a Request For Proposals for Engineering Services to design the Broadview Drive single family affordable housing subdivision on August 1, 1997. Eight proposals were received. An RFP Committee of City and Habitat staff reviewed the proposals and selected two firms for interviews. The Committee interviewed two firms and selected Mattern & Craig Inc. based on experience and qualifications. A contract price was then negotiated by

staff. The contract includes requirements to design the infrastructure for this affordable housing single family homeownership subdivision including layout of the lots and open space and park area. The engineer is to complete design and have final submittal to the City no later than February 15, 1998. The consultant will prepare bid specifications and assist with awarding the construction contract and inspect the construction of the project. The contract calls for completion of construction by September 1, 1998, and involvement of community residents throughout the design and construction. Cost of the consultant services is \$37,300.

Community Development staff recommends approval of the Resolution.

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.

COMMUNITY MEETING

Tuesday - September 16, 1997 - 3:00 p.m.

It was the consensus of City Council to hold a community meeting on September 30, 1997, at 7:00 p.m. The Crowfields community center was discussed as a possible meeting place.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 4:35 p.m.

CITY CLERK MAYOR
