

Worksession

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

Absent: None

**CONSENT:**

**Clerk to Advertise Offer to Purchase Property on Iris Drive**

Summary: The consideration of a resolution authorizing the City Clerk to advertise an offer of purchase for upset bids for a vacant lot at 125 Iris Drive.

A bid from Neighborhood Housing Services of Asheville (NHS), in the amount of \$17,100, has been received for the purchase of a vacant lot at 125 Iris Drive. The bid is not less than the appraised value of \$17,100.

The property is a single-family residential RS-8 zoned lot on Iris Drive comprising approximately 0.28 acre of land. The property has a rectangular shape and is fairly level elevated about 3' - 4' above street level. It has approximately 100 front feet on Iris Drive. There is no current or contemplated use for the property by the City. NHS plans to build a single -family residence on the site for sale.

Approval of the resolution will initiate the sale of the property through the upset bid process as provided in N. C. Gen. Stat. sec. 160A-269.

Planning staff recommends adoption of the resolution authorizing the City Clerk to advertise an offer of purchase for upset bids.

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

**DOWNTOWN RESTROOMS REPORT**

Parks & Recreation Director Irby Brinson said that the Parks and Recreation Department was asked by the City Manager to conduct a study on downtown restrooms within the City's business corridor.

Mr. Brinson said that the issues for public restrooms include: abuse of existing facilities; some facilities not designated for heavy public use and lack required maintenance; lack of awareness of some facilities open to the public; some facilities are not handicap accessible; limited availability between 5:30 p.m. and 8:00 a.m.; and provision of public restrooms for the residents and visitors who are not accommodated by private restroom facilities. Optimum qualities for public restrooms include: open to general public; visible; handicap accessible; strategically located; well-lighted; durable design; attractive; promoted as an asset; year-round usage; monitored and maintained; discourages vagrancy; and convenient hours of operation.

He said a survey of existing restrooms in public facilities revealed that there are 21 restrooms in the downtown area: City Hall; Buncombe County Courthouse; County Health

Department, YMCA, Thomas Wolfe Memorial; Municipal Building; YMI Cultural Center; Public Works Building; Pack Plaza; NC Cooperative Extension Service; Asheville Transit Authority; Asheville Public Library; Civic Center; Food Lion Skatepark; Grove Arcade; Western Carolina Rescue Mission; Chamber of Commerce; Salvation Army Shelter; Senior Opportunity Center; United Way, and Department of Social Services. There are 12 restrooms in public facilities that are open during daylight hours and have minimal restrictions. Those include: City Hall; Public Works Building; Municipal Building; Buncombe County Courthouse; YMI Cultural Center; Senior Opportunity Center; Food Lion Skatepark; Asheville Public Library; Grove Arcade; United Way; Civic Center; and Department of Social Services. Two restrooms in public facilities that are open at night include the Salvation Army Shelter and

the Western Carolina Rescue Mission.

Mr. Brinson said that a number of case studies were reviewed to determine what other cities have done to address this issue, which included Black Mountain, N.C.; Roanoke, Virginia; Chattanooga, Tennessee; and Boulder, Colorado.

He shared with Council a number of options in trying to address the issue, along with advantages, disadvantages and cost estimates for these options.

Option No. 1 – Utilize and Promote Existing Restrooms in Public Facilities – Initial cost would be minimal. Estimate for annual maintenance - \$35,000.

Option No. 2 – Standard Portable Restrooms – Initial cost would be \$2,500 for five units. Estimate for annual maintenance - \$10,500.

Option No. 3 – Deluxe Portable Restrooms – Initial cost would be \$5,000 for five units. Estimate for annual maintenance - \$10,500.

Option No. 4 – New Facilities in Downtown Storefront – Initial cost would be \$175-200,000. Estimate for annual maintenance - \$45,000.

Option No. 5 – Integrate into New/Existing Public Parking Deck – Initial Cost would be \$80-150,000. Estimate for annual maintenance - \$45,000.

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In summary, Mr. Brinson said there are currently 21 restrooms located in downtown Asheville public facilities. Twelve of these restrooms are currently open during daylight hours and have minimal restrictions and two restrooms are open at night, but contain restrictions. Strong concerns exist regarding vandalism, cleanliness, accessibility and operating costs in these public facilities. All options do not form a solution because of existing social issues. These existing issues are larger than a “public restroom.” All of the options presented will require additional resources to address security and maintenance.

Discussion surrounded a possible partnership with the Downtown Association; some kind of district to help fray costs; and fees to use restrooms.

Councilwoman Jones felt Council needed to make a decision and commit money to this issue. She felt we have a moral responsibility to provide more than what is existing now. She did not feel, however, that portable restrooms would be good for our community.

Councilwoman Jones did not see a problem in having the Downtown Social Issues Task Force review this information for their input and advice; however, it is City Council's responsibility.

Councilman Ellis, liaison to the Downtown Commission, agreed that it is Council's ultimate responsibility, but he felt it should be a shared responsibility with the downtown merchants. He did note that the merchants are aware of the issues and most are willing to work

-3-

with the City. He felt it would be appropriate for City Council to ask the Downtown Social Issues Task Force to review this information, along with the other charges given to them by City Council, and report back to Council with a comprehensive recommendation.

Vice-Mayor Bellamy was concerned that by the time the recommendation is received from the Task Force, Council will be in the middle or through the budget process and will have to wait another year to initiate any recommendations. City Manager Westbrook said that if the budget is complete by the time the recommendations come in, City Council can make an appropriation from either Contingency or Fund Balance.

It was the consensus of Council, after further discussion, to ask the Downtown Commission, the Downtown Association and the Downtown Social Issues Task Force to review this information on a fairly quick basis and to report back to Council their recommendations, which may include the best way to build partnerships and how to solicit contributions.

#### **REPORT FROM THE CITY COUNCIL SUBCOMMITTEE ON CAMPAIGN FINANCE CHANGES**

Councilman Peterson said that the City Council Subcommittee on Campaign Finance Changes met on February 27, 2002, and reviewed his following report: "Because this is such a controversial and legally difficult area, I suggest we try to follow established models. Council can look at what has worked before. There are several successful models to use as guides for what progresses to follow, organizational structures, and substantive reforms.

"Furthermore, Council should seriously consider the Recommendations from the Citizens Campaign Finance Reform Study Committee.

"First, Council can take a few, relatively simple steps to begin to address the problems. Second, Council can appoint a new Citizens Committee to develop a more comprehensive plan and the organizational structures necessary to carry out a comprehensive plan.

"One, Council could raise the filing fee to run for Council and Mayor from the current \$5.00 filing fee to \$90.00.

"In the last several city elections, there have been a great number of individuals who filed to run for Council. Unfortunately, many of the people who filed were not serious candidates and did not conduct serious campaign efforts. With only three council seats up each election cycle, the public had great difficulty learning about and distinguishing among the 15 to 20 candidates in the primary. The great number of candidates also made candidate forums very difficult and media coverage very limited.

"Two, Council could request that our local General Assembly delegation introduce a local bill that would allow Asheville to significantly lower the \$4,000 maximum cap on campaign contributions.

"The Town of Chapel Hill had local legislation passed several years ago that allowed the Town Council to limit by Town ordinance the amount that individuals and local PACs could contribute to candidates for local office below the \$4,000 State law limit that would otherwise apply. Chapel Hill Town Council then lowered the contribution limit for town elections to \$200 per election.

"I suggest that Council request our local delegation introduce similar legislation that would authorize Asheville City Council to set by local ordinance a maximum contribution limit lower than the state limit. If this local bill were passed, he would suggest Councils set the limit at

-4-

\$500 per election for all candidates for Council and Mayor. This cap would apply to both individual and PAC contributions.

"Since Asheville would merely be following Chapel Hill's existing local bill, the chance for General Assembly passage should be very strong.

"For further efforts to improve the local campaign process and possibly develop a campaign financing reform plan, he suggested we appoint a new Citizens Campaign Improvement Committee to develop further recommendations.

"As a guide, one successful model the Citizens Committee can look to follow would be the City's Public Access Channel Commission. The Public Access Commission first conducted a comprehensive study into what other local governments have done, legal restrictions, financial requirements, and technology. Then the Public Access Commission recommended that city government establish a separate non-profit entity to actually establish and run the Public Access Channel. The Citizens Committee could explore the possibility of establishing a not-for-profit organization in partnership with one or more local community organizations such as the League of Women Voters.

"Council can suggest that the Citizens Committee explore a number of different approaches to improve the local campaign process. He suggested that we ask the Citizens Committee to first study ways other than direct public contributions to candidates. He suggested Council ask the Citizens Committee to explore the following: (a) better coordination of candidate forums; (b) sponsor more issue-oriented forums; (c) better public exposure of candidate forums through better news coverage and the broadcast on television and radio of one or more candidates forums (including possibly purchasing television time on WLOS); (d) arrange the publication and distribution of one or more voter guides with information about the candidates and their position on important issues; (e) explore other options to help candidates better inform city voters and to lower the cost of campaigns; and (f) voluntary spending or contribution limits.

"If the Citizens Committee develops a solid not-for-profit Campaign Improvement Organization with workable options to improve voter participation, then this Campaign Improvement Organization could seek contributions and support from individuals, other organizations, businesses, non-profits, and foundations. The Organization may also seek financial support from city

government.

“With regard to direct public financing for city elections, there are several models to look to for guidance. The Federal government, as part of public financing for the Presidential general election, established a Campaign Finance Fund that receives voluntary contributions through the check-off question on taxpayer’s Federal Income Tax returns. North Carolina has a similar system to fund the major political parties through voluntary check-off on State Income Tax forms. The General Assembly has recently passed legislation to establish a public financing fund for State Appellate Court races.

“To implement such a system, Asheville would need to seek local legislation that expressly authorizes the City to (1) establish a local Campaign Finance Fund, (2) transfer public dollars to the Fund, and (3) contribute through the Fund to candidates for local office that agree to voluntary spending limits.

“Council could also consider other structural changes to the current format for city elections to lower the costs of running for Council and/or to improve voter information. Possible options could include: (a) establishing a District system for some Council seats. Clearly a person running for a District seat that includes only a portion of the City could run an effective campaign for much less than running city-wide. He suggested considering four District seats and two at-

-5-

large seats with the Mayor at-large. Almost all of North Carolina’s larger cities have District seats; b) return to partisan elections for Council seats and the Mayor; and (c) other options.

“Council may want to address the situation that occurred after the 2001 City election when a member of Council in mid-term was elected Mayor thus creating a vacancy on Council that had to be filled by appointment after the City election.”

The following is the outcome from the Subcommittee’s meeting:

- (1) There was unanimous support by the Subcommittee to raise the filing fee to run for City Council and the Mayor, noting that there is a process in N. C. Gen. Stat. sec. 163-107.1 (d) by which a person may get his or her name on a ballot by petition signed by 10% of the registered voters, and avoid the filing fee.
- (2) Regarding a request to our local General Assembly delegation to introduce a bill that would allow Asheville to significantly lower the \$4,000 maximum cap on campaign contributions, the Subcommittee was split.
- (3) With regard to the appointment of a Citizens Campaign Improvement Committee, there was unanimous support by the Subcommittee, however, they were uncertain how that Committee would be structured, but that it would be independent of City government with narrow guidelines.
- (4) With regard to the Committee exploring the possibility of establishing a not-for-profit organization, the Subcommittee was not in support of this at this time, however, the Committee could look at that after looking at other items Council asks them to review.
- (5) Regarding the establishment of a District system for some Council seats, the Subcommittee did express some interest.
- (6) There was not a lot of interest by the Subcommittee about returning to partisan elections for Council seats and the Mayor.
- (7) The Subcommittee did not make a recommendation regarding the situation in 2001 election when a member of Council in mid-term was elected Mayor, thus creating a vacancy on Council that had to be filled by appointment after the city election.

Councilman Mumpower said that there was consensus of the City Council Subcommittee on Campaign Finance Changes (“Subcommittee”) on voluntary spending or contribution limits. Councilman Peterson agreed and felt that was an issue the Citizens Campaign Improvement Committee (“Committee”) could look at.

Upon inquiry of Councilman Mumpower, Councilman Peterson felt the discussion by the Subcommittee on better coordination of candidate forums and encouraging the media to give better coverage of the candidate forums were also items he felt the Citizens Campaign Improvement Committee could look at.

Vice-Mayor Bellamy also noted that the Subcommittee talked about district elections and the possibility of enlarging the number of Council members. However, they felt that any change in the structure of City Council should be placed on the ballot for the voters to decide.

-6-

After discussion, Councilman Mumpower pointed out that if we did seek local legislation that would allow us to limit the amount for campaign contributions, then at least Council has the authority to change that at some later date, if they choose. He did point out that spending limits might restrict a candidate's ability to generate name recognition.

There was discussion regarding the district system. City Attorney Oast said that he would have to research this item if Council chose to go in this direction. He did note, however, that it appears that the districts must be drawn prior to undertaking the process for changing to the district form of government. In addition, the districts would have to be redrawn as annexations become effective.

Upon inquiry of Councilman Dunn, Councilman Peterson said that the Subcommittee did not review the possibility of lowering the Mayor's term from four years to two years.

Councilwoman Jones felt that Council must find ways to build public trust and if there are things that this Council can do as a body to build that trust and give them confidence, then we must try. She has heard comments from the public that they fear there is a relationship between financial contributions and actions by Council. In an effort to reduce that fear, she supported lowering the amount individuals and organizations contribute to candidates.

Discussion surrounded broken public trust vs. apathy in the voters.

After a brief discussion it was the consensus City Council to raise the filing fee to run for City Council from \$5.00 to \$75.00; and to raise the filing fee to run for Mayor from \$5.00 to \$100.00, noting that there is a process in N. C. Gen. Stat. sec. 163-107.1 (d) by which a person may get his or her name on a ballot by petition signed by 10% of the registered voters, and avoid the filing fee. City Attorney Oast said that he would prepare the proper paperwork for City Council action in order that it be effective in the next election process.

Councilman Ellis supported asking our local delegation for the authority to lower the maximum cap on campaign contributions; however, he wanted the maximum to be left up to City Council. After further discussion, it was the consensus of Council to add this item to the suggested legislative request items to be voted on later in the meeting.

After discussion about the establishment of a Citizens Campaign Improvement Committee, it was the consensus of Council to have the Subcommittee research this more thoroughly and suggest a specific charge for the committee, it's make-up, etc.

Regarding district seats, it was the consensus of Council to not pursue this matter. However, Councilwoman Jones felt the Committee should explore this issue, the possibility of returning to partisan elections, and the issue of a vacancy on Council when a Council member is elected Mayor in the middle of his/her term.

City Attorney Oast discussed with Council some options of filling a vacancy when a Council member is elected Mayor in the middle of his/her term. He said that he would research other options and report back to Council.

At 4:55 p.m., Mayor Worley announced a short break.

### **TOWING FROM PRIVATE PARKING LOTS**

City Attorney Oast said that a non-consensual tow occurs when a towing company tows a vehicle without the permission of the vehicle's owner. The Asheville Police Department can

-7-

initiate a non-consensual tow for a violation of state law or a city ordinance. City Code § 19-148. In addition, private property owners may contract with commercial towing companies to remove vehicles that park in private lots or spaces without authorization of the owner or lessee of the lot or space.

The City of Asheville has received numerous complaints centering on the failure to post private lots, excessive towing and storage fees for non-consensual tows from private parking lots, and the treatment that people receive when they retrieve their

towed vehicles. At City Council's request, the City Attorney's Office has looked into the legality of regulating the rates that towing companies charge for performing a non-consensual tow from a private parking lot and/or space.

Most of these complaints emanate from downtown Asheville and Biltmore Village. Many of the complainants are tourists, who say that they will not return to Asheville, and will warn their friends not to go. The fact that some people take the time to write suggests that there are more people who have the same experience but do not write. Complaints have been made to the Chamber of Commerce and to the lot owners themselves. The practice is that tow companies will pull a car from a lot, and refuse to return it until paid, usually in cash, acting as if the tow gives them a lien on the car. From a strictly legal perspective, however, the obligation to pay for these non-consensual tows may actually be that of the lot owner, not the vehicle owner, since the contract is between the lot owner and the tow company, and the tow company may have no legal right to refuse to return the vehicle. This is not generally understood by most people, and at the hours and under the circumstances in which many of these tows occur, that is not the kind of point that they wish to debate. Ultimately, the person whose vehicle is towed might be liable to the lot owner for the expense of removal anyway, so it would just be deferring the payment. The issue for Council is whether the City wishes to get involved in what is essentially an issue between private citizens, and to intervene when someone incorrectly assumes that any parking lot is available for private use, even if it is after normal business hours. On the other hand, this activity is having an apparently disproportionate and harmful effect on tourism.

Our ability to regulate this practice is limited. Currently, the federal government has pre-empted most aspects of motor vehicle carrier regulation, with an exception that allows political subdivisions to regulate the price and other aspects of non-consensual tows as a matter of consumer protection. 49 U.S.C. § 14501(c). Even though the federal government gives states and political subdivisions the power to regulate the price of non-consensual tows, it appears that the General Assembly of North Carolina must specifically grant a city or county the power to regulate the rates charged by towing companies for non-consensual tows from private property. Currently, there is no statutory authority that gives a city or county the power to regulate the price of a non-consensual tow from private lot.

We have checked with other cities that regulate the rates charged by towing companies for performing non-consensual tows from private lots. In most of those instances, it is clear that there is explicit state authority to allow such regulation. For example, Atlanta currently has a broad scheme that regulates non-consensual towing from private lots, including setting the rates that a towing company may charge for the service. Georgia Code § 44-1-3(d) states that the governing authority may set the maximum reasonable costs of removal, relocation and storage for private trespass towing. Additionally, Florida Statute Title XL, Chapter 715, Section 715.07(b), states that local government shall not be precluded from enacting additional regulations including the right to regulate rates when vehicles are towed from private property. North Carolina does not have any enabling legislation like the Georgia and Florida statutes.

The only general statute in North Carolina that addresses the towing of a vehicle from a private lot or space is N. C. Gen. Stat. sec. 20-219.2. This statute, along with N. C. Gen. Stat. sec. 14-401.9, makes it a class three misdemeanor to park in a privately owned or leased parking space without the express permission of the owner or lessee, allows for the removal of the

-8-

offending vehicle from the parking lot or space, and establishes a statutory lien on the towed vehicle in favor of the tow company. Before the owner can tow, however, the statute requires that the parking lot be marked by signs no smaller than 24 inches by 24 inches and prominently displayed at the entrance of the lot, and each parking space must be clearly marked by signs setting forth the name of each individual lessee or owner. However, the application of this general statute is limited to specific counties and cities in North Carolina, and currently Asheville and Buncombe County are not included.

Notwithstanding the lack of specific enabling legislation, some NC cities do regulate the price of non-consensual tows from private lots. In the case of Charlotte, there is a charter provision that allows this, and Charlotte is one of the cities that is listed in N. C. Gen. Stat. sec. 20-219.2. In the case of Wilmington, the cited authority was N. C. Gen. Stat. sec. 160A-194, which contains the general law that allows cities to regulate businesses "subject to the general law of the State." Wilmington, however, is also one of the cities that requires posting of private lots pursuant to N. C. Gen. Stat. sec. 20-219.2, and this may be the real source of their authority.

One way to address the problem in Asheville is to request that Asheville be added to the coverage of N. C. Gen. Stat. sec. 20-219.2; this would require action by the General Assembly. Another way to address it is to adopt an ordinance setting forth sign requirements for owners of private parking lots and/or spaces to post their lots and/or spaces, and requiring that said signs meet certain dimensional requirements and be posted in prominent places so as give adequate notice that the lot/space is private and vehicles will be towed away at the owner's expense. The difference between the two is that, under the State law, it is a crime to park in a properly posted private lot, and the vehicle owner is responsible for the costs of towing, while under the ordinance, the

offense would lie in not posting the lot, and the lot owner would be responsible for whatever penalties are prescribed by Council. This second option was considered by Council in 1998, but no action was taken.

Other options include requiring the posting of a single, larger sign at the entrance to a private parking lot and not requiring the posting of each space, as was done in a 1983 act applicable to Forsyth County, or requiring the posting of a sign containing a pre-towing notice at the entrance to a private lot before towing may legally occur, as was done in a 2001 act applicable to Greenville (NC) and Chapel Hill, both college towns with significant parking problems.

If Council wishes to seek to be added to the coverage of the State law, then this item should be part of our legislative request. If Council wishes to adopt an ordinance, then we will draft one for your consideration.

At 5:20 p.m., Vice-Mayor Bellamy left the meeting unexcused. Therefore, any votes taken will be affirmative votes.

Councilman Peterson suggested Council adopt an ordinance setting forth sign requirements for owners of private parking lots and/or spaces to post their lots and/or spaces, and requiring that said signs meet certain dimensional requirements and be posted in prominent places so as to give adequate notice that the lot/space is private and vehicles will be towed away at the owner's expense. In addition, he felt we should also ask our legislators to add Asheville to the 2001 act applicable to Greenville, N.C., and Chapel Hill, N.C., which requires the posting of private parking lots before vehicles may be towed.

Upon inquiry of Councilman Mumpower, City Attorney Oast said that he hasn't contacted the private lot owners regarding this issue at this time, however, when this issue was discussed by Council in 1998, there was an effort to contact the lot owners by organizations such as the Chamber of Commerce and the Council of Independent Business Owners.

-9-

Councilman Mumpower felt uncomfortable in wielding a heavy regulatory hand before obtaining suggestions from perhaps the private lot owners and the Downtown Commission.

Mayor Worley felt that the reality is that there are lots where tows are occurring and those owners aren't interested in making those lots available at night. He supported asking for legislation similar to Greenville and Chapel Hill.

Councilman Ellis said that the majority of parking lot owners already posted their lots, but there are a number of smaller private lots who do not want to participate.

It was the consensus of Council to (1) ask our legislators to add Asheville to the 2001 act applicable to Greenville, N.C., and Chapel Hill, N.C., which requires the posting of private parking lots before vehicles may be towed; and (2) begin the initiatives of asking the Downtown Commission for their suggestions with regard to this matter.

#### **RESOLUTION NO. 03-32 - RESOLUTION APPROVING LEGISLATIVE REQUESTS FOR THE CITY OF ASHEVILLE FOR 2003**

- Councilman Mumpower moved to waive the rules and take formal action at this meeting. This motion was seconded by Councilwoman Jones and carried unanimously.

- City Attorney Oast said that this is the consideration of a resolution directing the submission of certain legislative requests to the North Carolina General Assembly.

Council has discussed seeking special legislation as to several matters:

- Photographic enforcement of red light violations
- Reducing term of housing authority members from 5 years to 3 years
- A food and drink tax for the Civic Center and related items
- Regulating towing from private parking lots

Each of these items has been covered in detail in other memoranda, and at the retreat or previous work sessions. A brief summary of the proposed legislation follows:

1. Photo enforcement at red lights. This program was explained in detail by Chief Annarino at the retreat. As he noted, many cities in North Carolina are authorized to use a photo-enforcement system. There is a general statute, N.C.G.S. 160A-300.1, that provides this general authorization, and the legislative action required is simply adding Asheville's name to the list. This request was made by Council for the 2001 session, but our legislative delegation did not support it, and

the bill was not introduced. There is a possibility that this law could become popular enough that it will become general law applicable to all municipalities in North Carolina. If that happens, special legislation will not be necessary.

2. Food and drink tax. This matter was also explained at the retreat in connection with Council's discussion of the Civic Center, and possible funding sources. A proposal to this effect was taken to our legislators in 2001, who indicated that the plans for renovating the Civic Center and the proposed uses of the revenue needed to be more fully developed before they could support it.

At the retreat, Council was generally in favor of making this request again, but the timing of the request depends on how the plans for renovating the Civic Center proceed. There was also some discussion of whether the tax should be one or two percent, whether it should apply to all of Buncombe County or just to the City of Asheville, and whether the

-10-

revenue might be available for other purposes, such as infrastructure improvements and affordable housing. As he indicated during the meeting, our research from 2001 indicated that a one percent tax was the norm across the State, but we will research this further. Also, in my experience, the purpose of such a special tax should be very carefully – and somewhat narrowly – identified.

A "special" tax is not generally considered an appropriate revenue-raising vehicle for general needs, and the more narrowly drawn the purpose is, the better chance it has of being approved. Food and drink taxes are typically used to support such travel and business-related activities as civic centers and convention centers. While the purpose of the special tax may be broadened by amendment to include additional objectives (i.e., changes from construction of a baseball park to repair and maintenance of the park), the additional objectives usually are related to the original purpose. It may be difficult to include, as one of the purposes of such a tax, either initially or by amendment, an objective that is not typically associated with it, or that bears no obvious relation to it. However, a special tax may be viewed as freeing up other revenues for general use that might otherwise have gone to support the special purpose now supported by the special tax.

3. Reducing term length for Housing Authority. Under the applicable General Statutes, the terms for appointed members of housing authorities across the State is 5 years. Several years ago, the City of Charlotte obtained legislation, applicable only to its housing authority, reducing the term to three years. Last year, on Vice Mayor Bellamy's initiative, Council requested that Asheville's Housing Authority be added to the Charlotte legislation with respect to this reduced term. A bill to this effect was introduced last year, but because there was some concern about this proposal expressed by the Housing Authority to our legislators, the bill could not be certified as "non-controversial," a requirement for consideration in the Short Session, and it was withdrawn at our request.
4. Non-consensual towing from private parking lots. As I advised Council at the retreat, we would bring this matter to Council's February 18 (now March 4) work session for discussion. As noted in previous memos to you, the City has little ability to regulate the prices charged for non-consensual tows from private parking lots. There is, however, a State law that will allow us to require the posting of private lots with signs as a condition to towing from them, but it is applicable only to the cities and counties named. One possible measure to address this issue is to have Asheville's name added to the list of localities wherein this law is effective. An act adopted in 2001, applicable to the cities of Greenville and Chapel Hill, requiring the posting of private parking lots before vehicles may be towed, is an option that may interest Council.

Three of these items involve adding the City of Asheville to existing legislation. The proposed legislation is accordingly simple, but cryptic.

The proposed legislation for a Prepared Food and Drink Tax would be a new law, but my draft is similar to such acts in other cities. My draft is based on similar legislation adopted for the City of Albemarle in 1991.

The Senate's deadline for submitting items to the bill drafting office in time to have them introduced this session is March 12; for the House that date is March 19. In general, however, the sooner we can get these items to our delegation, the better, and he prefers to submit in time to meet the earliest deadline. Also, several Council members have indicated that they wish to meet individually with our legislators to discuss our legislative requests and other matters. Though these meetings can occur at any time, it may be helpful to have the legislative package as approved by Council in hand when these meetings occur.

-11-

Accordingly, and since most of these items were discussed at the retreat, Council should act on these items at the March 4 work session. Council may decide to move forward with all of them, some of them, or none of them, make changes to the



proposals, or add new ones (though this may require additional research). I will then transmit the approved package to our delegation in Raleigh.

Once Council decides on the legislation to request, adoption of a resolution approving the package and directing its transmittal to our local delegation is recommended.

Regarding the photo enforcement at red lights, it was the Mayor's understanding that our legislative delegation would not support this for Asheville. Councilman Mumpower felt that this issue has brought forth that there is a problem at red lights and asked the Police Chief to explore other options to address that problem.

Regarding the food and drink tax, Mayor Worley said that the restaurant association supported a one-half cent sales tax instead of a prepared food and drink tax. He suggested the proposal to the legislators be for a funding source for the Civic Center (which will likely come from a one-half cent sales tax or a prepared food and drink tax) and that way we can keep our options open.

Councilman Dunn felt the funding source should be a room tax and suggested some amendments to the draft act prepared by City Attorney Oast, who said there would be ample time to amend the Act.

Regarding the reduction for Housing Authority terms, Councilman Mumpower said that he had an opportunity to speak to four of the five members of the Housing Authority and they are opposed to reducing their terms. Councilman Peterson would support the action to reduce the terms.

Regarding non-consensual towing from private parking lots, Councilman Peterson spoke in support of adding Asheville's name to the Act which was adopted in 2001, applicable to the cities of Greenville and Chapel Hill, requiring the posting of private parking lots before vehicles may be towed.

Councilwoman Jones asked that we ask our local delegates to introduce a bill that would allow Asheville to significantly lower the \$4,000 maximum cap on campaign contributions.

Mr. Dennis Justice, Fletcher resident, felt that Asheville needed a plan regarding the Civic Center and another engineer was needed to study the graphics. He felt that there was no way for hockey and basketball to co-exist in the Civic Center. He also felt that eventually the Civic Center Commission will need to become a Sports Authority.

After discussion, there was no motion for photo enforcement at red lights.

Councilwoman Jones moved to ask our legislators to enact a bill for a funding source for the Civic Center. This motion was seconded by Councilman Ellis and carried unanimously.

Councilman Peterson moved to ask our legislators to add the Asheville Housing Authority to the Charlotte legislation with respect to reducing their terms from five to three years. This motion was seconded by Councilman Dunn and carried on a 6-1 vote, with Councilman Mumpower voting "no."

Councilman Peterson moved to ask our legislators to add Asheville's name to the act adopted in 2001, applicable to the cities of Greenville and Chapel Hill, requiring the posting of

-12-

private parking lots before vehicles may be towed. This motion was seconded by Councilman Ellis and carried unanimously.

Councilwoman Jones moved to ask our legislators to introduce a bill that would allow Asheville to lower the \$4,000 maximum cap on campaign contributions. This motion was seconded by Councilman Peterson and carried on a 4-3 vote, with Mayor Worley, Councilman Dunn and Councilman Mumpower voting "no" and Councilman Ellis, Councilwoman Jones, Councilman Peterson and Vice-Mayor Bellamy (voting in the affirmative because she was not excused from the meeting) voting "yes."

When Mayor Worley asked Council to add their endorsement to the North Carolina League of Municipalities' legislative agenda and the North Carolina Metropolitan Coalition's agenda, it was the consensus of Council to vote on that at their next formal meeting.

## UPDATE ON EARLY ACTION COMPACT – AIR QUALITY

City Engineer Cathy Ball said that City staff is requesting that City Council review and approve the assignment of City of Asheville and Buncombe County residents to the Air Quality Early Action Compact (EAC) Stakeholders Group and that City staff be authorized to work with Buncombe County staff to substitute a stakeholder in the event the original stakeholder is unable to participate in the process.

In December 2002, City Council signed a resolution entering into an EAC to reduce air pollution in the region. Additionally, five counties along with several municipalities in the area signed resolutions indicating the intent to work toward proactive means to reduce air pollution. By signing this resolution, the City of Asheville agreed to work with the other government agencies to develop and implement measures to reduce air pollution in the region.

The EAC mandated that we develop a list of measures to be included in the plan to reduce air pollution by June 16, 2003. The Environmental Protection Agency (EPA) has recommended that all stakeholders be involved in the process of developing these measures and monitoring the implementation of the measures.

Over the past few weeks, the City representatives met with all of the County representatives in the Compact to develop a process for selecting the stakeholders and preparing a time frame to insure that the deadlines of the EAC are met. This group agreed that stakeholder groups would be appointed by individual counties and the City of Asheville. Each County will be responsible for developing their own plan; however, EPA must determine that each County's plan is supportive of the goal of reducing air pollution.

The City Manager met with County staff to develop the following schedule for completing the first Phase of the EAC. The schedule is as follows:

- March 2003 – Stakeholder Process Begins
- March 10, 2003 – City Staff Develop Preliminary List of Measures to Reduce Air Pollution
- April 2003 - First Draft of Measures to EPA for Review
- April 2003 - First Draft of the Semi-Annual Status Report
- April 2003 – Conduct Additional Meetings as Needed (Stakeholders and Staff)
- May 1, 2003 – Final Draft of Air Quality Measures Completed
- Mid-May 2003 – City's and County's Review Measures
- By June 16, 2003 – City Council Approve Final Measures to be Submitted to EPA

-13-

It was agreed that the City and County would jointly work together to develop the list of ten stakeholders for Buncombe County. City and County staff have developed the following list to be reviewed and approved by City Council:

<b>Name</b>	<b>Stakeholder Group</b>	<b>Representing</b>
<i>Nancy Thompson</i>	<i>Industry - Utilities</i>	<i>CP&amp;L</i>
<i>Karl Koon</i>	<i>Industry - Petroleum</i>	
<i>Bill Jackson</i>	<i>Community - Forests</i>	<i>U.S. Forest Service</i>
<i>Brownie Newman</i>	<i>Environment - Policy</i>	<i>WNC Alliance</i>
<i>Chuck Pickering</i>	<i>Industry - Tourism</i>	<i>Biltmore Company</i>
<i>Jan Davis</i>	<i>Industry - Small Business</i>	<i>Jan Davis Tires</i>
<i>Judy Calvert</i>	<i>Industry / Community</i>	<i>Tyco / Chamber Trans Committee</i>
<i>Hedy Fischer</i>	<i>Community - Planning</i>	<i>Planning and Zoning Com /Real Estate</i>
<i>Bette Jackson</i>	<i>Community - Residential</i>	<i>League of Woman Voters/ Vision</i>
<i>Grant Gouge</i>	<i>Environment</i>	<i>Retired Air Weather Service</i>

City staff requests that City Council approve the above assignment of the City of Asheville and Buncombe County residents to the Air Quality Early Action Compact Stakeholders Group. Staff also requests the approval to work with Buncombe County staff to substitute a stakeholder in the event the original stakeholder is unable to participate in the process.

Upon inquiry of Councilman Mumpower, Ms. Ball said that the suggested stakeholders have not been asked if they would be willing to serve.

It was the consensus of City Council to approve the above assignment of the City of Asheville and Buncombe County

residents to the Air Quality Early Action Compact Stakeholders Group and in the event an original stakeholder is unable to participate in the process that City staff advise City Council.

### **PARKS & RECREATION YOUTH PROGRAMS**

Mr. Butch Kisiah, Superintendent of Recreation, and Mr. David Mitchell, Superintendent of Cultural Arts, outlined the Parks and Recreation Department's successful youth programs offered over the past year and explained their ideas for future programs.

The Parks and Recreation Department offers a variety of year-round wholesome recreation opportunities to the citizens of and visitors to the City of Asheville. This is evident through the success of a number of programs we produce. Our major focus, however, is providing opportunities for our youth that will serve as positive alternatives to a number of very difficult situations. The Department is committed to continue serving the youth of our community.

There was discussion about the need for multi-use fields and the percentage of the budget for park maintenance.

Upon inquiry of Councilman Dunn, Mr. Brinson stated that the City does work with Buncombe County when they can to share staff and equipment.

### **ECONOMIC DEVELOPMENT INCENTIVE GRANT**

Economic Development Director Mac Williams said that this is the consideration of a motion setting a public hearing on March 25, 2003, for an economic development incentive grant to a company proposing an expansion of operations into the city limits and creation of new jobs.

-14-

Plasticard Locktech International (PLI) specializes in printing on plastic and is the largest producer of plastic hotel keycards in the nation. The company was founded in the area in 1988 and has grown steadily ever since. PLI is now located on Pond Road (outside the city limits) in a facility they own. The company is proposing to purchase and relocate operations into a building located in the Sweeten Creek Industrial Park (inside the city). The expansion would involve an investment of \$2.275 million in building improvements and new equipment and creation of 16 new jobs with an average hourly wage of \$12.23 plus benefits.

Comparing this project to the criteria established in the City of Asheville Economic Development Incentive Policy, Council has, preliminarily, determined to award a grant of \$25,000 payable in equal installments of \$5000 over 5 years commencing after all capital investment and new jobs are placed in service. A performance agreement setting these and other terms and conditions must be mutually accepted and executed by the company and City and approved, along with the grant, at a formal public hearing.

Staff recommends City Council set a public hearing on March 25, 2003, to consider acceptance and execution of the proposed Performance Agreement and offer the economic development incentive grant to Plasticard Locktech International under the terms and conditions in that Agreement.

Mayor Worley 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.

### **ADJOURNMENT:**

Mayor Worley adjourned the meeting at 7:02 p.m.

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CITY CLERK

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MAYOR