AGENDA

Meeting Type:	WORKSHOP
Date:	12/07/1998

City of Charlotte, City Clerk's Office

CITY COUNCIL WORKSHOP

Monday, December 7, 1998

Dinner	**Room 267**
5:00 p.m.	**Restructuring Government: Carolina Theatre - Presentation of Proposal by The Phoenix Group**
5:45 p.m.	**All Focus Areas: 1999 State Legislative Program**
6:45 p.m.	**Economic Development: School Facilities Master Plan**
7:15 p.m.	**Adjourn**
7:30 p.m.	**Citizens' Forum** **Council Chamber**

COUNCIL WORKSHOP
AGENDA ITEM SUMMARY

TOPIC: Carolina Theatre -- Presentation by the Phoenix Group of its Plans to restore the Theatre

COUNCIL FOCUS AREA: Restructuring Government--Asset Management

STAFF RESOURCE: Curt Walton

KEY POINTS (Issues, Cost, Change in Policy): The Carolina Theatre Preservation Society, the Arts and Science Council and the NC Blumenthal Performing Arts Center presented their request to extend the Option and Right of First Refusal to purchase the Carolina Theatre at the November 23, 1998 Council dinner meeting Following that presentation, the Mayor and Council agreed to hear an alternative proposal for restoring the Carolina Theatre from the Phoenix Group

OPTIONS: None relevant to this presentation

COUNCIL DECISION OR DIRECTION REQUESTED: This presentation is for information only Council will consider the Arts and Science Council's request to extend the Option and Right of First Refusal to purchase the Carolina Theatre at the December 14, 1998 business meeting

ATTACHMENTS:

1 Letter of Interest in the Carolina Theatre from the Phoenix Group
2 Letter from the Phoenix Group addressing concerns raised by the Carolina Theatre Preservation Society

The Phoenix Group

~~P O BOX 29541~~ Charlotte, NC 28229-9541
Tel 704-8441-0636 Fax 704-841-0640

October 7, 1998

Mr Kent Winslow
The City of Charlotte Real Estate Division
600 E 4th Street
Charlotte, NC 28202

Dear Mr Winslow

This letter is a general statement of our interest in the acquisition restoration and re-development of the property known as the Carolina Theater

As a preface to these comments, I would like to mention that we have been seeking the purchase of the Carolina Theater since 1993 when we first contacted Larry Rosenstrauch in Economic Development Since that time we have also discussed purchasing the property with American Fidelity and the Keith Corporation American Fidelity did not want to separate the theatre from the parking garage and Cityfair structure Michael Vance a partner in the group spoke before City Council requesting the theater be removed from the property transaction with the Keith Corporation

Once the Keith Corporation purchased the property we meet with Del Borgsdorf, Tom Flynn and the Keith Corporation in the City Manager's Office to discuss with Greg and Graham Keith the possibility of our group purchasing the theater The Keith s were very receptive but after the meeting they informed us that, at this time they needed to focus on Cityfair and would not be able to discuss the theater redevelopment for several years

We feel saving the theater is of utmost importance That is why in October 1995 we re-submitted a petition for re-listing of the Carolina Theater to the National Register of Historic Places to ensure it's ultimate preservation by one group or another

Several months ago, upon the rumors of an office tower on the Cityfair site, we met with NationsBank, the City (Tom Flynn, Bob Drayton, and others), and the Keith Corporation NationsBank instructed us to deal directly with the Keith Corporation When we met with them we were led to believe that there was no other institution that was interested in the property Greg Keith set a price and instructed us to be able to close within 30 days It was during this closing period that we discovered that the Keith Corporation had signed over the option to the Arts & Science Council Needless to say we were shocked at the lack of notice

With that experience behind us, we are now officially expressing to the City of Charlotte our strong continuing interest in the acquisition restoration and re-development of the property known as the Carolina Theater

If the Arts & Science Council does not exercise its option to purchase the property for $1 2 million by December 31, 1998, we would like the City of Charlotte to consider the sale of the property to our development group

We feel strongly that our proposal is an extremely attractive alternative for the City as well as the taxpayers as <u>we will not be seeking any public funds whatsoever</u>

At this time, our development would create a diverse, mixed-use entertainment facility in Uptown Charlotte drawing well over 8,000 visitors a night Mixing the past with the present, this development would appeal to the broad demographics of the population we expect to serve

The main attraction of this development would be a fully restored historic 1927 theater Seating capacity would be expanded, and the staging area would be redesigned, in order to have the ability to feature popular large-scale national and locally produced events Other amenities that could be added include art galleries, large banquet rooms, rehearsal studios, catering facilities, and a smoking parlor This theater would feature musicals and concerts, along with children's theatre and films These productions will employ hundreds of local artists and technicians

Another popular attraction of this development would be a music venue located on the roof This pavilion would host live musical entertainment featuring local and national bands, similar in concept to the popular "House of Blues"

To blend into the flourishing nightclub district, a large nightclub will be incorporated into the design This nightclub will be located directly under the seating area of the main floor and accessible from a brightly lit 6th Street façade

The final large attraction will feature a two-story restaurant/bar and small performance cellar, similar in concept to "Atlantic Beer & Ice"

What would this proposal bring to Uptown?

POSITIVE ECONOMIC IMPACT

INCREASED PEDESTRIAN TRAFFIC IN EVENING HOURS

- This development will have the ability to draw well over 8,000 people to the uptown on one night This development could have the capacity to draw well over 64,000 people weekly to the uptown area With this ability to draw almost 4 times the people of the North Carolina Blumenthal Performing Arts Center, this development will generate an incredible amount of consist pedestrian traffic, serving as a magnet for other proposed development on the block All entrances in this development would be on the street level to maximize the energy of a vibrant destination

MORE ENTERTAINMENT OPTIONS

- This development would provide more entertainment options for the Charlotte region On a given night, people could go to this development to dance at a night club listen to live music, eat and drink at the corner bar, and see a show or movie in the historic theater In order to

grow to become a world-class city we need diversity This development has the potential to be able to draw from all age groups with careful planning

SOLITIFYING THE ARTS DISTRICT

- Given the location of the development, located between the North Carolina Blumenthal Performing Arts Center and Spirit Square, this development would be a perfect compliment to Uptown This development would add three additional performance spaces to the Uptown area This development would also add several quality rehearsal studios as well

INCREASED AREA RESTURANT BUSINESS

- According to the August 11, 1997, edition of the Charlotte Business Journal "Morton s of Chicago says its summer business is $60,000 above projections Another uptown restaurant says its summertime sales are up 22% Uptown eateries cashed in on the increased traffic Normally uptown in the summer is slow and unpredictable says Carrie Gault manager of Carpe Diem 431 S Tryon St. John Dressler, Morton's general manager, says the restaurant fed 800 more diners this summer 'And I think the majority of that is *Saigon* business "

What would this proposal bring to Charlotte as a whole?

POSITIVE ECONOMIC IMPACT

ELIMINATING NEED FOR TAXPAYER AND CORPORATE CHARITY

- By carefully structuring the deal for this development, this development can be constructed and operate profitable, thereby eliminating the need to solicit the taxpayer, who has become very vocal in recent times This development will have the ability to stand on its own eliminating the need to solicit corporations for annual contributions

REDUCING THE ADDED BURDON OF THE ARTS AND SCIENCE COUNCIL

- By the private sector, funding the construction and operation of the project, the Arts and Science Council will not need to add another large entity to their affiliate coffer Operational grants for a project this size would be well over $1 5 million in annual funding needed By adding a new large organization, other smaller groups would be penalized since the money could not be spent on their organizations

PROVIDING HARD TO FIND QUALITY JOBS FOR LOCAL ARTISTS AND TECHNICIANS

- This business would supply the area with 14 full-time jobs in marketing, box office support and management. Each production would create over 100 jobs for actors stage-managers musicians, carpenters, costumers, painters, designers, ushers, bartenders waiters and stagehands

BOOSTING LOCAL AND TOURIST ECONOMY

- According to the December 21, 1997, article by Michel Riedel staff writer for the Daily News "A strong and vibrant Broadway is a boon to the city's economy Economic surveys show that the New York theatre industry (Broadway and Off-Broadway) pumps nearly $3 billion into the local economy Ticket sales make up only a small percentage of that amount The majority goes to taxis (about $200 million hotels (close to $1 billion) and restaurants (another $1 billion), according to George Wachtel president of Audience Research and Analysis "The survey showed that for the majority of people coming to New York, Broadway was the number one tourist attraction," Wachtel says "As such its impact on the overall economy of the city is hard to underestimate "

KEEPING FUNDS IN THE REGION

- According to the August 11, 1997 edition of the Charlotte Business Journal, "Despite the benefits of the PAC s success University of North Carolina at Charlotte economist John Connaughton says the overall economic impact of *Miss Saigon* will be negative 'Most of the money from those traveling shows leaks funds out of the region ' Connaughton says " This proposed corporation would bring such funds to this region and keep them here

We recognize that the Carolina Theater property is currently tied up for another 86 days, and that what we are providing is merely an alternative but we strongly believe that our proposal carries with it the components that the City is largely looking for I look forward to a healthy discussion of our proposal, and hope that we will be able to enter into a purchase agreement should the Arts & Science Council not be able to exercise its option by December 31, 1998

If you have any questions or would like to discuss our proposal further, please contact me at (704) 841-0636

Thank you for your consideration

Sincerely,

Victor M Guzman
Chief Executive Officer
The Phoenix Group, LLC

The Phoenix Group

PO BOX 29541 Charlotte NC 28229-9541
Tel 704-841-0636 Fax 704-841-0640

NOV 20 1998

November 19, 1998

The Charlotte City Council
600 East 4th Street
Charlotte, NC 28202

RE The Carolina Theatre

Dear Members of the Charlotte City Council

Upon the request of Council Member Don Reid, we are writing you concerning the recent letter you received from Lisa Lee Morgan and the Carolina Theatre Preservation Society We are also writing you about some concerns we have as to the present handling of the Carolina Theatre matter

We represent The Phoenix Group, a for-profit company that would like a fair opportunity to present to Council our plans to restore the historic Carolina Theatre We feel that the Carolina Theatre is very important to the citizens of Charlotte, both historically and culturally We also feel that the decision that determines who operates the theatre is equally important That is why we are requesting Council to lobby the Arts & Science Council to relinquish its option on the property This would allow the City Council the opportunity to objectively evaluate all options carefully, and weigh the total benefits to the City, especially if other options plan to rely on the use of City funds or bond initiatives.

Our first concern is regarding the recent letter Council received from Lisa Lee Morgan and the Carolina Theatre Preservation Group. There are several issues regarding the lack of accuracy, the lack of qualifications and the severe conflict of interests, which we feel we need to reveal in order for the Council to render a decision based on the facts We believe that this letter was meant to clearly scare Council into not allowing a for-profit theatrical entity an opportunity to enter an exclusive market controlled by a monopoly

Due to the following points, we feel the Carolina Theatre Preservation Society has lost its objectivity to evaluate The Phoenix Group's proposal

1. **The Carolina Theatre Preservation Society's mission statement creates a direct conflict of interest.**

"The mission of the Carolina Theatre Preservation Society is

- To promote and assure the preservation of Charlotte's historic 1927 Carolina Theatre at North Tryon & Sixth Street,
- To restore, renovate and rebuild the Carolina Theatre,
- And to establish the operation and administration of the Carolina Theatre as a venue for community and performing arts functions "

2. **The Carolina Theatre Preservation Society continued existence is threatened.**

If The Phoenix Group were to purchase and restore the property, the Carolina Theatre Preservation Society would no longer have reason for existence At the October 27 meeting, The Phoenix Group extended an invitation for the Society to become members of a advisory board of the restored theatre Due to the manner in which this matter has been handled, this offer has been withdrawn

3. **The Carolina Theatre Preservation Society has publicly stated it wants to operate the theatre.**

Due to the lack of financial resources within the organization, The Carolina Theatre Preservation Society chose the only option available that would enable them to maintain some control over the property, thus preserving their organization's fate

4. **The Carolina Theatre Preservation Society does not have creditable experience in restoration or construction in order to evaluate any proposal.**

The board and organization does not have any legitimate professional experience in determining structural engineering feasibility, nor have a track record for large-scale historic preservation in Charlotte, as well as a track record for construction of theatrical properties Without these qualifications, we find it hard to accept the conclusions reached by the organization, since they are not based on fact

5. **The Carolina Theatre Preservation Society does not have creditable expertise in theatrical operations on a large professional level to render any creditable opinion.**

The board and organization does not have any practical professional experience in large theatrical production Due to this fact we find it difficult to accept conclusions reached by the organization as to the present capabilities of the stage The Carolina Theatre Preservation Society does not have the knowledge of the technical aspects to render any creditable opinion The Phoenix Group has members whose experience in Broadway Productions, not to mention a long track record in the local market, give tremendous creditability to the changes we propose

6. **The Carolina Theatre Preservation Society is not the only group of people in Charlotte who wants to save the theatre.**

In 1995, one of our principals decided to attempt to re-list the structure on the National Register of Historic Places (Enclosed is documented copy of this attempt) We found that Ms Morgan's tone implies that we are not interested in

historic preservation That is not the case Our proposal includes a historical restoration, which will follow the National Restoration Standard set by the Secretary of the Interiors Standards for Rehabilitation for Historic Structures

7. **The Carolina Theatre Preservation Society has knowingly and deceptively lied to the Council.**

We have found out that the Lisa Lee Morgan and The Carolina Theatre Preservation Society has knowingly and deceptively lied in the letter recently sent to Council We have confirmed testimony from George Gray, a board member of the Carolina Theatre Preservation Society that proves this statement

Mr Grey has stated that several votes, which were taken at the October 27th meeting, were not unanimous, including the vote to endorse the Arts Task Force Proposal We have also discovered that Ms. Morgan put forth a motion that those who did not vote for the ASC proposal were to be removed from the board so that the board's endorsement would give the appearance of total support for the Arts & Science Council's proposal For this reason alone, the Carolina Theatre Preservation Society's credibility has been destroyed We also believe that the President of the Organization should be reprimanded for her deceptive actions

We would like at this time to correct the many falsehoods, assumptions, and errors of the letter sent by the Carolina Theatre Preservation Society We feel that Council needs to clearly understand what the Phoenix Group's proposal entails in regard to the historic preservation of the theatre, along with the proposed changes in the structure

Along with the historic preservation of the theatre, our proposal includes the following changes As you will see, the areas we plan to alter have no historical integrity due to the fact that they have been demolished or severely altered by new construction

1 **INCREASING THE STAGE DEPTH AND BACK STAGE SUPPORT AREA**

We have determined that the current stage depth is not suitable for most live performances The current stage has a depth of only 29' This is not large enough to accommodate the demands of contemporary musical theatre productions, which will be the majority of our programming

We have also determined that there is not enough existing space for required off-stage support areas such as handicap accessible dressing rooms, crossover space, loading facilities, etc We strongly believe that the lack of available space is detrimental to any redevelopment as a useable performance hall

WHY IT DOES NOT AFFECT THE HISTORICAL INTRIGITY

The **entire stage area** of theatre has no historical integrity, due to the fact that the entire structure, including the actual stage and dressing rooms, hallways, offices, storefront, and stairwells have been completely demolished The **existing back wall of the stage** has no historical integrity due to the fact that a two and a half story opening was constructed, stretching the entire length of the stage, in order to incorporate Cityfair's steel structure, which currently dominates the existing area.

2. **REMOVING THE ROOF OF THE THEATRE**

In order to accommodate development over the theatre structure, as well as to the second balcony, we have determined it necessary to remove the roof

WHY IT DOES NOT AFFECT THE HISTORICAL INTRIGITY

The **roof** of the structure has no historical integrity due to the fact that the entire original tile and support structure was completely demolished and replaced with a modern roof in the mid 1980's The entire existing plaster dart-and-egg ceiling will be removed, pain-stakingly restored, and reinstalled upon the new steel structure, which will allow the necessary support to carry the weight loads of the lighting necessary for any theatre operation The projection booth would be saved as well

3. **INCREASING THE SEATING CAPACITY OF THE THEATRE**

In order to operate profitably and keep ticket prices affordable, we have determined that we need to expand the seating capacity

WHY IT DOES NOT AFFECT THE HISTORICAL INTRIGITY

We will not alter the existing balcony in any way, nor will we alter the main floor of the existing theatre All additional seating and structural support will come from the area which presently is a vacant lot in front of the theatre This area will contain the additional seats to expand the seating capacity, thus not affecting or intruding on the existing seating chart. Since the original lobby and storefronts have been total demolished, with the exception of the existing façade, which we will restore, this addition will not affect the historical integrity of the structure

4. **EXCAVATING BELOW THE AUDIENCE CHAMBER**

In order to bring vitalization to the 6th street side of the development and provide an attractions which will be able to serve the 20-30 year old market, we have determined that we should incorporated a large underground nightclub

WHY IT DOES NOT AFFECT THE HISTORICAL INTRIGITY

Below the seating area, there is no historical integrity, due to major structural changes in the mid 1980's At this point based on architectural drawing and existing structures we feel the excavation under the audience chamber will not hit rock due to the depth of the existing foundation and the projected depth necessary for the 6th St nightclub We would only need to remove some foundation in order to strengthen the entire structure and convert a four-foot crawl space into a useable standard room This nightclub would be completely insulated so as to insure that the audience in the theatre would not be affected by any noise or vibration

ASSUMPTIONS THAT ARE INCORRECT

1 We will not alter the space below the existing stage, so the possibility of hitting rock will not be a problem We will, however, go at least one story underground in the front vacant lot, as well as the new area located behind the original stage area We have projected rock problems into our budget to allow for any problems that might arise from this excavation

2 The sightlines with the additional balcony will not affect the existing plaster proscenium arch, which will be preserved

3 It is completely realistic and feasible to restore the original historic seating capacity to the theatre The existing building codes have changed since 1997, thus allowing the building to be built in the original 1927 code

4 It is completely realistic and feasible to accommodate wheelchair access to the orchestra level There are several locations for suitable wheel chair accessibility in the orchestra, well within the disability code requirements, which supersedes the older building code.

5 The original historic theatre's seating arrangement did not contain all narrow seats as stated in Ms Morgan's letter We have documented research on every hole in the floor, and have determined that we will be able to replace the seating to be historically accurate The seating size of the original seats, based on the existing holes and documented evidence, were of various sizes in order to accommodate the different shapes of the patrons If the theatre is to be historically preserved, the original seating arrangement should be required

We feel that the real issue we are confronted with is the for-profit ownership of the Carolina Theatre The theatre, for the first 50 years was operated as a year round for-profit organization It has been owned in the private sector for over 62 years of its 71 year history, and it was not until September 1989, that the City gained control of the property

The Carolina Theatre Preservation Society completely misstated the history of ownership and development of the property to create a false sense of the true history of the project They claim that every for-profit entity has "abandoned the effort after damaging the theatre, and each one has gone bankrupt " As you will see from the following comments this is far from accurate

- A **for-profit** corporation, Publix, a division of Paramount, built the structure in 1926 and opened the theatre in 1927 Paramount sold the theatre due to a national anti-trust settlement, not because they went "bankrupt"

- The structure was eventually purchased and held by the Cutter family, and operated as a **for-profit** theatre operation, with many live stage shows, until Ovens Auditorium opened Due to the suburban expansion, the explosion of multiplex cinemas and uptown decay, the theatre closed in 1978 After the theatre closed, the land sat vacant for several years, until the property was sold
- A national developer, Carley Capital, a **for-profit** entity, acquired the theatre property and made changes to preserve the integrity of the theatre, and made other changes in preparation for restoration However, before the construction could even start, the national developer had to file for bankruptcy nationally, due to the fact that Carley had financial problems with other developments across the country, not due to the restoration of the Carolina Theatre
- The theatre was voluntarily surrendered, along with Cityfair, to Chemical Bank, another **for-profit** entity, as part of a national workout Chemical ran Cityfair briefly, but did not want to complete

the development Chemical did not "damage the theatre", nor did they go "bankrupt"

- Chemical Bank ran Cityfair, until the City terminated the ground lease
- The city then sold an option of the theatre to another **for-profit** entity, American Fidelity, which did not "damage the theatre", nor did they go "bankrupt"
- American Fidelity sold its interest in Cityfair to the **for-profit** Keith Corporation, along with the option to the City The Keith Corporation did not "damage the theatre", nor did they go "bankrupt"

In summary, we believe the facts above clearly show that the statements made by the Preservation Group are not based on fact We believe that this was intended clearly to scare Council into not allowing a for-profit entity the ability to make a proposal We would like to thank Council member Don Reid for faxing us a copy of the Preservation Society's letter, which we did not receive from Ms Morgan until today

The Phoenix Group only wants a fair opportunity to express the facts and issues regarding our proposal to an impartial and unbiased audience Along with this letter, we have included the overview, which we gave to staff on November 17, 1998, which states our objectives.

Due to all of the facts listed above, we feel that Council is the only objective forum which could fairly explore the issues and determine the fate of the ownership of the Carolina Theatre

We formally request the City Council to lobby the Arts & Science Council to relinquish its option on the property, allowing the City Council the opportunity to objectively evaluate all options carefully before determining which option is the best for the City, the tax payers, and the preservation of the theatre Due the events stated above, we feel that the final decision of who owns and restores the theatre should come from the Council. We also feel strongly that all members of the deciding body should have no direct or indirect conflicts of interests or affiliations with the Art and Science Council, the Blumenthal Performing Arts Center, and the Carolina Theatre Preservation Society Only in this manner can true objectivity be realized

Thank you for your concern and your time

Sincerely,

Victor M Guzman
Chief Executive Officer
The Phoenix Group

Michael T Vance
President
The Phoenix Group

CC Pam Syfert
Curt Walton
Robert Drayton

North Carolina Department of Cultural Resources

James B Hunt, Jr, Governor
Betty Ray McCain, Secretary

Division of Archives and History
~~William S Price, Jr, Director~~

November 9, 1995

The Honorable Richard Vinroot, Mayor
City of Charlotte
600 East 4th St.
Charlotte, NC

Re. Carolina Theater, 222 N. Tryon St , Charlotte

Dear Mayor Vinroot:

At the request of Michael T. Vance, the above-cited property was presented to the National Register Advisory Committee (NRAC) at its meeting in Raleigh on October 12, 1995, for a preliminary assessment of the property's eligibility for listing in the National Register of Historic Places. The NRAC is a board of professionals and citizens with expertise in history, architectural history, and archaeology, and meets quarterly to advise me on the eligibility of properties for the National Register and the adequacy of nominations.

In the course of its deliberations, the NRAC noted that the Carolina Theater was listed in the National Register in 1986 and removed from the Register in 1988 after the property was extensively altered by the demolition of the lobby and attached retail units fronting N. Tryon St. The committee observed that the main block of the theater remains in much the same condition as at the time of its National Register listing in 1986 and that the auditorium is a remarkable space worthy of preservation. The committee also recognized, however, that significant portions of the theater complex have been lost and that the conditions that warranted delisting of the property in 1988 remain unchanged. Consequently, the NRAC declined to place the Carolina Theater on the Study List.

We appreciate Mr. Vance's interest in the National Register program and share his hope that the remaining, major portion of the Carolina Theater will be restored. If you have any questions about the National Register or the decision of the NRAC regarding the theater, please contact Linda Edmisten, National Register coordinator, at this address, telephone 919/733-6545.

Sincerely,

Jeffrey J. Crow

Jeffrey J. Crow
State Historic Preservation Officer

JJC/crb

Copy to Michael T Vance

Remarks By

Michael Marsicano

President and Chief Executive Officer

Arts & Science Council – Charlotte/Mecklenburg, Inc.

Thursday, August 27, 1998

It is a privilege for me to share this podium with Jim Hance, Jim Palermo and Mayor McCrory. Together we celebrate an important announcement for our community.

NationsBank has blessed Charlotte with several significant announcements over the past year. Each one of them adds to the stunning transformation of our center city into one of the most vibrant nationwide How fortunate we are to have NationsBank call Charlotte home.

I have always thought it symbolic that the bank's corporate headquarters tower was connected to the Performing Arts Center with revolving doors between the two. Repeatedly, NationsBank has championed the downtown connection between the arts and business. And today they do it again.

This new office tower is particularly important to the Arts & Science Council and to the cultural organizations we represent. The tower shares a common wall with the new Mint Museum of Craft & Design and the Carolina Theater. It casts a much-welcomed shadow over the Performing Arts Center to its immediate south, the Library and Spirit Square to its immediate north, the Museum of the New South to its immediate northeast, and Discovery Place to its immediate northwest In effect, the new tower becomes a centerpiece that links all of our major cultural facilities. And the new public plaza is perfectly placed to become our center city living room. I know of no other office complex in the United States surrounded on all sides by major cultural attractions Office workers have the most to gain with easy access to a spectacular array of cultural opportunities, literally outside their windows

For many years, our arts and science organizations have beckoned folks downtown when they might otherwise have stayed away – not unlike the old practice of placing canaries in coal mines to determine if the environment was suitable for miners to conduct their work. If the canaries sang, the workers made their way into the mines; if they didn't, the mines were considered dangerous.

The sheer number of office towers that have gone up, and are going up, tells us that our cultural facilities have served their purpose. In ever-increasing numbers, the workers are coming to center city Charlotte for its safety, its accessibility, and its animation. What more can you ask of a downtown environment than safety, accessibility and animation?

As NationsBank looks forward with this new office complex, the time has come for the rest of us to look back to the future. The historic Carolina Theater requires our attention. She is a grand old lady of a building, soon to be seated next to a fancy new office tower, public plaza and art museum. A facelift is in order.

NationsBank has generously given us the public plaza and the art museum It is up to the rest of us to restore the Carolina Theater. A community-wide effort is necessary. While no specific plan is yet on the table, surely we will be looking to multiple corporate contributions, city, county and state governments, and individual families, new and old to Charlotte! We cannot let this final piece of the North Tryon puzzle go unplayed.

In closing, I speak for all the cultural organizations and their boards of directors in thanking you, Jim Hance, and you, Jim Palermo, for your extraordinary vision and your steadfast commitment to Charlotte Please accept our congratulations and our best wishes.

COUNCIL WORKSHOP AGENDA ITEM SUMMARY

TOPIC: 1999 North Carolina Legislative Package

COUNCIL FOCUS AREA: All Focus Areas

STAFF RESOURCE: Boyd Cauble

KEY POINTS (Issues, Cost, Change in Policy):

- Preview 1999 Legislative Initiatives Transportation, Criminal Justice and Local Initiatives
- Preview keys to successful lobbying of initiatives involvement required of Mayor and Councilmembers
- Discuss steps to final approval of legislative package

OPTIONS: Not applicable

COUNCIL DECISION OR DIRECTION REQUESTED: Receive as information, ask questions, and give staff comments Council will be asked to approve the Legislative Package at the January 11 business meeting

ATTACHMENTS: 1999 North Carolina Legislative Package

1999
North Carolina Legislative Package

City of Charlotte

1999 North Carolina Legislative Package

Introduction

Over the years the City of Charlotte has led the state in seeking and receiving creative local legislation which has enabled us to move forward with major capital projects and initiatives Most notably, in 1990 Charlotte-Mecklenburg was the first area in the state to receive the Prepared Food and Beverage Tax and the second 3% Hotel Occupancy Tax that allowed us to construct our new Convention Center Secondly, the City received landmark authorization during the last "long session" to allow the voters of Mecklenburg an option of levying a half-cent sales tax for transit These two landmark local bills have resulted in other units of government seeking similar legislation and using the Charlotte experience as an example for expanding home rule in a very directed way

Each initiative, in addition to such new ideas as red light monitoring, additional resources for the criminal justice system, preservation of billboard amortization, and other unique local initiatives have proven that Charlotte can get approval from the legislature to enact new programs to address our unique problems

Charlotte has been successful in Raleigh by educating our Delegation and supplementing their efforts on our behalf through staff work and individual lobbying by Councilmembers and the Mayor These efforts in the past have been spontaneous or project driven The state's impact on our local government activities is so complex that we now need a more structured way to address the need for cooperation and partnerships with the legislature Although we have had superb cooperation from the business community, the County and the North Carolina League of Municipalities in uniting to push past agendas, we have outgrown the project specific lobbying efforts We now need a more structured routine for making sure that our interests are known in Raleigh and that our legislative objectives are met This will allow us to better deal with the problems associated with the dynamic growth of our area which is greatly responsible for the State's success

1999 Legislative Initiatives

The key to any successful legislative agenda is to maintain a clear focus and a concise and well defined agenda To date there are two major categories of local needs that require statewide action

Statewide Initiatives

Transportation

The recent action by the State Board of Transportation to cleanup their over funded transportation improvement program has highlighted the need of urban areas for expanded highway capacity Last November the City of Charlotte overwhelmingly approved a local bond referendum to fund state roads that were not projected to receive funding for anytime in the near future This is a revolutionary idea based upon the local urgency of addressing gridlock and the recognition that the state's available funding for local roads is inadequate Shortly after Secretary of Transportation Tolson announced that several Charlotte roads would be postponed to balance the books, the local MPO and local governments began to question why

The overwhelming issue confronting the 1999 Legislature with regards to transportation is, "How can we address the congested roadway problems in urban areas and not disrupt the equity issue between the urban and rural areas?"

Criminal Justice System

Similar to the roadway issue is the dilemma in funding the State Criminal Justice System Urban areas have unique crime issues and criminal justice system workload demands However, the State's system for funding district attorneys, judges, jails, etcetera is based upon an equity concept that demands giving to each district across the state a predetermined pro-rata share of state criminal justice system resources Our challenge is to advocate our Criminal Justice Study Commission's analysis of the local court system and the need for enhanced statewide criminal justice information coordination

Local Initiatives

Our local legislative agenda consists of issues Council has highlighted as priorities as well as key business units proposals for enhancing the way in which they do business Our challenge is to stay focused on those local requests which yield the "biggest bang for the buck " As we request our local Delegation's assistance in getting approval of these local bills, our primary concern is the workload and the potential demand on the "political capital" that must be expended to successfully get approval of our requests

During our December 7 Workshop, Council will review the advantages of seeking legislative approval of the following local initiatives We will discuss the obstacles our Delegation will

encounter while attempting to get these initiatives approved and prioritize each request according to Council's focus areas and Key Business Unit's objectives We will refine the following requests for Council approval on January 11.

Transportation Focus Area

- Increase SafeLight penalties
- Increase traffic citation penalties
- Street light assessment
- Electronic traffic monitoring
- Prohibit automobile registration for nonpayment of fines

Economic Development Focus Area

- Authorize Additional Municipal Service Districts
- Enable City to engage in public-private projects outside downtown
- Amend City Charter to allow the City the option to engage in private negotiations and sale of City-owned land in lieu of the upset bid process
- Amend City Charter to allow City to place conditions on sale of city-owned property when deemed in the public interest by Council

Public Safety Focus Area

- Entry on private premises or vehicle with a copy of the arrest warrant or upon knowledge that the warrant is valid
- Evidentiary privilege for peer counselors

Technical Amendments

- Approve amendments to Charlotte Firefighter's Retirement System Act
- Approve amendment to the City Charter to allow someone other than the Mayor to sign deeds

* Detailed descriptions of the above items are attached

1999 North Carolina Legislative Process

Legislative Process

The preceding statewide and local initiatives are to be previewed by Council at the December 7 Workshop and agreed to be included for further consideration or assigned to Council Committee for additional study In January, Council will adopt the legislative package after weighing the following variables

- Delegation member's preliminary comments
- Identified supporters and opponents
- Constitutional and legal obstacles (if any)
- Relative importance of the proposed legislation

The legislative package will be formally submitted to the Delegation at a Council/Delegation breakfast prior to the January 27 convening of the 1999 legislature The Delegation usually waits until they arrive in Raleigh to vote on whether or not to pursue approval of each legislative request It is important to have the Mayor and/or councilmembers present at this meeting to answer questions and seek sponsors for our items

After the City's initiatives have been assigned sponsors, the legislative approval process begins It is important for the mayor, Council, and staff to meet with key legislators and our Delegation sponsors — especially regarding controversial issues City representatives must

- "Walk the hall" and meet with key legislators prior to important committee votes (usually 10 minutes or less per visit)
- Arrange dinner meetings with Committee leaders and Delegation members (whenever possible)
- Hand deliver written support material and explain the documents to the legislator's assistant when it is impossible to meet with the legislator
- Coordinate letter writing and phone calls from constituents who support our requests
- Be prepared to travel to Raleigh with <u>one day notice</u> to attend key committee meetings when local bills are placed on the calendar

Support for local priorities should be sought from regional and statewide organizations and individuals Support from the following is critical for most <u>major</u> initiatives

- North Carolina League of Municipalities (and affiliate members)
- Southern Piedmont Political Caucus
- Centralina Council of Governments
- Carolinas Urban Coalition
- Various trade and professional associations
- Key business leaders and political activists

Councilmembers and the Mayor are often the most, and sometime only, appropriate representatives of the City for seeking support from partisan entities When bipartisan support is needed both Democrats and Republicans must prevail upon their party loyalties in seeking legislative support from both parties in Raleigh. Quite often, support must come indirectly from private supporters of key members of the legislature. It is important that the City be aware of close personal relationships between the Mayor and Council and members of the legislature and/or their major supporters

After meetings and briefings are held with key legislators, the Council and Mayor should be prepared to testify before committees that vote on local initiatives There is a usually daily notice for most meetings so it is important that Councilmembers willing to testify be available on short notice. Overnight trips are the rule for most early morning committee meetings. The Delegation sponsors will advise us of meeting times and the need for our presence

Effective lobbying requires good personal relationships and a well defined need Information is the key to understanding our unique needs The best way to convey our needs and establish personal relationships is to host meetings for the Legislature in Charlotte. We should.

- Encourage meetings with the leadership and the Mayor and Council at every opportunity
- Co-host multi-day events for the entire Legislature in Charlotte A social event (NBA, NFL, or major public event) should be cosponsored by the City, County and Chamber of Commerce. These events allow us to showcase our economy and highlight our unique problems in an unimposing environment
- Invite key legislators to special workshops, dedications, ceremonies, and etcetera Use the events as an opportunity to build relationships and solicit support for our local initiatives.

The City should support efforts by Council and the Mayor to meet with key legislators when they are not in session. Their interactions are invaluable when the legislature is in session and support is needed "in committee or on the floor." Recognition and friendship make the difference between success or failure whenever a controversial vote is to take place in full view of the people most impacted.

The latest election greatly enhanced the makeup of our Mecklenburg Delegation and has given us an opportunity to take advantage of the seniority, status, and potential new positions of authority that our current Delegation will assume once the 1999 session begins. Our 15 person Delegation had considerable influence and power last session They should retain considerable power because of the diversity which has proven to be the greatest strength of our Delegation Our job is to educate them on our needs, stress the relationships between our requests and statewide benefits, and provide them assistance during the session by testifying before committees, preparing briefing papers, and lobbying key legislators

1999 North Carolina Legislative Process

Calendar of Events

October - November 13	- Receive local requests for the 1999 session
November 13 - December 3	- Clarify, highlight and prioritize local requests
December 7	- Council Workshop to review 1999 Legislative Agenda
December 7 - January 4	- Development of position papers and/or Council committee discussions
December 16	- Present preliminary ideas to Chamber of Commerce Government Affairs Committee
December	- Briefing of Council by State Highway officials and local staff regarding transportation issues, briefing by local court officials, and informal contacts with members of the local Delegation regarding our potential legislative agenda
January 11	- Council adoption of Legislative Package
Early January	- Contact legislative leadership regarding local requests, coordinate with North Carolina League of Municipalities (NCLM) legislative agenda, create alliances with regional governments (Centralina Council of Governments, North Carolina Large City Mayors, and Carolinas Urban Coalition), and brief the local business community - Formal adoption of Legislative Agenda
Late January	- Schedule formal briefing with the Mecklenburg Delegation to review final list of requests for action
January 27	- Legislative session opens (Council will receive a Legislative Calendar upon approval)
February - August	- Begin formal contacts with the General Assembly and provide staff support and political assistance (Mayor and Council) to the Mecklenburg Delegation for seeking legislative approval of local priorities - Monthly dinner briefings in Raleigh between the Delegation and Mayor and Council - Town Hall Day Meeting in Raleigh - Testify before Committees as needed

1999 State Legislative Agenda

State Initiatives

Transportation Initiatives

- **Increase Funding for State Highway System Maintenance**

  JUSTIFICATION FOR REQUEST: Current funding level is inadequate to prevent deterioration of major streets within the City The current cycle of paving major state streets may now exceed 20 years This compares to the city cycle of 12-14 years, and this is on streets generally less heavily traveled Failure to maintain an adequate cycle has led to deterioration of the pavement on key streets within the City Also, maintenance funds for traffic controls need to be increased Currently, State funds do not cover the full cost of the City's effort to maintain traffic controls on the State's streets

- **Increase State Funds for Transit**

  JUSTIFICATION FOR REQUEST With the passage of the ½ cent sales tax, Charlotte is embarking on an ambitious program to expand its transit system Maximum use of state and federal funds will enable the implementation of the plan The City expects federal funds for special transit projects to be matched by the State and local governments at the following ratio 50% Federal, 25% State and 25% Local Additional State appropriations for transit grants should be included in the NCDoT's budget

- **Increase Funding for State Highway Projects**

  JUSTIFICATION FOR REQUEST The draft State Transportation Improvement Program (TIP) indicates that the current scheduled projects are under funded, and many implementation schedules will be shifted to later years Further, the City has just passed an $88 3 Million bond issue to pay for improvement projects on the State highway system Consequently, significant new funding is needed for highway improvements

1999 State Legislative Agenda

State Initiatives

Criminal Justice Initiatives

- **Fund the Budget Request from the Administrative Office of the Courts in its Entirety**

  Locally, this would provide three additional district court units and six additional staff members for the Clerk of Court It would also help provide the technology to facilitate the information flow among the individual components of the criminal justice system

- **Direct the Criminal Justice Information Network Governing Board to Make Implementation of the Following Three Components of the Statewide Information System a Priority:**

  1 A statewide magistrate system that would streamline the process of warrant and case creation
  2 A statewide fingerprint based criminal history system that includes all arrests and dispositions
  3 A statewide identification index which includes information from all local and state criminal justice agencies as well as the necessary linkages to federal criminal justice agencies

- **Designate a Single Entity to be Held Accountable for the Development of Technology Improvements for the Criminal Justice System**

1999 State Legislative Agenda

Local Initiatives

Transportation Focus Area

- **Increase SafeLight Penalties**

  KEY BUSINESS UNIT DOT

  JUSTIFICATION FOR REQUEST Council voted on October 12 to increase the current SafeLight penalty of $50 The Transportation Committee felt that this would serve as a further deterrent for red light running

- **Increase Traffic Citation Penalties**

  KEY BUSINESS UNIT DOT

  JUSTIFICATION FOR REQUEST Council voted October 12 to increase the current levels of penalties for traffic violations to deter motorists from violating traffic laws This will require a state-wide bill to provide uniform penalties

- **Electronic Traffic Monitoring**

  KEY BUSINESS UNIT DOT

  JUSTIFICATION FOR REQUEST This would allow the City to monitor speeding in school and work zones and crossing of railroad tracks after the crossing arms are down The Police Department has limited resources to enforce traffic regulations on the growing number of motorists in the City of Charlotte Advances in technology now permit remote imaging of vehicles Several states, as well as a number of countries internationally, now have video enforcement Using this electronic traffic monitoring would free up law enforcement to concentrate on those committing serious criminal acts

- **Street Light Assessment**

  KEY BUSINESS UNIT DOT

  JUSTIFICATION FOR REQUEST The City has a major program available to citizens for new street lighting and upgrading of an existing light Some neighborhoods may request non-standard lighting, but have difficulty collecting needed funding Mecklenburg County has the authority to assess for street lighting improvements They can handle the assessment for us, but they have no street lighting program The issue has only recently become important with the higher cost of decorative lighting and the difficulty for some property owners to pay the full amount before street lights are installed Allowing the city to assess property owners for these costs rather than require prepayment would make the cost more manageable This mechanism is used only upon neighborhood request

- **Prohibit Automobile Registration for Non-payment of Fines**

  KEY BUSINESS UNIT DOT

  JUSTIFICATION FOR REQUEST Motorists who are delinquent with paying citations may face a court appearance and/or have their credit record negatively impacted We currently have almost $500,000 in unpaid parking and SafeLight fines Withholding motor vehicle registrations until outstanding citations are paid would ensure collection of fines owed This is all part of the City's effort to administer onstreet parking, but could also apply to the SafeLight program

1999 State Legislative Agenda

Local Initiatives

Economic Development Focus Area

- **Creating Municipal Service Districts**

KEY BUSINESS UNIT City Manager's Office

JUSTIFICATION FOR REQUEST This legislation would give City Council the authority to establish Municipal Service Districts outside of Uptown The business corridors would have to come to City Council to request the establishment of a Municipal Services District & Council would have to vote to establish each district Council would control these funds through annual contracts & budgets with the development corporations, similar to how Center City Partners is currently done Municipal Services District funds could be used for such things as increased security, additional trash collection, marketing and infrastructure for the Municipal Service Districts

- **Enable the City to do Joint Public-Private Projects Outside of Downtown**

KEY BUSINESS UNIT City Manager's Office

JUSTIFICATION FOR REQUEST This legislation would assist in the redevelopment of areas outside of downtown, promote public/private development opportunities along transit corridors and allow the City to meet a need of private sector development partners

- **Amend City Charter to Allow the City the option to Engage in Private Negotiations and Sale of City-Owned Land Upon an Affirmative Vote by City Council**

KEY BUSINESS UNIT: Engineering and Property Management/ Real Estate

JUSTIFICATION FOR REQUEST: On most transactions, property is sold to the highest bidder using procedures outlined in the North Carolina General Statutes Although price is always a consideration, Council sometimes has additional policy objectives concerning a specific parcel of property At these times, the City may wish to negotiate with one purchaser rather than subject the property to the upset bid process in order to meet these other policy objectives The amendment would allow the City to participate in this negotiation process

- **Amend City Charter to Allow City to Place Conditions on Sale of City-Owned Property When Deemed in the Public Interest by Council**

  KEY BUSINESS UNIT: Engineering and Property Management

  JUSTIFICATION FOR REQUEST: Many Council adopted Concept Plans establish specific guidelines for the development of property in redevelopment target areas However, many of these guidelines are unenforceable as long as the purchaser of City property conforms to zoning and building requirements North Carolina case law prohibits placing restrictions on property that depress its fair market value absent specific legislative authority Regardless of whether property is sold via public or private sale, this amendment would allow the City to place conditions on property it sells that must be followed by subsequent purchasers

1999 State Legislative Agenda

Local Initiatives

Public Safety Focus Area

- **Entry on Private Premises or Vehicle With a Copy of the Arrest Warrant or Upon Knowledge that the Warrant is Valid**

  KEY BUSINESS UNIT Police Department

  JUSTIFICATION FOR REQUEST This proposal gives the officer the option to either rely on a copy of the warrant or upon knowledge that the warrant is valid The law is not clear whether an officer must have the original warrant in his or her possession when making a forced entry into a residence or vehicle Technological advances such as in-car computers enable officers to have quick access to reliable information while in the field This legislation would enable officers to act upon that information rather than waiting until the original warrant was in-hand

- **Evidentiary Privilege for Peer Counselors**

  KEY BUSINESS UNIT Police Department

  JUSTIFICATION FOR REQUEST The success or failure of Police Peer Support programs is often dependent on whether such assistance can be offered in confidence In North Carolina, communications between a police employee in his/her capacity as a peer counselor & another employee are not protected by any statutory privilege Currently only conversations between communicants and licensed counselors, psychologists, marital therapists, physicians, school counselors or clergy enjoy any statutory protection The proposed legislation would help to assure both parties involved -- the police employee and the peer counselor -- that the peer support and counseling would be offered in an atmosphere of confidentiality This legislation applies to Peer Support Group Counselors which means a law enforcement officer, or civilian employee of a law enforcement agency, who has received training to provide emotional and moral support and couseling to law enforcement agency employees and their families for personal and job-related problems

1999 State Legislative Agenda

Local Initiatives

Technical Amendments

- **Approve Amendments to the Charlotte Firefighters' Retirement System Act**

  KEY BUSINESS UNIT Fire Department/Human Resources

  JUSTIFICATION FOR REQUEST These changes would update the current Act and would bring it into compliance with the current Internal Revenue Code limitations and will clarify certain provisions that are subject to dispute The Act has been amended on previous occasions, the most recent being June 30, 1995

- **Approve Amendment to the City of Charlotte Charter, Entitled "Real Property" to Allow Someone Other Than the Mayor to Sign Deeds**

  KEY BUSINESS UNIT Engineering/ Real Estate

  JUSTIFICATION FOR REQUEST The City sells dozens of cemetery plots each year and the Mayor is continuously confronted with a stack of deeds for execution Staff would submit a proposed list of authorized officials for Council's approval

COUNCIL WORKSHOP
AGENDA ITEM SUMMARY

TOPIC: Long-Range School Facilities Master Plan

COUNCIL FOCUS AREA: Economic Development

STAFF RESOURCE: Martin Cramton and Dick Black

KEY POINTS (Issues, Cost, Change in Policy):

- Provides the framework for the incorporation of school planning into other community planning efforts
- Provides a comprehensive analysis of factors that define the need for new schools, additions to existing schools, and renovations of existing schools
- During the 10-year planning period, the number of CMS students is projected to increase by approximately 25,111 students.
- To comply with utilization standards, by 2008-2009 CMS will need to supply an additional 13,846 seats, including 9,552 elementary, 885 middle, and 3,409 high seats
- To provide these seats, by 2008-2009 CMS will need to build nine (9) new elementary schools and two (2) new high schools and construct 3,200 seats as additions to existing elementary and middle schools
- CMS should begin a "land banking" program to acquire schools sites in accordance with the plan's recommendations
- The plan establishes the rationale used by CMS in the selection of geographic regions for future schools
- The plan also outlines the process used to determine the need for renovation and/or replacement of existing school facilities during the 10-year period

OPTIONS:

COUNCIL DECISION OR DIRECTION REQUESTED:

Council is asked to receive the plan as information and provide comments and suggestions for the Board of Education to consider in their deliberations before final adoption

ATTACHMENTS:

Copy of the plan is attached