

**Mavor Patrick L. McCrory**      **Mavor Pro Tem Susan Burgess**

Michael Barnes  
Nancy Carter  
Warren Cooksey  
Andy Dulin  
Anthony Foxx

Patsy Kinsey  
John W. Lassiter  
James Mitchell, Jr.  
Edwin Peacock III  
Warren F. Turner

# CITY COUNCIL MEETING

Monday, December 10, 2007

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In addition to the previously advertised public hearing items, Key Businesses have asked that the time sensitive items listed below not be deferred.

Item #	Page #	Title
35	35	Storm Water Channel Cleaning
39	38	Employee Benefits Trust
40	42	Property Transactions G and I

# CITY COUNCIL AGENDA

Monday, December 10, 2007

## TABLE OF CONTENTS

<u>Item No.</u>		<u>Page No.</u>	<u>Attachment No.</u>
<b>5:00 P.M. Dinner Briefing</b>			
<b>Conference Center</b>			
1.	Mayor & Council Consent Item Questions	1	
2.	FY2007 Comprehensive Annual Financial Report	1	
3.	Council Annual Retreat Planning Committee Report	1	
4.	Charlotte Center City Retail Study	2	
5.	Metro Police Station Update	3	
6.	Proposed Hotel/Motel Ordinance	3	
7.	Answers to Mayor & Council Consent Item Questions	4	
<b>7:00 P.M. Awards and Recognitions</b>			
<b>Meeting Chamber</b>			
<b>Consent</b>			
8.	Consent agenda items 20 through 41 may be considered in one motion except those items removed by a Council member. Items are removed by notifying the City Clerk before the meeting.	5	
<b>Public Hearing</b>			
9.	Resolution to Close Conway Avenue Running Off of Annlin Avenue	6	1

<u>Item No.</u>	<u>Page No.</u>	<u>Attachment No.</u>
-----------------	-----------------	-----------------------

- |     |  |   |   |
|-----|--|---|---|
| 10. | Resolution to Close a Portion of Foster Avenue | 7 | 2 |
| 11. | Voluntary Annexation                           | 9 | 3 |

## **Policy**

- |     |                       |    |  |
|-----|-----------------------|----|--|
| 12. | City Manager's Report | 10 |  |
|-----|-----------------------|----|--|

## **Business**

- |     |   |    |   |
|-----|---|----|---|
| 13. | Infrastructure Reimbursement Agreement for McCullough Drive/City Boulevard Connector Road | 11 | 4 |
| 14. | Belvedere Homes Redevelopment   | 12 | 5 |
| 15. | Northeast Corridor Light Rail Engineering   | 13 | 6 |
| 16. | Transit Capital Funding Appropriation   | 15 | 7 |
| 17. | Council Committee Appointment Process   | 17 | 8 |
| 18. | Mayor and Council Topics  | 17 |   |
| 19. | Closed Session  | 17 |   |

## **Consent I**

- |     |   |    |  |
|-----|---|----|--|
| 20. | Various Bids  |    |  |
|     | A. McAlpine Relief Sewer Phase I  | 18 |  |
|     | B. Traffic Signal Fiber Optic Cable and Conduit Construction on Steele Creek Road, South Tryon Street and Arrowood Road | 19 |  |
|     | C. Howie Acres Neighborhood Improvement Phase I   | 19 |  |
|     | D. 36 <sup>th</sup> Street and The Plaza Sidewalk Improvements  | 20 |  |
|     | E. Tuckaseegee Sidewalk Improvements  | 20 |  |

<b><u>Item No.</u></b>		<b><u>Page No.</u></b>	<b><u>Attachment No.</u></b>
21.	Refund of Property and Business Privilege License Taxes	21	9
22.	In Rem Remedy	22	10-13
<b>Consent II</b>			
23.	Police Helicopter Inspection and Maintenance	24	
24.	Eagle Brand Traffic Signals and Hardware	25	
25.	Upper Little Sugar Creek Relief Sewer, Phase 2	26	14
26.	Sanitary Sewer Rehabilitation Program Professional Services Contract Renewal # 3	27	
27.	FY07 Water and Sanitary Sewer Service Installations, Contract Renewal # 1	28	
28.	Airport Flight Information Display Maintenance Contract	28	
29.	Airport Drive Reconstruction and Group Hangar 3 Office Addition	29	15
30.	Airport Restroom Renovation and HVAC Addition	30	16
31.	Airport Checkpoint Expansion	31	17
32.	Airport Schindler Elevator Maintenance Contract	32	
33.	Conduit Transfer for Traffic Control Devices	33	18

<b><u>Item No.</u></b>		<b><u>Page No.</u></b>	<b><u>Attachment No.</u></b>
<b>34.</b>	Storm Drainage Improvements Memorandum of Understanding	34	
<b>35.</b>	Storm Water Channel Cleaning FY2004	35	
<b>36.</b>	Cemeteries Grounds Maintenance Contract Renewals	36	
<b>37.</b>	Briar Creek Relief Sewer Phase I Condemnation Settlement Additional Compensation	37	
<b>38.</b>	Liability Claim Settlement	38	
<b>39.</b>	Employee Benefits Trust	38	19
<b>40.</b>	Property Transactions	40	
<b>41.</b>	Meeting Minutes	43	

## **5:00 P.M. DINNER BRIEFING CONFERENCE CENTER**

### **1. Mayor & Council Consent Item Questions**

**Resource:** Curt Walton, City Manager

**Time:** 5 minutes

**Synopsis**

- Mayor and Council may ask questions about Consent I and Consent II agenda items. Staff will address as many questions as possible at the end of the dinner meeting.

### **2. FY2007 Comprehensive Annual Financial Report**

**Resources:** Greg Gaskins, Finance  
Robert Campbell, Finance  
Teresa Smith, Finance

**Time:** 20 minutes

**Synopsis**

- Finance staff will present a summary of key results from the FY2007 Comprehensive Annual Financial Report (CAFR). A copy of the CAFR will be sent with the Wednesday, December 5, 2007 Council-Manager Memorandum. The report will also be available online at [cafr.charmeck.org](http://cafr.charmeck.org) after December 10, 2007.

### **3. Council Annual Retreat Planning Committee Report**

**Committee Members:** Nancy Carter, Warren Cooksey, Anthony Foxx and Pat McCrory

**Time:** 10 minutes

**Synopsis**

- The Retreat Planning Committee met on November 27, 2007 to develop a recommendation for the location and facilitator for the annual retreat to be held January 30 – February 1, 2008.
- The Committee unanimously recommended the retreat be held at the Grandover Resort in Greensboro, North Carolina and to engage Phil Boyle of Leading and Governing Associates as the facilitator.
- The Committee also recommended at some point during the retreat, a tour of the minor league baseball stadium in Greensboro to look at infrastructure

improvements and economic development that has occurred following the construction of the stadium.

- The Committee proposes focusing the agenda around the Community Safety Plan, the 2025 Land Use and Transportation Plan, and the Economic Development Strategic Plan.

#### **Future Action**

- Staff will present a draft agenda at the next Retreat Planning Committee meeting, which will be at on December 10 at 4:00 pm. The Committee will either recommend an agenda on December 10 or at a subsequent meeting in January.

## **4. Center City Retail Market Assessment & Strategy**

**Resources:** Michael Smith, President, Charlotte Center City Partners  
Blount Hunter, Consultant, Blount Hunter, Retail & Real Estate Research Co.  
Tom Flynn, Economic Development Office

**Time:** 30 minutes

#### **Synopsis**

- Charlotte's Center City is experiencing new investment and growth as a:
  - Regional business center
  - New urban neighborhood
  - National tourism and hospitality destination
  - Higher education center
  - Transit hub
- As a result of this, Center City Partners posed the question: *'Is Center City ready for retail?'*
- Center City Partners established a Retail Task Force, chaired by Todd Mansfield, CEO of Crosland to help answer this question.
- The Retail Task Force contracted with national retail expert, Blount Hunter, to perform an assessment including determining customer segments, as well as current and potential market demand.
- Consultant Blount Hunter has completed his analysis and will share his findings with the Council regarding the potential return of retail to the Center City.

#### **Opportunities & Issues**

- More retail development could:
  - Provide additional opportunities for small businesses and entrepreneurs
  - Complement investments in a new transit system and in cultural and hospitality assets
  - Help recruit new business and tourism to Center City by enhancing the working environment and visitor's experience

**Next Steps for Retail Effort**

- Strategy will focus on scaling initial phases of retail development to serve and support customers who already work, live and visit the Center City.
- Next steps will be to create a 2020 Center City Retail Vision based on existing and future customer demand and on implementing the retail strategy.
- The 2020 Retail Vision will be communicated to potential retailers and developers through a marketing brochure to be produced by Shook Kelley.

**5. Metro Police Station Update**

**Resources:** Keith Parker, Assistant City Manager  
Deputy Chief Kerr Putney, CMPD  
Jeb Blackwell, Engineering and Property Management

**Time:** 15 minutes

**Synopsis**

- At the September 24 meeting Council approved the acquisition of six parcels of land to be assembled for the new CMPD Metro Division office along Beatties Ford Road.
- This site provides enough space for an 11,999 square foot building and 95 secured parking spaces. It provides easy access to Beatties Ford Road for dispatch and meets the desired needs of the community to have a police station in the area. The site also displaces the fewest possible number of residents and businesses.
- A total of \$3.8 million has been allocated for the project (\$1.0 million in the FY2007 budget and \$2.8 million in the FY2008 budget).
- Staff will present an updated cost estimate, including a menu of green building options and their cost.

**Future Action**

- Any capital budget impacts will be considered as part of the FY2009 budget development process.

**6. Proposed Hotel/Motel Ordinance**

**Staff Resources:** Keith Parker, Assistant City Manager  
Walter Abernethy, Code Enforcement  
Diego Anselmo, CMPD

**Time:** 15 minutes

**Synopsis**

- City staff has worked to develop an ordinance that would allow the Police Department and Code Enforcement to address crime and safety concerns at hotels/motels.

- The work included several discussions with the Community Safety Committee and extensive work with stakeholders to develop an ordinance that meets the needs of the City while protecting the rights of hotel owners and guests.
- The presentation will include the following:
  - Need for the ordinance from the code enforcement and police perspective
  - Discussions with stakeholders
  - Key provisions of the ordinance
  - Enforcement of the ordinance

**Future Action**

A public hearing will be scheduled for the January 14, 2008 Council meeting. Council will be asked to adopt the ordinance at the January 14 meeting.

**7. Answers to Mayor & Council Consent Item Questions**

**Resource:** Curt Walton, City Manager

**Time:** 10 minutes

**Synopsis**

- Staff response to questions from the beginning of the dinner meeting.

**7:00 P.M. AWARDS AND RECOGNITIONS  
MEETING CHAMBER**

**CONSENT**

- 8. Consent agenda items 20 through 41 may be considered in one motion except those items removed by a Council member. Items are removed by notifying the City Clerk before the meeting.**

## PUBLIC HEARING

### 9. Public Hearing on Resolution to Close Conway Avenue Running Off of Annlin Avenue

**Action:** A. Conduct a public hearing to close Conway Avenue running off of Annlin Avenue, and  
B. Adopt a Resolution to Close.

**Staff Resource:** Linda Poissant, Transportation

**Policy:**

To abandon right-of-way that is no longer needed for public use

**Explanation**

- North Carolina General Statute 160A-299 outlines the procedures for permanently closing streets and alleys.
- The Charlotte Department of Transportation received a petition to abandon public right-of-way and requests this Council action in accordance with the statute.
- The action removes land from public right-of-way status and attaches it to the adjacent property.

**Petitioner**

William C. Wilcox

**Right-of-Way to be abandoned**

Conway Avenue running off of Annlin Avenue

**Location**

Located within the Colonial Village Community beginning from Annlin Avenue continuing east approximately 197 feet to its terminus

**Reason**

To incorporate the right-of-way into adjacent property owned by the petitioner and abutting owner for maintenance and proposed additional parking area for their homes

**Notification**

In accordance with City Policy, the Charlotte Department of Transportation (CDOT) sent abandonment petitions to adjoining property owners, neighborhood associations, private utility companies and City departments for review.

Adjoining property owners

Warren D. Benton - No objections

Pami Overlook, LLC – No objections

Neighborhood/Business Associations

- Ashbrook Neighborhood Association – No objections
- Collinswood Neighborhood Association – No objections
- Colonial Village Neighborhood Association – No objections
- Hillside West Condo Owners Association – No objections
- Savanna Woods – No objections
- Sedgefield Neighborhood Association – No objections

Private Utility Companies – No objections

City Departments –

Review by City departments has identified no apparent reason this closing would:

- Be contrary to the public interest; or
- Deprive any individual(s) owning property in the vicinity of reasonable means of ingress and egress to his property as outlined in the statutes.

**Attachment 1**

Map

Resolution

**10. Public Hearing on Resolution to Close a Portion of Foster Avenue**

**Action:**   A. Conduct a public hearing to close a portion of Foster Avenue, and  
              B. Adopt a Resolution to Close.

**Staff Resource:**       Linda Poissant, Transportation

**Policy:**

To abandon right-of-way that is no longer needed for public use

**Explanation**

- North Carolina General Statute 160A-299 outlines the procedures for permanently closing streets and alleys.
- The Charlotte Department of Transportation received a petition to abandon public right-of-way and requests this Council action in accordance with the statute.
- The action removes land from public right-of-way status and attaches it to the adjacent property.

**Petitioner**

BSP/Foster, LLC – John Carmichael

**Right-of-Way to be abandoned**

A portion of Foster Avenue

**Location**

Located within the Olmsted Community beginning from Foster Avenue continuing south approximately 293 feet to its terminus

**Reason**

To incorporate the right-of-way into adjacent property owned by the petitioner in order to redevelop the property with a proposed transit supportive, multi-family project

**Notification**

In accordance with City Policy, the Charlotte Department of Transportation (CDOT) sent abandonment petitions to adjoining property owners, neighborhood associations, private utility companies and City departments for review.

Adjoining property owners

Kimbark, LLC – No objections

Neighborhood/Business Associations

Olmsted Park HOA – No objections

Brookhill (S. Tryon Community Mission Church) – No objections

Brookhill Community Organization – No objections

Collinswood Neighborhood Association – No objections

Colonial Village Neighborhood Association – No objections

Dilworth Community Development Association (DCDA) – No objections

Sedgefield Neighborhood – No objections

York Road Neighborhood Association – No objections

Private Utility Companies – No objections

City Departments –

Review by City departments has identified no apparent reason this closing would:

- Be contrary to the public interest; or
- Deprive any individual(s) owning property in the vicinity of reasonable means of ingress and egress to his property as outlined in the statutes.

**Attachment 2**

Map

Resolution

## 11. Public Hearing on Voluntary Annexation

**Action:** A. Hold a public hearing for the APS voluntary annexation petition, and  
B. Adopt an ordinance with an effective date of December 10, 2007 to extend the corporate limits to include this property.

**Staff Resources:** Jonathan Wells, Planning  
Mike Boyd, City Attorney's Office

### Policy

City Annexation Policy and State Annexation Statutes

### Explanation

- The purpose of the public hearing is to obtain community input on the proposed voluntary annexation.
- Voluntary annexation petition was received from owners of tracts immediately adjacent to the current City boundaries.
- Petitioners are:
  - Stafford Caldwell, LLC
  - APS Investments, LLC
- The properties are located east of the current City boundary, south of Caldwell Road, north of Rocky River Road and west of I-485.
- Annexation ordinance establishes effective annexation date of December 10, 2007.

### Consistent with City Council Policies

- Annexation is consistent with voluntary annexation policies approved on March 24, 2003.
- Annexation will not adversely affect the City's ability to undertake future annexations.
- Annexation will not negatively impact City finances or services.
- Annexation will not result in situation where unincorporated areas will be encompassed by new City limits.

### Attachment 3

Annexation Ordinance  
Maps

## **POLICY**

### **12. City Manager's Report**

- **South Corridor Light Rail Status Report**

## BUSINESS

### 13. Infrastructure Reimbursement Agreement for McCullough Drive/City Boulevard Connector Road



**Action:** Approve the Infrastructure Reimbursement Agreement up to \$5,400,000 (consistent with the Council approved framework) with Crescent Resources for the construction of the Connector Road between McCullough Drive and City Boulevard.

**Staff Resource:** Tom Flynn, Economic Development

#### Explanation

- Crescent Resources has requested City financial assistance in the construction of a road that will connect McCullough Drive from the north to City Boulevard. From the IKEA rezoning (06-155 approved May 21, 2007), the developer is responsible for the road extending from City Boulevard to its intersection with the IKEA entrance.
- The request for financial assistance is only for the portion of the road north of IKEA (see attached map).
- City Council unanimously approved the framework on June 25, 2007 and directed staff to develop a reimbursement agreement.
- The road provides the following benefits:
  - The road is part of an overall proposed road network that supports the at-grade intersection of N. Tryon Street (Highway 29) and City Boulevard (Highway 49).
  - While Crescent Resources owns a majority of the property surrounding the proposed road, the connection would not necessarily be made without City assistance due to topographical challenges that increase road costs and limit development potential.
  - University City Partners supports the project as it helps build the overall proposed road network set forth in the University City Area Plan.
  - The connector road will contribute to the overall accessibility of IKEA, a regional retailer projected to supply the City with over \$400,000 in annual sales tax from visitors outside Mecklenburg County.
- The Reimbursement Agreement includes:
  - 90% of the City's property tax increment on new development would be returned to Crescent Resources over a period of 10 years and will not exceed \$5.4 million for road construction.
  - Reimbursement payments would be for only those road costs from McCullough Drive to the IKEA intersection. This is estimated to be \$7.5 million. The City's contribution will not exceed \$5.4 million.
  - The ten year reimbursement period will commence no later than three years after the Certificate of Occupancy is granted for IKEA.
  - Construction of the connector road will be completed no later than two years after the Certificate of Occupancy is granted for IKEA.

- Future development adjacent to the connector road will follow the design and land use patterns set forth in the University City Area Plan as adopted or amended.
- Crescent Resources will submit a rezoning petition in January 2008 consistent with the University City Plan and the design criteria included in the Reimbursement Agreement.
- Crescent Resources will dedicate right-of-way for future extension of University Pointe Boulevard and the connector road extension south of City Boulevard to McFarlane Boulevard.
- There is a SBE goal of 10% in the Reimbursement Agreement.

**Attachment 4**  
Reimbursement Agreement  
Map

## 14. Belvedere Homes Redevelopment



**Action:** Approve a development agreement with the Charlotte Mecklenburg Development Corporation (CMDC) providing terms for conveying 24.61 acres on Rozzelles Ferry Road, formerly known as Belvedere Homes, to CMDC for a business park.

**Staff Resource:** AC Shull, Economic Development

### Explanation

- In October 2007 City Council approved a purchase agreement, which authorized City staff to finalize the purchase of Charlotte Housing Authority's (CHA) Belvedere Homes land. The land purchase will be closed with CHA by December 31, 2007. This land purchase will be funded by:
  - \$950,000 from Business Corridor Revitalization Fund
  - \$100,000 from Development and Revitalization Fund to be repaid by CMDC at closing by December 31, 2007
  - \$950,000 from Mecklenburg County
- The development agreement with the CMDC provides for the land transfer from the City to the CMDC within 30 days of the execution of this agreement.
- The City's development agreement with CMDC will provide specific terms and requirements for developing the land including:
  - Compliance with the conditional I-2 rezoning approved in October 2007
  - City review and approval of covenants and restrictions
  - Creation of approximately 125 new jobs with assistance from the Workforce Development Board
  - Small Business Enterprise Plan with a 10% goal
  - Two federal earmarks totaling \$381,000 are pending in Congress. The City could use the \$381,000 to either reduce the pro rata share of the City contributions to the project or to expand the scope of the project at some point in the future. Use of federal grant funds for business park expansion purposes would require City Council approval.

- Construction of the business park will begin after the land transfer to CMDC and will be completed, within two years.

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### **Funding**

ED Corridor Revitalization Fund

ED Development & Revitalization Fund

### **Attachment 5**

Development Agreement

Map

## **15. Northeast Corridor Light Rail Engineering**

- Action:**
- A. Approve an interim agreement for Consultant Services with STV/Ralph Whitehead Associates to provide professional design and engineering services in the amount of \$500,000 for the Northeast Corridor Light Rail Project,**
  - B. Adopt a resolution authorizing the City Manager to submit grant applications and execute funding with the Federal Transit Administration and the NCDOT for financial assistance, and**
  - C. Adopt a budget ordinance appropriating \$500,000 from the transit fund to the transit capital fund for this project for the first phase of this project work.**

**Staff Resource:** Ron Tober, Transit  
 Danny Rogers, Transit

### **Policy**

Centers & Corridors, The 2030 Corridor System Plan, Transportation Action Plan

### **Approvals**

- In November of 2006 the MTC adopted the 2030 (Transit) Corridor System Plan that included an Implementation Plan that programmed the Northeast Corridor to move forward into Preliminary Engineering.
- The MTC also adopted a locally preferred Alternative (LPA) that specified the alignment for the Northeast Corridor. At the request of the City of Charlotte, the MTC authorized the study of an alternate alignment for a portion of the project between Sugar Creek Road and Old Concord Road with the understanding that the City of Charlotte would fund the additional incremental cost if that alternative alignment was selected.
- While this interim contract initiates some of the early information gathering, the two alignment alternatives will be studied under the full design contract which will be brought to Council for approval in early 2008.

- In July 2007 the MTC authorized CATS to advance engineering of the light rail project and to further develop a financing strategy for funding the Northeast Corridor project.
- The Federal Transit Administration (FTA) has given approval (November 27th 2007) for the CATS to enter into Preliminary Engineering on the Northeast Corridor Light Rail Project. Additionally, NCDOT has committed to provide funding for 25% of this project.

### **Engineering Services Agreement**

- This agreement covers five specific tasks, all of which were included in the original RFQ and are essential segments of preliminary engineering for any design project. The five tasks included in this agreement are:
  - Aerial Photography
  - Project Management
  - Project Control Plan
  - Project Schedule
  - Environmental review
- CATS is requesting Council approval of this agreement at this time so that these defined tasks may get underway while the remainder of the scope of services are further defined. The FTA requires CATS to have an agreement in place with a design firm immediately following federal approval. Staff currently estimates the entire contract amount to be \$27,000,000.
- This agreement does not include all activities that are required by the FTA to complete preliminary engineering. Required tasks such as third party coordination, surveying/mapping, environmental assessments, public involvement, cost estimates, planning and engineering services are not yet fully defined but should be as work progresses. In calendar year 2008, CATS intends to request Council approval for the remainder of the work to be done in order to complete the full scope of this project and gain FTA approval to enter the next project phase.
- The primary outcome of this work will be a complete Final Environmental Impact Statement as well as engineering drawings progressed to an appropriate stage of completion to support a baseline capital cost estimate. Completion of this work is projected to be the end of 2009 followed by a petition to the FTA requesting a Record of Decision allowing the City to enter into final design, property acquisition and construction start-up.
- Participation and review by all affected City KBUs will be encouraged and requested throughout the life of this project.

### **Selection Process**

- On August 15, 2007, the City issued a Request for Qualifications (RFQ) for engineering services for the Northeast Corridor Light Rail Project. Four responses to the RFQ were received on September 19, 2007. An evaluation team, comprised of representatives from CATS, CDOT, E&PM, and Planning reviewed the responses and requested interviews with two firms, which took place on October 17, 2007.
- Participating staff drew from their experience on the South Corridor Light Rail Project to include, where appropriate, lessons learned. Following the interviews, the evaluation team selected STV/Ralph Whitehead Associates as

the most qualified firm for the work. The City and STV/Ralph Whitehead Associates entered into negotiations for the work and the parties agreed upon a draft agreement.

### **Disadvantaged Business Enterprise Opportunity**

Established DBE Goal: 10%

Committed DBE Goal: 10.08%

The proposed DBE firms are: Clark Transportation Consulting & Services, LLC, En Review Consulting, Envision Consultants, Ltd., Mattson, Alexander & Associates, Inc., SEPI Engineering Group, Inc., Tierra, Inc., Utility Coordination Consultants, Inc., and LSG, LLC.

### **Funding**

Northeast Corridor Fund

### **Attachment 6**

Budget Ordinance

Resolution

## **16. Transit Capital Funding Appropriation**

- Action:**
- A. Adopt a budget ordinance appropriating \$4,815,095 for CATS' Programs,**
  - B. Adopt a resolution authorizing the City Manager or his designee to submit and execute grant applications with the Federal Transit Administration (FTA), and**
  - C. Adopt a resolution authorizing CATS CEO or his designee to submit and execute funding agreements with the North Carolina Department of Transportation (NCDOT).**

**Staff Resource:** Ron Tober, Transit  
Dee Pereira, Transit

### **Explanation**

- The budget ordinance provides funds for FY2008 projects, which are included in the FY2008-FY2012 Capital Investment Plan.
- The Transit Capital and Operating Programs are funded through federal, state and local funds. The City estimates federal and state grant participation levels and advances funding from the Transit Fund balance to cover estimated grant revenues and the local share. Upon award and/or execution of grants, funds advanced to the program for the federal and state shares revert back to the Transit Fund balance.
- Action A appropriates funds which are authorized in CATS' Capital Budget. Total appropriation is \$4,815,095 of which \$464,042 is estimated to be received from federal grants, \$58,005 from state grants and \$4,293,048 from

the Transit Fund Balance. The attached budget ordinance identifies the estimated source of funds for each group of projects listed below.

- The appropriation will fund the following programs:

		<u>Appropriation</u>
– Van Pool Vans – Replacements	\$ 104,481	
– Bus Shop Equipment	\$ 250,571	
– Revenue Management Equipment	\$ <u>25,000</u>	\$ <u>380,052</u>
– Bus Technical Consulting	\$ <u>200,000</u>	\$ <u>200,000</u>
– Transit Centers	\$ 243,923	
– Park N Ride Lots	\$ 203,902	
– Shelters & Benches	\$ 612,000	
– Charlotte Transportation Center Improvements	\$ 100,000	
– Non-Revenue Vehicles	\$ 115,000	
– Information Technology Improvements	\$1,209,218	
– Rail Shop Equipment	\$ 230,000	
– Rail ROW Equipment	\$ 621,000	
– Safety & Security Equipment	\$ 700,000	
– Safety Certification Study	\$ <u>200,000</u>	\$ <u>4,235,043</u>
– Total Appropriation:		\$ <u>4,815,095</u>

**Funding**

Federal FY08 Formula Grant  
 Federal FY08 CMAQ Grant  
 State Matching Funds  
 Transit Fund Balance

**Attachment 7**

Description of Proposed Projects  
 Budget Ordinance  
 Resolution

## 17. Council Committee Appointment Process

**Action:** Discuss Council Committee Appointment Process.

### Explanation

- At the December 3, 2007 meeting, City Council voted to add the Council Committee Appointment Process to the December 10 business meeting agenda. The criteria that Council agreed to discuss includes:
  - At-large representatives chairing a committee, based on the 2007 election results
  - Council member seniority
  
  - Incumbent Council members currently chairing and vice chairing committees having first refusal
  - An interest form to be completed by each Council member for committees of choice
  - City Council voting on the 2007-2009 Council committees

### Attachment 8

Memorandum from Council member James Mitchell, Jr.  
Council Committee membership lists 1995-2007

## 18. Mayor and Council Topics

Council members may share information and raise topics for discussion.

## 19. Closed Session

**Action:** Adopt a motion pursuant to NCGS 143-318.11(a)(4) to go into closed session to discuss matters relating to the location of industries or businesses in the City of Charlotte, including potential economic development incentives that may be offered in negotiations.

## **Introduction to CONSENT**

The consent portion of the agenda is divided into two sections: Consent I and Consent II.

Consent I consists of routine items that have been approved in the budget, are low bid and comply with Small Business Opportunity Program Policy.

Consent II consists of routine items that have also been approved in the budget, but require additional explanation.

The City's Small Business Opportunity (SBO) Program's purpose is to enhance competition and opportunity in City contracting with small businesses in the Charlotte metropolitan statistical area. Participation of small business enterprises (SBE) is noted where applicable. Contracts recommended for award as of March 1, 2003 comply with the provisions of the SBO program policy for SBE outreach and utilization. Professional service contracts recommended for award as of August 1, 2003 comply with the provisions of the SBO program policy for SBE outreach and utilization.

Disadvantaged Business Enterprise (DBE) is a federal program primarily used for Aviation and Transit.

**Contractors and Consultants**

All contractor and consultant selections follow the Council approved process unless described otherwise.

## **CONSENT I**

### **20. Various Bids**

#### **A. McAlpine Relief Sewer Phase I**

**CMU**

**Staff Resource:** Doug Bean

**Action**

Award the low bid of \$18,247,890.66 by BRS, Inc./Sanders Utility Construction Co., Inc. of Richfield, North Carolina to install 9,326 linear feet of 78 inch diameter and 5,334 linear feet of 72 inch diameter sewer pipe adjacent to McAlpine Creek from Ballantyne to Highway 51.

**Small Business Opportunity**

Established SBE Goal: 7%

Committed SBE Goal: 0.734%

BRS, Inc./Sanders Utility Construction Joint Venture failed to meet the SBE goal, but earned the required number of Good Faith Effort Points. They committed 0.734% (\$134,000) of the total contract amount to the following SBE firms: Perry's Lawn & Landscaping, and Hazel Holmes Trucking. The major contracting opportunities for this project are hauling and clearing/grubbing. The quotes BRS/Sanders received from SBE firms for hauling were higher than the quotes received from non-SBE firms, therefore, the majority of the hauling is being performed by a non-SBE hauler. The majority of the clearing and grubbing is in a dense swamp area, which requires specialized clearing equipment and experience. At this time, no SBE firm has the required equipment or experience to perform this work.

**B. Traffic Signal Fiber Optic Cable and Conduit                      CDOT  
Construction on Steele Creek Road, South Tryon Street and  
Arrowood Road**

Staff Resource: Jeff McSwain

**Action**

Award the low bid of \$898,885.25 by Whiting Construction Company, Inc. of Troutman, North Carolina. This project includes the installation of aerial and underground fiber optic facilities at various locations along Steele Creek Road, South Tryon Street and Arrowood Road.

**Disadvantaged Business Enterprise**

Established DBE Goal: 8%

Committed DBE Goal: 8.56%

Whiting Construction Co. Inc. exceeded the established DBE goal. They committed 8.56% (\$66,923) of the total contract amount to the following certified DBE firm: CODE LLC.

**C. Howie Acres Neighborhood Improvement                      EPM  
Phase 1**

Staff Resource: Andy Babson

**Action**

Award the low bid of \$928,112.22 by Ferebee Corporation of Charlotte, North Carolina. This project consists of new infrastructure in the Howie Acres Neighborhood off East Sugar Creek Road at The Plaza as part of the 2000 Neighborhood Improvement Bonds. The work includes erosion control, drainage, grading, new concrete curb, sidewalks, accessible ramps and drives, asphalt paving and associated work. Construction completion is scheduled for third quarter of 2008.

**Small Business Opportunity**

Established SBE Goal: 7%

Committed SBE Goal: 7.05%

Ferebee Corporation met the established goal and committed 7.05% (\$65,426.50) of the total contract amount to the following SBE firms: Bullington Construction, D's Trucking Service, Inc., and On Time Construction, Inc.

**D. 36<sup>th</sup> Street and The Plaza Sidewalk Improvements EPM**

**Staff Resource:** Sonji Mosley

**Action:**

Award the low bid of \$212,937.90 by Carolina Cajun Concrete of Charlotte, North Carolina to provide concrete sidewalks, concrete driveways, curb and gutter, asphalt paving, storm drainage and grading improvements installed along 36<sup>th</sup> Street from Davidson Street to Cullman Avenue and along The Plaza from Lake Drive to W.T. Harris Boulevard. This project is part of the City's Sidewalk Improvement Program. Construction completion is scheduled for second quarter of 2008.

**Small Business Opportunity**

Established SBE Goal: 4%

Committed SBE Goal: 4.13%

Carolina Cajun Concrete, a certified SBE firm, met the established SBE goal and committed 4.13% (\$8,800) of the total dollar amount to the following SBE firms: Bana Corporation and M.H. Graves Construction Co.

**E. Tuckaseegee Sidewalk Improvements EPM**

**Staff Resource:** Imad Fakhreddin

**Action**

Award the low bid of \$217,843.56 by United Construction Inc. of Charlotte, North Carolina. This contract will provide new sidewalk construction along the south side of Tuckaseegee Road between Little Rock Road and Wilson Junior High School. This project is part of the City's Sidewalk Improvement Program. Construction completion is scheduled for the second quarter of 2008.

**Small Business Opportunity**

Established SBE Goal: 3%

Committed SBE Goal: 3.67%

United Construction exceeded the established 3% SBE goal and committed 3.67% (\$8,000) of the total dollar amount to the following SBE firms: Custom Lawn and Landscaping, Happy Jack Trucking, Inc., and Solano's Trucking.

## **21. Refund of Property and Business Privilege License Taxes**

- Action:**
- A. Adopt a resolution authorizing the refund of property taxes assessed through clerical or assessor error in the amount of \$167.81, and**
  
  - B. Adopt a resolution authorizing the refund of business privilege license taxes made in the amount of \$26,333.50.**

**Staff Resource:** Greg Gaskins, Finance

### **Attachment 9**

Resolution

List of property tax and business license tax refunds

## 22. In Rem Remedy

**For In Rem Remedy #A-D, the public purpose and policy are outlined here.**

**Public Purpose:**

- Eliminate a blighting influence
- Reduce the proportion of substandard housing
- Increase tax value of property by making land available for potential infill housing development
- Support public safety initiatives

**Policy:**

- Housing & Neighborhood Development
- Community Safety

The In Rem Remedy items were initiated from 3 categories:

1. Public Safety – Police and/or Fire Dept.
2. Complaint – petition by citizens, tenant complaint or public agency referral
3. Field Observation – concentrated code enforcement program

The In Rem Remedy item is listed below by category identifying the street address and neighborhood.

**Public Safety:**

- A. 1222 Fairmont Street (Neighborhood Statistical Area 28 – Oaklawn Neighborhood)
- B. 2032 Whittington Street (Neighborhood Statistical Area 39 – J. T. Williams Neighborhood)

**Field Observation:**

- C. 1231 Boone Street (Neighborhood Statistical Area 28 – Oaklawn Neighborhood)
- D. 412 Wake Street (Neighborhood Statistical Area 26 – Biddleville Neighborhood)

**Public Safety:**

**A. 1222 Fairmont Street**

**Action: Adopt an ordinance authorizing the use of In Rem Remedy to demolish and remove the structure at 1222 Fairmont Street (Neighborhood Statistical Area 28 – Oaklawn Neighborhood).**

**Attachment 10**

**B. 2032 Whittington Street**

**Action: Adopt an ordinance authorizing the use of In Rem Remedy to demolish and remove the structure at 2032 Whittington Street (Neighborhood Statistical Area 39 – J. T. Williams Neighborhood).**

**Attachment 11**

**Field Observation:**

**C. 1231 Boone Street**

**Action: Adopt an ordinance authorizing the use of In Rem Remedy to demolish and remove the structure at 1231 Boone Street (Neighborhood Statistical Area 28 – Oaklawn Neighborhood).**

**Attachment 12**

**D. 412 Wake Street**

**Action: Adopt an ordinance authorizing the use of In Rem Remedy to demolish and remove the structure at 412 Wake Street (Neighborhood Statistical Area 26 – Biddleville Neighborhood).**

**Attachment 13**

## CONSENT II

### 23. Police Helicopter Inspection and Maintenance

**Action:** Approve Edwards & Associates, Inc. as the vendor to perform the 60 month maintenance service for Aircraft-N406PD, not to exceed \$185,000, for inspections, repairs and final assembly.

**Staff Resource:** Greg Crystal, CMPD  
Sgt. Benton Herring, CMPD

#### Explanation

- CMPD relies heavily on vendors with the necessary experience to service and maintain their aircraft, which must be held to high performance standards due to the guidelines set forth by the FAA (Federal Aviation Administration) to ensure public safety.
- This maintenance is a highly specialized service that involves specialized parts and trained personnel. It is customary that the service be performed by an authorized service center.
- Edwards & Associates, Inc. of Piney Flats, Tennessee is the closest authorized service center for Bell 407 aircraft. It is located within one flight hour and three drive hours from Charlotte.
- Edwards and Associates have provided maintenance on the helicopter since it was purchased by CMPD and have consistently provided high quality customer service and technical expertise.
- Council approved the helicopter's turbine engine overhaul at its October 22 meeting.
- The 60 month maintenance service includes scheduled inspections and component overhauls, rotor hub and drive train component replacements, drive shaft modifications and reinstallation of the engine.

#### Small Business Opportunity

Pursuant to Part C, Section 2.4 of the SBO Program, no SBO utilization goal was set for this service because subcontracting is not anticipated.

#### Funding

Police Operating Budget

## 24. Eagle Brand Traffic Signals and Hardware

- Action:**
- A. Approve the purchase of Eagle Brand Traffic Signals & Hardware without competitive bidding, as authorized by the sole source exception of G.S. 143-129(e) (6),**
  - B. Approve a unit price contract for the purchase of Eagle Brand Traffic Signals and related hardware to RGA, Inc. in the estimated annual amount of \$120,000 for the term of one year, and**
  - C. Authorize the City Manager to extend the contract for four additional one-year terms.**

**Staff Resource:** Lawrence McKnabb, Transportation

### Sole Source Exception

- G.S. 143-129(e)(6) provides that formal bidding requirements do not apply when:
  1. Performance or price competition are not available
  2. A needed product is available from only one source of supply, or
  3. Standardization or compatibility is the overriding consideration.
- All three exceptions apply to the traffic signals and hardware.
- Purchases made under the sole source exception require City Council approval.

### Explanation

- RGA, Inc. is the only authorized dealer of the Eagle equipment for Charlotte per Siemens ITS, the manufacturer.
- Eagle Brand traffic signals have been determined to be the best source of traffic signals for the following reasons:
  - Currently, CDOT has installed over 7,000 Eagle traffic signals within the City. This necessitates carrying a large number of parts for repairs and replacement. Standardizing the Eagle brand signals eliminates the need to stock large quantities of multiple brand parts and reduces the necessary inventory space.
  - Due to the size of a traffic signal (approximately 4 feet), only one signal can be safely transported on a crew truck at a time. Having multiple brands of signals within the City would require multiple trips to and from the CDOT Operations warehouse for the proper equipment.
  - The installation and setup for each brand is also unique. Changing to another brand may increase the chance of installation crews obtaining incorrect parts resulting in delayed repairs. This is important during emergency situations or while working at night.
- A unit price contract will be established for one year with four, one-year options for renewal in order to accommodate future purchases.

**Small Business Opportunity**

Pursuant to Appendix Section 23.2 of the SBO Program regarding purchases without competitive bidding, this is an exempt contract.

**Funding**

Transportation Operating Budget

**25. Upper Little Sugar Creek Relief Sewer, Phase 2**

- Action:**
- A. Adopt a budget ordinance appropriating \$817,720 from water and sewer revenue bonds, and**
  - B. Approve change order #1 for \$817,720 with Central Builders, Inc. for construction of Phase 2 of the Upper Little Sugar Creek Relief Sewer at the proposed Baxter Street Bridge.**

**Staff Resource:** Doug Bean, Utilities

**Explanation**

- City Council awarded a construction contract to Central Builders on June 11, 2007 for the construction and relocation of a segment of the existing Sugar Creek sewer line and a segment of a future relief sewer along Sugar Creek. The project coordinates with the construction of the Little Sugar Creek stream restoration and the new Sugar Creek greenway project in the Baxter Street/Midtown area.
- A previous study indicated that the existing 48-inch sewer was near maximum capacity. Growth in the center city will increase flows, further taxing the sewer capacity.
- During the construction of the improvements, the construction schedule for the Baxter Street bridge replacement was accelerated. The location of the proposed bridge is adjacent to the segment of relief sewer being constructed by Central Builders.
- Upon evaluating the road/bridge relocation plan, staff determined that constructing an additional segment of the future relief sewer now could realize significant future construction cost savings by eliminating the need for a tunnel for the sewer line construction after the new bridge is constructed.
- At Utilities' staff request, Central Builders submitted a change order proposal to construct the additional segment of the relief sewer. Central Builders proposed to construct the next segment at the same unit prices bid for the existing project plus the cost of a tunnel at Kenilworth and the creek crossing, which were not required for the original project.

**Small Business Opportunity**

All additional work involved in this change order will be performed by the current contractor, and their existing subcontractors. This change order complies with Part D: Section 6 of the SBO Program.

**Funding**

Water and Sewer Capital Investment Plan

**Attachment 14**

Budget Ordinance

**26. Sanitary Sewer Rehabilitation Program Professional Services Contract Renewal #3**

**Action:** Approve final contract renewal of up to \$992,600 with Frazier Engineering, P.A., of Stanley, North Carolina for engineering services related to the Sanitary Sewer Rehabilitation Program.

**Staff Resource:** Doug Bean, Utilities

**Explanation**

- The original contract allowed for three renewals at the City’s option, to expedite implementation and completion of additional sewer rehabilitation projects.
- The final renewal provides for continued engineering services focusing on the following areas:
  - Sewer system evaluation surveys
  - Planning and design
  - Construction drawings and specifications
  - Construction management
- Frazier Engineering was initially selected using the Council approved qualifications-based selection process.

**Background**

- Original contract awarded by Council on February 28, 2005, up to \$992,600, with options to renew for 3 additional terms.
- Renewal #1 was approved by Council on May 8, 2006, up to \$992,600.
- Renewal #2 was approved by Council on February 12, 2007, up to \$992,600.

**Small Business Opportunity**

Established SBE Goal: 5%

Committed SBE Goal: 5%

Frazier Engineering committed 5% (\$49,600) of the total contract amount to the following SBE firms: Sharpe Images, Inc., Commercial Printing Company of Charlotte, Mahnaz and On Target.

**Funding**

Sewer Capital Investment Plan

## 27. FY07 Water and Sanitary Sewer Service Installations, Contract Renewal #1

**Action:** Approve contract renewal #1 up to \$1,991,459.40 with B.R.S., Inc., of Richfield, North Carolina for water and sewer line installations.

**Staff Resource:** Doug Bean, Utilities

### Explanation

- The contract renewal provides for installation of domestic water and sanitary sewer service throughout Mecklenburg County.
- At the option of the City, the contract may be renewed for three additional terms as an incentive to the contractor for productivity and quality work.
- Original contract was awarded by Council February 1, 2006, in the not to exceed amount of \$1,958,170.50.

### Small Business Opportunity

Pursuant to Part B: Section 2.4 of the SBO Program, no SBO utilization goal was set for this contract because subcontracting is not anticipated.

### Funding

Water and Sewer Capital Investment Plan

## 28. Airport Flight Information Display Maintenance Contract

**Action:** Approve a contract with Signature Technologies, Inc. d/b/a ComNet of Miamisburg, Ohio in the amount of \$114,420 for maintenance of the Airport's Flight Information Display Systems.

**Staff Resource:** Jerry Orr, Aviation Director

### Sole Source Exception

- G.S. 143-129 (e)(6) provides that formal bidding requirements do not apply when:
  1. Performance or price competition are not available;
  2. A needed product is available from only one source or supply; or
  3. Standardization or compatibility is the overriding consideration.
- Sole sourcing is necessary because the parts are only available from one source.
- Purchases made under the sole source exemption require City Council approval.

**Explanation**

- In January 1996 Council approved a contract with ComNet Software Specialists, Inc. in the amount of \$805,937 to provide and install devices that display flight, baggage and gate information in the terminal building.
- In July 1998 Council approved a contract with ComNet Software Specialists, Inc., in the amount of \$471,982 to install additional information display devices for use by workers servicing airplanes.
- In September 2003 Council approved a three-year contract with ComNet's successor, Signature Technologies, Inc. d/b/a ComNet, to provide proprietary parts and maintenance at a cost of \$270,000.
- In January 2007 Council approved a one year contract extension with Signature Technologies in the amount of \$114,360 for maintenance on 525 devices.
- This contract will provide the proprietary parts and maintenance service on the 489 devices for a period of one year at a cost of \$114,420.

**Small Business Opportunity**

Signature Technologies, Inc. is the sole source provider for maintenance of this proprietary system; therefore, pursuant to Appendix Section 23.2 of the SBO Program regarding purchases without competitive bidding, this is an exempt contract.

**Funding**

Airport Operating Budget

## 29. Airport Drive Reconstruction and Group Hangar 3 Office Addition

**Action:**    **A. Approve Change Order #2 in the amount of \$120,600 with Pease and Associates for the design of Airport Drive reconstruction and the addition of office space to Group Hangar 3, and**

**B. Adopt a budget ordinance appropriating \$120,600 from the Airport Fund Balance.**

**Staff Resource:**        Jerry Orr, Aviation

**Explanation**

- On September 11, 2006 Council approved a contract with Pease and Associates in the amount of \$117,100 for design of Group Hangar 3 to store corporate aircraft.
- On February 22, 2007 Change Order #1 with Pease and Associates in the amount of \$51,800 was approved for design of sitework for additional hangars.
- A portion of Airport Drive needs to be redesigned and rebuilt to accommodate the growth in the corporate aviation area.

- This change order will provide the design, permitting and bid documents for:
  - 1,000 feet of Airport Drive between Morris Field Drive and West Boulevard
  - Relocation of a 280,000 cubic foot storm water retention basin
  - Addition of 6,000 square feet of office space to Group Hangar 3 to accommodate tenant flight operations and related crew space needs

#### **Small Business Opportunity**

Pursuant to the SBO Program Policy for professional services contracts, the City negotiated a Committed SBE goal with the successful proposer. Pease and Associates committed 3% (\$2,124) to the following SBE firm: Richa Graphics.

#### **Funding**

Airport Capital Investment Plan

#### **Attachment 15**

Budget Ordinance

### **30. Airport Restroom Renovation and HVAC Addition**

- Action:**
- A. Approve a contract in the amount of \$2,357,000 with Edison Foard, Inc. of Charlotte for restroom renovations and improvements to the heating, cooling and ventilation system, and**
  - B. Adopt a budget ordinance appropriating \$635,000 from the Airports Fund Balance to be repaid from future General Airport Revenue Bonds.**

**Staff Resource:** Jerry Orr, Aviation

#### **Explanation**

- On June 25, 2007 Council approved a contract in the amount of \$1,866,000 with Edison Foard for construction of eight restroom facilities throughout the terminal.
- This contract will renovate an additional eight restrooms (\$1,722,000) and improve the heating, cooling and ventilation systems in Concourse C (\$635,000).
- These restrooms were constructed in 1982 and do not meet current Americans with Disabilities Act accessible facility codes.
- The new design will provide for total reconstruction of the facilities to improve accessibility, layout, traffic flow, lighting and appearance, resulting in a water reduction of 6.2 million gallons a year and a 20% reduction in electricity use in the restroom facilities.
- The new design will also accommodate the use of restroom attendants for improved customer service.

- The budget ordinance appropriates \$635,000 for improvements to the heating, cooling and ventilation system. The funds for restroom renovations are included in the budget.

#### **Small Business Opportunity**

Established SBE Goal: 7 %

Committed SBE Goal: 0 %

Edison Foard failed to meet the SBE goal, but earned the required number of Good Faith Effort Points.

#### **Funding**

Airport Capital Investment Plan

#### **Attachment 16**

Budget Ordinance

### **31. Airport Checkpoint Expansion**

- Action:**
- A. Approve a contract in the amount of \$300,000 with DAS Architecture of Charlotte for the design of an additional passenger checkpoint in the terminal, and**
  - B. Adopt a budget ordinance appropriating \$400,000 from the Airport Fund Balance to be repaid from future General Airport Revenue Bonds.**

**Staff Resource:** Jerry Orr, Aviation

#### **Explanation**

- The Airport is currently experiencing overloading of the passenger checkpoint lines in the afternoons as the international passengers arrive. All arriving international passengers transferring to another flight must be rescreened.
- This contract will provide for the design of an additional passenger security checkpoint in the D-Concourse and add an additional lane, increasing capacity by approximately 30% at the D-Checkpoint.
- This contract will provide plans for a 15,000 square foot addition to the D-Concourse.
- The additional \$100,000 in the budget ordinance will fund several procurement contracts necessary to complete the D-Checkpoint modifications.

#### **Small Business Opportunity**

Pursuant to the SBO Program Policy for professional services contracts, the City negotiated a Committed SBE goal with the successful proposer. DAS Architect committed 3% (\$9,000) to the following SBE firm: Richa Graphics.

#### **Funding**

Airport Capital Investment Plan

**Attachment 17**  
Budget Ordinance

## 32. Airport Schindler Elevator Maintenance Contract

**Action:** Approve a six month contract extension with Schindler Elevator Corporation of Delaware in the amount of \$136,932 to provide maintenance of certain escalators, elevators and moving sidewalks at the Airport.

**Staff Resource:** Jerry Orr, Aviation

### Explanation

- Schindler Elevator Company and its predecessor, Westinghouse Elevator Company, have provided maintenance for escalators, elevators and moving sidewalks in the Airport since 1982.
- On February 25, 2002 Schindler Elevator Corporation was awarded a five year contract with two, one-year extensions at the option of the City to provide maintenance service for ten elevators, four escalators, and six moving walkways throughout the Airport.
- The extension's monthly cost of \$22,822 represents a 5% increase from the previous year.
- The remaining elevators, escalators and moving sidewalks will continue to be maintained by Otis Elevator Company.
- This six-month extension will make these two maintenance contracts coterminous and enable a bid for a single provider in the future.

### Small Business Opportunity

Pursuant to Part B: Section 2.4 of the SBO Program, no SBO utilization goal was set for this contract because subcontracting is not anticipated.

### Funding

Airport Operating Budget

### 33. Conduit Transfer for Traffic Control Devices

**Action:** Approve a resolution to transfer assets by exchanging sections of 1.25-inch conduit with Windstream Communications, Inc.

**Staff Resource:** Charles Abel, Transportation

#### **Explanation**

- The resolution transfers assets by exchanging sections of 1.25-inch conduit with Windstream Communications, Inc. (Windstream).
- CDOT plans to install conduit and fiber optic cable along Providence Road, Randolph Road, and Highway 51 for traffic signal communications and traffic surveillance cameras. Windstream has spare conduit on both Randolph Road and Highway 51.
- CDOT can decrease the construction time and lessen the impact to adjacent properties by obtaining Windstream's spare conduit. Rather than purchasing the spare conduit, CDOT has negotiated with Windstream to provide a one-for-one trade in conduit.
- Windstream will provide CDOT conduit in two sections for a total distance of 33,509 feet.
- CDOT will provide Windstream conduit along Providence Road for a total distance of 33,064 feet.
- The difference in conduit being exchanged is less than 0.01%.
- The dollar value associated with the exchange is approximately \$550,000.
- The benefits of the project are in time savings and reduced impacts to adjacent properties by using existing conduit already located in the right-of-way.
- Upon approval of the resolution, CDOT will move forward with the bid phase to construct the Providence Road and Randolph Road project.

#### **Attachment 18**

Resolution

Map

## 34. Storm Drainage Improvements Memorandum of Understanding

**Action:** Authorize the City Manager to negotiate and execute a Memorandum of Understanding (MOU) with Mecklenburg County for the design and construction of needed storm drainage improvements within the Little Sugar Creek Greenway for an amount not to exceed \$500,000.

**Staff Resource:** Tim Richards, Engineering & Property Management

### Explanation

- Mecklenburg County Park and Recreation has an existing project, the Little Sugar Creek Greenway, Kings Drive Section which has work near an existing 72 inch storm drainage system, Cherry Tributary System.
- Approximately 190 linear feet of the existing Cherry Tributary system is in need of repair from Kings Drive to the floodway.
- The storm drainage system meets the requirements for assistance through the Storm Water Services program.
- It is in both parties' best interests to have the design process for the Cherry Tributary System plans and specifications be completed by the same engineer that is familiar with the Little Sugar Creek Greenway plans.
- Cherry Tributary improvements should be constructed concurrently with the Little Sugar Creek Greenway so future needs of City residents are met with as little disruption as possible.
- Park & Recreation agrees they are in the best position to complete the design and construction of the Cherry Tributary system improvements at this time.
- Since Park & Recreation already has contracts for the Greenway Improvements, they will negotiate the design fees with their consultant and construction costs with their contractor but will not proceed with the work until Storm Water Services approves the fees.
- Storm Water Services will reimburse Park & Recreation in full for designing and installing the above mentioned storm drainage improvements, per approved plans and estimates.

### Small Business Opportunity

Pursuant to Part A, Section 23.1 of the SBO Program Policy these agreements are exempt.

### Funding

Storm Water Capital Investment Plan

## 35. Storm Water Channel Cleaning FY2004

**Action:** Approve contract renewal #3 for \$280,900 with Kip Corporation of Charlotte for Storm Water Channel Cleaning FY2004.

**Staff Resource:** Tim Richards, Engineering and Property Management

### Explanation

- Storm Water Services continues to remove and dispose of vegetation and debris that causes flow blockages in existing storm water channels within the city limits.
- Work will be done under the original contract document, using original bid unit prices adjusted for inflation, in accordance with the contract provisions.
- This is the third of three possible renewals allowed under the contract, at the City's option, as an incentive to the contractor for productivity and good workmanship.

### Contract History

- Council approved the original contract for \$280,900 on May 24, 2004.
- Council approved renewal #1 in the amount of \$280,900 on July 25, 2005.
- Council approved renewal #2 in the amount of \$280,900 on July 24, 2006.
- The total contract amount for Storm Water Channel Cleaning FY2004, including renewal #3, will be \$ 1,123,600.

### Small Business Opportunity

Pursuant to Part B/C: Section 2.4 of the SBO Program, no SBO utilization goal was set for this contract because subcontracting is not anticipated.

### Funding

Storm Water Capital Investment Plan

## 36. Cemeteries Grounds Maintenance Contract Renewals

- Action:** Approve second renewals to contracts with Sho-off Lawn Care for cemeteries grounds maintenance services as follows:
- A. Evergreen Cemetery in the amount of \$55,125.79,**
  - B. East Elmwood Cemetery in the amount of \$61,860.21,**
  - C. West Elmwood Cemetery in the amount of \$87,635.25, and**
  - D. Authorize the City Manager to approve the third and final renewal.**

**Staff Resource:** Mike Shroyer, Engineering & Property Management

### Explanation

- Routine grounds maintenance contract activities include mowing, shrub and bed maintenance and trash removal.
- The original contract documents allow for renewals up to two times, at the City's option, as an incentive to the contractor for productivity and workmanship.
- These renewals are based on good contractor performance using existing and adjusted unit prices.
- Landscape Management competitively selected this vendor through a Request For Proposal process.

### A. Evergreen Grounds Maintenance Contract with Sho-off Lawn Care

- The City Manager approved the original contract for \$53,468.28 on January 17, 2007.
- The total contract amount to date including Renewal #1 will be \$108,594.07.

### B. East Elmwood Grounds Maintenance Contract with Sho-off Lawn Care

- The City Manager approved the original contract for \$60,000.00 on January 17, 2007.
- The total contract amount to date including Renewal #1 will be \$121,860.21.

### C. West Elmwood Grounds Maintenance Contract with Sho-off Lawn Care

- The City Manager approved the original contract for \$85,000.00 on January 17, 2007.
- The total contract amount to date including Renewal #1 will be \$172,635.25.

### Small Business Opportunity

Pursuant to Appendix Section 23.1 of the SBO Program regarding informal contracts, this is an exempt contract. However, Sho-off Lawn Care is a SBE.

### Funding

Engineering and Property Management Operating Budget

### 37. Briar Creek Relief Sewer Phase I Condemnation Settlement Additional Compensation

**Action:** Approve final legal settlement of \$1,200,000 in the condemnation case captioned City of Charlotte v Myers Park Country Club, 06 CVS 24523, Mecklenburg County Superior Court.

**Staff Resource:** DeWitt McCarley, City Attorney's Office  
 Doug Bean, Utilities  
 Catherine Williamson, City Attorney's Office

#### Explanation

- 104,657 square feet of permanent sewer easement and 88,012 square feet of temporary construction easement were acquired by condemnation from this property located at the corner of Roswell Avenue and Colony Road, the site of Myers Park Country Club.
- Council authorized condemnation for the construction of Briar Creek Relief Sewer Project, Phase I in the appraised amount of \$263,475.
- The City has been committed to fund the cost of restoring the golf course after construction, once those amounts were known. However, the City's appraisal did not include compensation for that work.
- The City's appraisal did include a credit to the City of \$121,963 for abandonment of portions of the old sewer line on Club property after the new line becomes operational, and the Club has contested both the abandonment and the credit.
- After the case was filed in court, the City and the Club continued to discuss and work through construction details, restoration of the golf course, and the timing of the work to be done.
- The club selected and obtained an estimate from a golf course architect and contractor showing a cost for course restoration in the amount of \$896,950.
- The settlement amount is \$936,525 above the City's appraisal. It includes course restoration costs and an additional \$39,575 in payment for additional work and observation the Club will perform during the restoration.
- By this settlement, the Club will assume 100% responsibility for restoration of the golf course, including all risks associated with the restoration work, and is dropping its objections to the abandonment and credit for the old sewer line.
- The settlement also avoids the payment of any interest and court costs which would be owed on a jury verdict.

#### Funding

Utilities Capital Investment Plan

### 38. Liability Claim Settlement

**Action:** Approve payment in the amount of \$117,000 for injuries received by claimant as a result of being struck by a police cruiser.

**Staff Resource:** DeWitt McCarley, City Attorney's Office  
Court Fulton, City Attorney's Office  
Judy Pitts, Risk Management

**Explanation**

- Kimberly Chittavoravong was hit by a police cruiser while attempting to cross Bradford Drive on June 22, 2006.
- The impact resulted in a fracture at the knee and Ms. Chittavoravong underwent surgery. She has received rehabilitation therapy at Carolina Rehabilitation and continues to use a cane.
- Medical bills submitted by the claimant total \$44,084.05

**Funding**

Risk Management Fund

### 39. Employee Benefits Trust

**Action:** Approve a resolution establishing an irrevocable trust for employee health benefit funds.

**Staff Resource:** Greg Gaskins, Finance

**Explanation**

- Governmental Accounting Standards Board (GASB) Statement No. 45 requires the City to report the cost of Other Post Employment Benefits (OPEB) in its financial statements beginning fiscal year 2008.
- The City's most significant category of OPEB is retiree health insurance.
- For financial reporting purposes, an actuary calculates the Actuarial Accrued Liability (AAL) and the annual required contribution (ARC).
- The Actuarial Accrued Liability (AAL) is the amount that should have been contributed in previous years for benefits previously earned by employees before the effective date of GASB No. 45.
- The ARC is made up of two components:
  - Normal cost: the amount that should be contributed in the current year to fund future benefits for retirees, as well as current employees who are expected to retire
  - Amortization of the AAL: the AAL is amortized over 30 years.
- During the April 18, 2007 Council Budget Retreat, staff presented the City's OPEB costs and results of the actuarial report.
- In the FY2008 budget process, Council appropriated an additional \$862,435 above the estimated Pay-As-You-Go amount to fully fund the ARC.

- Since that time, the City pursued legislation recently passed by the General Assembly allowing the establishment of an irrevocable trust for OPEB benefits and expanding the City's investment options for improved earnings potential.
- In accordance with accounting requirements, contributing the entire amount of the ARC to an irrevocable trust helps reduce the City's future ARC as well as AAL because funds have been set aside and earnings on these funds can be used for future benefit payments.
- For this to be applicable to the FY2008 Comprehensive Annual Financial Report, the trust must be established by December 31, 2007 through a City Council resolution.
- During the next year, Council will be asked to authorize a new investment program including approval of an investment advisor for funds in the trust.

**Funding**

General Fund and Enterprise Fund Operating Budgets

**Attachment 19**

Trust Agreement  
Resolution

## 40. Property Transactions

**Action: Approve the following condemnation resolutions (A-J).**

NOTE: Condemnation Resolutions are on file in the City Clerk's Office.

### Condemnations

- A. Project:** Beatties Ford Road - North of Sample Road to Hopewell High School, Parcel # 1  
**Owner(s):** L.W. Kerr Limited Partnership and Any Other Parties of Interest  
**Property Address:** 10535 Beatties Ford Road  
**Property to be acquired:** Total Combined Area of 7,926 sq. ft. (.182 ac.) of Temporary Construction Easement  
**Improvements:** None  
**Landscaping:** None  
**Purchase Price:** \$1,300  
**Remarks:** Compensation was established by independent, certified appraisals related to this property. City staff has yet to reach a negotiated settlement with the property owner.  
**Zoned:** R  
**Use:** Single Family Residential - Rural Acreage  
**Tax Code:** 023-042-03  
**Total Parcel Tax Value:** \$508,100
- B. Project:** Beatties Ford Road - North of Sample Road to Hopewell High School, Parcel # 2  
**Owner(s):** Juanita Kiser Bentley and Any Other Parties of Interest  
**Property Address:** 10725 Beatties Ford Road  
**Property to be acquired:** Total Combined Area of 4,783 sq. ft. (.110 ac.) of Temporary Construction Easement  
**Improvements:** None  
**Landscaping:** None  
**Purchase Price:** \$800  
**Remarks:** Compensation was established by independent, certified appraisals related to this property. City staff has yet to reach a negotiated settlement with the property owner.  
**Zoned:** R  
**Use:** Single Family Residential - Rural Acreage  
**Tax Code:** 023-042-10  
**Total Parcel Tax Value:** \$855,700
- C. Project:** Beatties Ford Road - North of Sample Road to Hopewell High School, Parcel # 4  
**Owner(s):** George G. Bacogorge and Wife, Michelle R. Bacogorge and Any Other Parties of Interest  
**Property Address:** 10815 Beatties Ford Road

**Property to be acquired:** Total Combined Area of 3,797 sq. ft. (.087 ac.) of Temporary Construction Easement

**Improvements:** None

**Landscaping:** None

**Purchase Price:** \$625

**Remarks:** Compensation was established by independent, certified appraisals related to this property. City staff has yet to reach a negotiated settlement with the property owner.

**Zoned:** R

**Use:** Single Family Residential - Rural Acreage

**Tax Code:** 023-042-09

**Total Parcel Tax Value:** \$50,900

**D. Project:** Beatties Ford Road - North of Sample Road to Hopewell High School, Parcel # 6

**Owner(s):** Phyllis M. Moody and Any Other Parties of Interest

**Property Address:** 11033 Beatties Ford Road

**Property to be acquired:** Total Combined Area of 6,910 sq. ft. (.159 ac.) of Permanent Utility Easement, plus Temporary Construction Easement

**Improvements:** None

**Landscaping:** None

**Purchase Price:** \$1,175

**Remarks:** Compensation was established by independent, certified appraisals related to this property. City staff has yet to reach a negotiated settlement with the property owner.

**Zoned:** R

**Use:** Single Family Residential - Rural Acreage

**Tax Code:** 023-031-11

**Total Parcel Tax Value:** \$119,700

**E. Project:** Bryant Farms Road Sidewalk, Parcel # 7

**Owner(s):** Crown Atlantic Company, LLC and Any Other Parties of Interest

**Property Address:** 9003 Bryant Farms Road

**Property to be acquired:** Total Combined Area of 3,413 sq. ft. (.078 ac.) of Fee Simple, plus Temporary Construction Easement

**Improvements:** None

**Landscaping:** None

**Purchase Price:** \$6,925

**Remarks:** Compensation was established by an independent, certified appraisal and an appraisal review. City staff has yet to reach a negotiated settlement with the property owner.

**Zoned:** R-3

**Use:** Vacant (Cell Tower)

**Tax Code:** 229-041-22A

**Total Parcel Tax Value:** \$283,500

- F. Project:** Cedar Walk, Parcel # 1  
**Owner(s):** Sigmund Hart and Jeffrey Hall and Any Other Parties of Interest  
**Property Address:** 16414 Marvin Road  
**Property to be acquired:** Total Combined Area of 5,017 sq. ft. (.115 ac.) of Fee Simple  
**Improvements:** None  
**Landscaping:** None  
**Purchase Price:** \$19,125  
**Remarks:** Compensation was established by an independent, certified appraisal and an appraisal review. City staff has yet to reach a negotiated settlement with the property owner.  
**Zoned:** R-3  
**Use:** Single Family Residential  
**Tax Code:** 223-081-32  
**Total Parcel Tax Value:** \$2,245,800
- G. Project:** Fred D. Alexander Boulevard - Section B, Parcel # 8  
**Owner(s):** Magellan Terminal Holdings, LP and Any Other Parties of Interest  
**Property Address:** 7145 Old Mt Holly Road  
**Property to be acquired:** Total Combined Area of 256,728 sq. ft. (5.894 ac.) of Existing Right-of-Way, plus Storm Drainage Easement, plus Permanent Wall Easement, plus Road Right-of-Way, plus Temporary Construction Easement  
**Improvements:** None  
**Landscaping:** None  
**Purchase Price:** \$225,350  
**Remarks:** Compensation was established by two independent, certified appraisals and an appraisal review. City staff has yet to reach a negotiated settlement with the property owner.  
**Zoned:** I-2  
**Use:** Industrial  
**Tax Code:** 057-202-03  
**Total Parcel Tax Value:** \$1,776,500
- H. Project:** Old Steele Creek Road Sidewalk, Parcel # 12  
**Owner(s):** Trustees of University Memorial Baptist Church and Any Other Parties of Interest  
**Property Address:** 4401 West Tyvola Road  
**Property to be acquired:** Total Combined Area of 11,636 sq. ft. (.267 ac.) of Fee Simple, plus Temporary Construction Easement  
**Improvements:** None  
**Landscaping:** None  
**Purchase Price:** \$8,100  
**Remarks:** Compensation was established by an independent, certified appraisal and an appraisal review. City staff has yet to reach a negotiated settlement with the property owner.  
**Zoned:** R-22MF

**Use:** Single Family Residential  
**Tax Code:** 145-231-10  
**Total Parcel Tax Value:** \$971,600

- I. Project:** US 29/NC 49- University City Boulevard Phase I, Parcel # 2  
**Owner(s):** Cammie Kathleen Williams and Any Other Parties of Interest  
**Property Address:** 216 Stetson Drive  
**Property to be acquired:** Total Combined Area of 1,914 sq. ft. (.044 ac.) of Fee Simple, plus Temporary Construction Easement  
**Improvements:** None  
**Landscaping:** None  
**Purchase Price:** \$2,375  
**Remarks:** Compensation was established by an independent, certified appraisal and an appraisal review. City staff has yet to reach a negotiated settlement with the property owner.  
**Zoned:** I-1  
**Use:** Industrial  
**Tax Code:** 047-221-08  
**Total Parcel Tax Value:** \$369,900

## 41. Meeting Minutes

**Action:** Approve the titles, motions and votes reflected in the Clerk's record as the minutes of:  
- November 19, 2007