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The City Council of the City of Charlotte, North Carolina, met in regular session on Monday, May 29, 1978, at 3:00 o'clock p. m., in the Council Chamber, City Hall, with Mayor Kenneth R. Harris presiding, and Councilmembers Don Carroll, Betty Chafin, Tom Cox, Jr., Charlie Dannelly, Laura Frech, Harvey B. Gantt, Ron Leeper, Pat Locke, George K. Selden, H. Milton Short and Minette Trosch present.

ABSENT: None.

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INVOCATION.

The invocation was given by the Assistant to Pastor E. C. Cannon of the Cannon Temple Church of God in Christ.

APPROVAL OF MINUTES; COUNCIL PROCEDURE FOR PLACING ITEMS ON AGENDA CLARIFIED.

Motion was made by Councilmember Locke, seconded by Councilmember Selden, and carried unanimously, to approve the minutes of the Council meetings of Monday, May 8, and Monday, May 15, 1978, with the following corrections:

Minute Book 68, Page 42 (second and fourth paragraphs) - change the name Marsh to "McGuire".

Minute Book 68 - Page 57 (third paragraph) - change McAlway Road to "McAlway-Walker"; and (fourth paragraph) - change petitioning to "in agreement with".

Councilmember Selden stated there are two items in the minutes that he would appreciate clarification on. In the Informal Session of May 8th, on Page 4, there is a reference to the Independence Expressway where "Mr. Carroll requested that at the June 5th Council meeting the planners and architects who were making a study of the overall view of the Independence Expressway be scheduled to make their report." There is also reference to this in the Formal Session on Page 23. He stated he would appreciate being advised of the substance of that and if it is to be in the informal session on June 5th.

Councilmember Carroll replied it is to be on the regular agenda.

Mayor Harris stated that what Mr. Selden is saying is that it would have to be voted on in order to be put on the agenda. Mr. Selden stated that is the point he is raising; at the informal session, he has no objection.

Mr. Carroll stated it will be in the formal session; that it will probably last more than thirty minutes. These people have spent a good bit of time preparing this and he would like to be sure that they have sufficient time to present the report and answer questions.

Councilmember Selden asked what the substance is or who they are? Mr. Carroll replied the local planners are Professor Henry Sanoff of N. C. State and Eric Sauda and John Paul Lucas, architects at UNCC. They will present most of the planning; also the Transportation Planner, Robert Morris.

Mayor Harris stated June 5th is the evening meeting in District Five. The suggestion was made that this be heard during the half hour before the formal meeting and Mr. Selden stated this would be entirely acceptable. Mr. Carroll stated again that it could not be done within thirty minutes; therefore he would rather have it in the formal session so they could be sure of having enough time.

Councilmember Trosch reminded Council that the period from 7:00 to 7:30 is usually an informal session and plans have been made for citizens of the district to have some input as well as for refreshments.

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Mayor Harris stated the rules and regulations are that matters that are to be put on the formal agenda normally require consent of the Council.

Mr. Carroll stated he brought this up and asked if anyone had any questions about it and no one said anything at the meeting; that he knows everyone has been interested in hearing this report.

Mr. Selden stated this would appear to be some form of public hearing with respect to Independence Freeway. Mr. Carroll replied it is a report by people who have been spending a great deal of time trying to analyze it.

Mr. Selden asked if it is a report requiring no action of Council? Mr. Carroll stated he suggested at the other meeting that if Council wanted to take any action, that could be done at the next meeting.

Mr. Selden stated the reason he was raising the question is that he does not think it should be a point on which they would take action. Mayor Harris then stated that Mr. Carroll has indicated no action would be taken; so, it will be a matter of a report for information only.

Mr. Burkhalter, City Manager, stated this is a good time for him to bring something to their attention. This has happened two or three times and he has let it go by. That Mr. Carroll brought this up and he understood that it was going to be on the agenda, and he also thought that everyone understood that it was going to be on the agenda, but apparently this was not the case. Then they tried to put it in the informal session and Ms. Trosch did not want it there, and he can understand this.

He stated that in the future this kind of situation can be avoided by having a Council vote to place items on the agenda. Mayor Harris agreed.

#### MONTH OF JUNE PROCLAIMED AS BURGLARY PREVENTION MONTH IN CHARLOTTE.

Mayor Harris recognized Police Chief J. C. Goodman and read the following proclamation:

WHEREAS, burglary both in number of violations and in resultant property loss is the leading major crime across the Nation; and

WHEREAS, burglary all too frequently results in the injury to and death of the victim; and

WHEREAS, the success of burglary prevention and detection efforts is dependent to a large degree on the participation of an aroused and involved public;

NOW, THEREFORE, I, Kenneth R. Harris, Mayor of Charlotte, do hereby proclaim the month of June 1978 as Burglary Prevention Month in Charlotte, and call upon all citizens to aid and assist their police agencies and do all else possible to prevent, detect and report burglaries.

Chief Goodman accepted the proclamation with appreciation, stating that in the last three years, we have come from 8,000 burglaries down to 7,000 which speaks well for the Crime Prevention Program.

#### PRESENTATION OF CITY EMPLOYEE PLAQUES TO RETIRING EMPLOYEES.

Mayor Harris recognized the following retiring City employees and presented them with plaques and they were congratulated by the individual Councilmembers:

Earl F. Fesperman, Police Sergeant - employed August 5, 1946,  
retired April 25, 1978.

Joe D. Gunter, Police Officer - Employed August 16, 1948,  
retired April 30, 1978.

Larry J. Allman, Police Officer - Employed April 11, 1973,  
retired April 30, 1978.

Edward T. Reeds, Labor Crew Chief, Public Works Department -  
employed April 3, 1961, retired March 28, 1978.

PUBLIC HEARING ON PROPOSED CODE OF ETHICS FOR CITY OFFICIALS.

Mayor Harris stated that at the direction of Council, Mr. Underhill, City Attorney, has drafted the proposed Code of Ethics. That it has been circulated to each of the parties involved, and Council's desire to have a public hearing on this matter has been advertised.

Mr. Underhill stated that Council has had this material for some time and he assumes they have had an opportunity to look at it and ask any questions in advance of the hearing. That what he sent them in early April is a proposed ordinance which, if adopted, would amend Chapter I of the City Code to establish a code of ethics for certain City Officials - the Mayor, the Council, the City Manager, Assistant City Managers and Department Heads.

He stated he drafted this ordinance after reviewing a number of ordinances from other municipalities and some model ordinances in the North Carolina State Law on legislative ethics. He stated he had a great deal of assistance from Ms. Carol Loveless in this matter. That this was sent to Council in draft form just to get something on the table; to give them something to work from. Since that time, he has received some suggested changes and deletions by the Committee of the Mecklenburg County Democratic Party who looked at the ordinance and made these suggestions.

Mr. Ray S. Farris stated he chaired the committee for the Mecklenburg County Democratic Party which was charged with reviewing this ordinance; that the other members were W. T. Harris, Peter Foley, Betty Chafin and Charlie Dannelly. They met and reviewed the ordinance the first part of May and members of that committee have received the consensus draft upon which they agreed. He stated this draft is also in the hands of the Councilmembers; that in his judgment and the judgment of the committee it does not change the substance of what Mr. Underhill proposed. They hope it calls for some areas of clarification and, in part, tightens up a bit what was initially to be considered by the Council.

He stated that generally speaking, it is the position of this committee that such an ordinance in terms of policy is appropriate; that the ordinance as submitted by Mr. Underhill, is a realistic piece of legislation and will not be oppressive and will not deter responsible people in the future from running for public office. He stated that consideration is important.

Councilmember Short noted that they had just received this revised draft from the committee today; and at Councilmember Selden's request, Mr. Farris identified the word changes as follows:

Section 1-8(a)(1) - The relationship of people was limited to immediate household, rather than by blood or marriage. They felt this was too broad, too extensive and inconsistent with some of the other language.

Section 1-8(a)(2) - This was deleted. They felt that any person or business entity with whom a contractual relationship existed with a City official would be difficult to define. That the intention of this is found in other places in the ordinance, specifically in Section 1-8(a).

Section 1-8(a)(3) - Second clause eliminated. That clause, in terms of ownership, is found in sub-paragraph (4).

Section 1-8(c) - The provision that the business entity seek financial gain or profit is added. There are non-profit entities all over the City, and they would not want to prohibit any City official from becoming involved with those entities.

Section 1-9(c) - They propose a change so that it would not be cumbersome upon public officials, for example, if they have their airport parking permit, and they happen to use it for a non-official function, they would not want it to be deemed that they have violated this ordinance. There may be other examples.

He stated he would specifically propose that this be excluded. It is not intended to prohibit from speaking before neighborhood groups or other non-profit organizations.

Section 1-9(d) - The words "for purposes of advancing" so as to imply that any violation must be intentional, not by happenstance.

Section 1-9(f) - This paragraph was eliminated in its entirety. It had provided that no City official shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

He stated that in principle certainly that should apply, but theoretically, if a City official had a person move next door to him and he asked him if he could help him find a job. If he simply referred him to some person who appeared before Council who he knew only because of this; the person went and applied for a job and got it, that could be implied that he was giving to his neighbor, brother-in-law or anyone, some special advantage.

He does not believe that they can cover every contingency; that if they do not approach this proposed ordinance in the spirit in which it is proposed, they will have a great many problems. The spirit of the ordinance would prohibit using the office to par favor to anyone. They would not want any City official to be accused of wrongdoing when he was simply trying to be helpful.

Section 1-9(g) - The figure was changed from \$25 to \$50. If a City official and his or her spouse were taken to dinner, the bill could theoretically and probably be over \$25, that would technically be a violation. Also, they have specifically provided that political contributions would not be deemed to be covered by that particular paragraph.

Section 1-11(a) - This has been modified to provide more realistically with reference to disclosure. They felt it was too broad as proposed; that many City officials would be subject to claims of violation of this ordinance and it would be unmanageable.

Mr. Cox asked if in relationship to the owner, does that fall back to the same 5 percent stock? Mr. Farris replied it does not; that is a weakness of this change. That Council may wish to make reference back to Section 1-8(a)(3) or (4). He stated this is not entirely inconsistent; if they wanted an employee to list any business in which he had any interest - 1 percent or more - it would be more consistent. That was a shortcoming in their draft and he would suggest that they incorporate that definition.

Mr. Farris stated they did not feel that it was necessary for a spouse of a City official to give his or her employment. Members of the press can ask that question, but he believes it is an intrusion on the privacy of an individual for a spouse to have to give that kind of information.

Section 1-13(a) and (b) - They have added that if a charge for which a person is tried for violation, he shall have the right to cross-examine witnesses, including the complainants. He stated they added the right of a department head to appeal the determination of a violation by the City Manager, to the City Council. They think now that this may have been inadvisable - he has been advised by Mr. Underhill that that may not be appropriate in that the City Manager should have autonomy and should be the person of last resort - they do not object to the removal of that provision in any way.

Suggested Form - Modified in accordance with proposed change with reference to Section 1-11(a).

Mr. Farris stated it was felt strongly by the committee that in Charlotte-Mecklenburg we have strong government administered by people of character, and they did not intend in any way in their comments about this proposed ordinance to suggest that there was a compelling need - it is appropriate as much as it is necessary.

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Councilmember Frech congratulated the committee on their very thorough job, stating these appear to be changes they should consider. She stated that where they suggest the change to "immediate household" defined as spouse and dependent children, she is wondering if they should not broaden that to brothers, sisters, parents or even grandparents, of either the official or spouse.

Mr. Farris stated he thinks that is purely a policy decision; their conclusion was that there had not been abuse in this area and that, therefore, it was necessary. He can see where in other parts of the Country it would be warranted, but they do not feel in Mecklenburg County that it is warranted. That where it is obvious there would be violations, the press would be diligent and disclose those. Their party does not feel that would be an appropriate extension.

Ms. Frech stated she is inclined to think that they should consider expanding it that far. Councilmember Cox stated he would be inclined to say if they are going to add that they might as well add close friends too.

Mr. Mitchell Grant representing the Mecklenburg County Republican Party, stated that Mr. Neil Williams was the Republican representative on the committee studying the ordinance and the presentation by Mr. Farris was a joint recommendation from both parties. That he will echo what Mr. Farris said that we are very fortunate in this city historically not to have needed this particular type of addition to the code, but it is wise to consider adding it before we have to have it.

Mr. Mac McCreight, 1740 East Independence Boulevard, stated that Carolina Action had sent a letter to Councilmember Dannelly about the concerns they had raised in October of last year before the City Council election. He read the following:

Dear Mr. Dannelly: You are probably familiar with our request of last fall that all the candidates for City Council voluntarily file ethics statements. We are pleased with your compliance and that of the majority of the Council. It helped me attempt at restoring public confidence in government that the present Council seems to be interested in highlighting.

At the time of the elections, Mayor Harris told us that he intended to make ethics statements a permanent part of future elections. In early January a group of us sat down with him in his office and talked about what might be in such a form. We reviewed the form that was used before elections, which was based on the form required of State Legislative candidates.

Mayor Harris objected strongly to several provisions we requested, including: stockholdings in excess of \$500; creditors of over \$5,000; vested trusts for \$5,000 or over; and listing of professional clients by type if they brought in over \$1,000 of business.

Mayor Harris told us that the only way money could come directly into a Councilman's pocket would be through real estate deals and direct contractual relations with the City.

Since our meeting, Mayor Harris has directed Henry Underhill to draw up an ethics statement. It only lists real estate holdings and business associations. We feel that more is needed. If a Councilmember is substantially in debt we feel the public needs to know that because it may mean that some payoff is in the works. If the Councilmember owns stock in a corporation that the City has regular dealings with it should be a matter of public record. If the vote on an issue could seriously jeopardize a Councilmember's relationship with a professional client, the public should know. If a Councilmember has retired from a business but has money in trust which still financially binds him to that business, his vote could be affected.

There is a common misunderstanding on Carolina Action's position on this, thinking that we are trying to dig out dirt on Councilmembers now on Council. Nothing could be further from the truth. We have

been impressed with the honesty and scrupulousness of all the Councilmembers with whom we have had dealings so far. Our intent is to safeguard the future and preserve the quality of the Council, and we feel that public scrutiny in these matters can only go farther to insure that future Councils are accountable to the public, and honest in their affairs when conflicts of interest may be involved.

One last comment. Mayor Harris told us that he felt too many statements of this sort on public record would drive good people out of government. We respectfully disagree. It may be that in a few cases an official may have thousands of potential conflicts of interest and yet remain above his parochial pursuits in deciding for the public good. But the fact that such an official would subject himself to public scrutiny and let the chips fall where they may will do nothing but provide greater insurance. Opening the doors of government can do nothing but insure greater benefits to both officials and the people they serve, creating an atmosphere of trust and accountability.

Mr. Bob Morgan, 1720 Flynnwood Drive, stated Mr. McCreight has already made most of the comments he had planned to make. He would emphasize that one important thing has been left out of the ordinance and not addressed at all - the possibility of having this form filled out by potential City Council people who are running for office, so that the voters have a chance to look at these disclosures before the election, so that if there appears to be a potential conflict of interest, the voters will have a chance to pursue it and probably get a lot of reassurance from the candidates before the election.

He stated there are people in this town who are fairly wealthy and have a lot of interests in a lot of different areas and this would give the opportunity for the public to find out just how these people feel about the different issues. If a person is very active in real estate, not necessarily from the standpoint of owning real estate, but as an attorney who represents a lot of clients who are real estate firms, then what could happen very easily is to question that person as to how they feel about certain policies regarding real estate, neighborhood development and this type of thing. This kind of public discussion is very important if the election process is going to take place in the way that the issues are open. That some things that person has never thought about may come up in the campaign and that person can begin to deal with issues.

Stock ownership is very important - not because he thinks if someone owns some Duke Power stock it is going to affect how they are going to vote on the Council from the standpoint of how it is going to affect Duke Power's profits but it does affect a little bit about how we think when we own stock in a company that is directly or even indirectly related to City business. You get certain messages from that side of management if you are a stockholder and it begins to affect your thinking, so it is important for the public to have an idea of what kind of holdings a person has.

The same thing goes for debts and loans - if there is a lot of debt, that is important to know.

The main thing he wanted to bring out about this whole issue is that what is being sought is a vehicle by which the public can feel stronger about its support for the institutions of government. That with the new City Council and the way things are going, a lot of people feel a lot stronger about supporting the City Council and what is going on. They would like to see that continue and strengthened.

Councilmember Dannelly stated Mr. McCreight's letter was circulated to the committee which worked on this and it was discussed; it was not ignored. However, the committee felt that the ordinance which they have proposed is in the best interest of candidates, serving officials, and future persons who may wish to serve.

Mayor Harris stated that since this ends the public hearing, the appropriate thing is for Council to take a vote on this, either at the next meeting or as soon as they would think advisable.

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Councilmember Locke moved that this item be placed on the agenda for next week, seconded by Councilmember Dannelly.

Councilmember Chafin stated she would like to see them consider the ordinance which was proposed by the two political parties, with the changes suggested by Mr. Farris. Ms. Locke agreed to including this in her motion.

Councilmember Short stated that being out in the open is a part of being ethical and certainly that has been the trend in recent years. Since the legislature imposed it on them it has become more and more fashionable. This Council has been extremely good about that; in fact, he thinks they have enjoyed being open and have avoided getting together in ways that might be questionable, even though within the Law.

He suggested that a clause be added which could be Section 1-15, that would say that any meeting of four or more members of Council and the Mayor, intended for the discussion of Council or City matters, shall conform to the provisions of the North Carolina Open Meetings Law. This would be going beyond what the state requires, but he thinks the members of this Council are practicing it this way and he thinks they would like to do it this way.

Councilmember Selden stated that relates to the different subject area.

Mr. Underhill stated his interpretation of what Council wants on the agenda for next Monday. That they want his ordinance as modified by the presentation made by Mr. Farris on behalf of the Democratic and Republican Parties, with Section 1-15 added as suggested by Mr. Short.

Mr. Burkhalter suggested there might be a better date than the next meeting, and it was agreed to change the date to June 12.

Councilmember Frech asked about the definition of City Official - do they want to include the heads of any boards and commissions, or members of any boards and commissions, such as the Planning Commission? Mayor Harris stated that would probably be a separate item entirely if they wanted that included. The Planning Commission is working on their own code of ethics right now.

Councilmember Leeper requested the City Manager to get this information to Councilmembers prior to the week-end that it would be on the agenda, perhaps next week, so they will have a chance to go through and read it thoroughly.

The vote was taken on the motion to place this item on the agenda of June 12, and carried unanimously.

#### COUNCIL RULES SUSPENDED IN ORDER TO CONSIDER NON-AGENDA ITEM.

Motion was made by Councilmember Locke, seconded by Councilmember Selden, and carried unanimously, to suspend the rules and hear the following presentation which time did not permit during the informal session when it had been scheduled.

#### PRESENTATION OF PLANS FOR THE FAIRVIEW ROAD MEDIAN.

Mr. B. A. Corbett, Traffic Engineer, stated a group of citizens from the neighborhood appeared before Council last fall and asked that the median be included as a part of this project. Originally, when the project was built, the State Department of Transportation chose not to construct a median.

His department has looked at it from three standpoints - three ways of doing it. One was to simply put in curbing on top of the existing pavement and fill it with dirt, but it was determined by Public Works that that would not permit adequate planting. The second way was to build a very high New Jersey type median and fill it with dirt; and the third was to take out the paving and the fifth lane and replace that with dirt and curb and gutter. The estimated cost of the project as prepared by Public Works was approximately

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\$245,000. The project would begin at Sharon Road and extend from there all the way to Providence Road. He had given Councilmembers a map showing the areas where there would be planted median and the areas which would be concrete. The concrete areas are generally those areas for left turn storage lanes.

He stated that beginning at Sharon Road and going toward Providence Road, he explained where the proposed median openings are. From Sharon Road it would be solid concrete for approximately 1,200 feet to provide a left turn lane for traffic headed toward Sharon Road to turn left into Sharon Road. There would be no opening in that corner; at the old Savings and Loan place, there would be no opening - the median would be continuous. At approximately 1,200 feet from Sharon Road the median would widen to be planted in the middle, without an opening, extending all the way to the future location of Colony Road - a total distance of about 2,600 feet without an opening. The reason that location has been picked for Colony Road to intersect - it has been discussed by the Planning Commission and the Engineering Staff - is that this intersection would come out on the top of a hill and would provide adequate sight distance in both directions. They understand that the land in there will be developed and there will be a desire to put this intersection in at some place along Fairview Road. This opening would have left turn lanes in both directions.

Mr. Corbett stated the only complaints they have had so far have been from the owners of three single family residences which he pointed out on the map. This entire area is taken up with the left turn storage lane to turn left into Sharon Road. They could not put an opening in this area for these residents. If Council deems it necessary, one might be put in at one point between where the full planted median begins and where the future Colony Road might come in. He went on to explain some of the problems they would face if this were done.

If they put a median opening in there, with the left turn slot and without an intersection, it would be impossible for a vehicle to pull into that left turn storage lane and execute a U-turn back into the direction of those three houses without widening the road two additional lane on that side. The other alternative would be simply to cut a hole in the median and let vehicles pull up and turn left through that opening, but without any storage space they would have to stop in a through lane of traffic. They cannot recommend that and they are not in a position to recommend widening to an additional lane to permit the U-turns. Therefore, they left no opening all the way down to the planned Colony Road intersection.

Mayor Harris suggested an area that could be eliminated and Mr. Corbett stated that is the area where it is needed the greatest; that from his standpoint this is for safety. The secondary fact is to make it beautiful.

A number of questions were asked by Councilmembers about various aspects of the proposal and Mr. Corbett responded.

Mr. Corbett stated his concern is that anytime you permit left turns across a road, you create a very substantial safety problem; particularly as you get closer to one of the busiest intersections we have in Charlotte. He stated a median opening could be provided with a left turn lane if they put in a "jug handle" such as was put in several years ago on Wilkinson Boulevard. He does not have an estimate on that but it would require some additional right-of-way. He stated the predicted traffic load is about 30,000 a day; at the present time it is about 15,000. In answer to another question, he stated they do not have an application to build Colony Road yet, but they expect one to come in at most any time. It could be a couple of years away before it is built.

He stated they could come in and build an intersection there at the present time as part of this project. That from the standpoint of engineering it would be the most economical.

He stated the road has not been there long enough for them to develop any experience to determine the accident factor. That even with the smaller volume of traffic the potential for accidents is there, as far as turning left across the center line of the road. Of course, they do become greater with a larger traffic volume.

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Councilmember Cox asked Mr. Corbett to speak to the desirability of five-lane roads versus four-lane ones.

Mr. Corbett stated a five-lane road is inherently safer than a four-lane one because of the fact that it does provide a fifth lane for vehicles turning left to get into and get out of a through stream of traffic. The difficulty with a five-lane section is that you must travel in both directions in that fifth lane. Some people attempt to use it for a passing lane. But, it is more safe than a four-lane road.

Mr. Cox stated then there must be some other over-riding safety issues that cause him to recommend that they do this. Mr. Corbett replied that as far as he is presently concerned, anywhere that you can make a left turn creates a safety problem - anywhere, because a great part of the accidents are the result of vehicles turning left against opposing traffic, whether it be at an intersection or between intersections.

Mr. Cox stated he does not understand then why he says that a five-lane road which is designed to facilitate left-hand turns is safer.

Mr. Corbett explained that a four-lane road has no lane to turn left on. Therefore, when a person wishes to turn left, he must stop in a through lane of traffic. So, he has the problem, not only with an accident with oncoming traffic, but in being struck from the rear by traffic coming up behind him.

Councilmember Trosch stated the real problem is how many breaks you make to allow left turns on a four-lane road. Mr. Corbett stated that is correct. Ms. Trosch stated, in other words, you destroy your purpose if you keep breaking the median as far as safety goes. Mr. Corbett agreed, stating that every median opening is just another intersection.

Councilmember Cox asked if this proposed arrangement is going to be safer than the five lanes that exist today? Mr. Corbett replied in his opinion, yes. They have only provided breaks at intersection, with one exception which is at the swimming pool which is already a major generator. That a left turn slot and an opening in the median is provided at every single intersection from Valencia Terrace to Providence Road, with one exception which is Carmel Park Road, because Carmel Park and Oglukian are so close together it is impossible to get left turns slots at both of them.

Mr. Cox asked if they considered the non-opening at Arbor Way for cut-through traffic control? Mr. Corbett replied yes, they considered that and he will explain the problems. That Valencia Terrace goes back and connects with Arbor Way as does Columbine; that simply by closing a median opening in Fairview Road at Arbor Way would not of its own provide the solution from cut-through traffic along Arbor Way. They could go by the two alternate routes of Valencia Terrace and by Columbine. If they want to do something about cut-through traffic on Arbor Way, the simplest way to do it is to close Arbor Way at the creek

Mr. Cox stated they have school buses coming out of Arbor Way and making a lefthand turn going east on Fairview and the residents in the area tell him that they have seen at least one accident there and many near misses because of the hill and the curve that goes up towards Carmel. Mr. Corbett replied there definitely is a hill and a curve there, however the sight distance in there is adequate for better than 45mph.

Mr. Corbett stated to his knowledge, they have not at this point had any complaints from any number of people about the possibility of a median going in. Rather, in his office, the inquiries have been about when they are going to build it.

He called their attention to the fact that as they get to more median openings there is less of a planted area. In fact, between Carmel Road and Providence Road there is only a small section, the rest is basically concrete to provide for the left turn lanes; the same is true in the area of Arbor Way. As it extends on toward Providence Road there are many more median openings.

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Councilmember Trosch asked if he would sum up the reasons he feels this median is recommended.

Mr. Corbett replied that from a traffic engineering standpoint a median section is always safer than a non-median section, because it does two things. First, it prohibits the indiscriminate making of left turns at any point along the road. Secondly, it provides storage spaces for left turning vehicles at those points where, because of the characteristics of the road, it is better to have the storage lanes, either at intersections or at those points where sight distance is not obstructed. Those are the two main factors.

Councilmember Short asked if a stoplight at Valencia Terrace is contemplated and Mr. Corbett replied not at the present time.

Councilmember Cox asked if the green median would be curbed and guttered? Mr. Corbett replied yes, there would be curb and guttering on both sides of it, every place that it is green. There will be curb and guttering even at the other part but it will be filled with concrete - the full length of the project, all the way from Sharon Road to Providence Road.

Mr. Cox stated he is not a traffic engineer, but one of the nice things about the Providence Road median is that disabled cars can go up on it. Why does Fairview have to be curbed and guttered all the way down? It would also decrease the cost. Mr. Corbett replied it would decrease the cost substantially. From the other standpoint, it would not prevent another vehicle from crossing and hitting another one coming from the opposite direction.

Replying to another question, Mr. Corbett stated the curb and gutter's first function is to control drainage and it generally has to be six inches high in order to adequately take care of the drainage and the catch basin, etc. are designed to fit that. When you build a median purely from a traffic standpoint, there are mountable medians and there are non-mountable medians. That generally on freeways and other types, unless you have what they call the New Jersey type median, if you have a median that is 30 to 40 feet wide, you will have the mountable median with no curb at all because the median is wide enough to accommodate a vehicle if it gets stopped. But, under urban conditions, with narrow medians such as this, he would not recommend the mountable type median. Instead, he would recommend something that is closer to a barrier, which the six-inch curb is.

Councilmember Short stated he has always been surprised that with the open land, at least when you get to Carmel, that no median was put in on Fairview. What was the reason for this? Mr. Corbett stated it was the decision of the state. We asked the state to put one in and they chose not to do it.

Councilmember Cox asked if the City Council at that time had anything to do with the decision? Mr. Corbett replied no, not to his knowledge.

Councilmember Selden stated if the length of the median is two miles, and you have curb and gutter on both sides - about 20,000 feet; at \$5.00 a foot that would be about \$100,000 saved if we did not go curb and gutter. Suppose we used reflectors or some means like that in the area where it is all concrete for left turns - where there are the three residents who face Fairview - and used non-curb and gutter median from there to the end, you would both provide access for those three residents as well as realize about \$100,000 savings.

Mr. Corbett replied he agrees with the figures, but he does not necessarily agree with the principle.

Mr. Cox asked if he has much objection to not curbing and guttering the green planted areas? Mr. Corbett replied he has an objection to it and his objection will get stronger as the traffic volumes increase. From that standpoint, each day we wait, his objections will get stronger.

Mr. Cox stated it would seem to him that if you have a stalled car, that is a serious source of potential traffic problems. If you can get it off the road. . . Mr. Corbett stated it would be a better situation. Mr. Cox

stated it would seem to him that you would have more stalled cars than you would people flying across and going into the other lane of traffic.

Mr. Corbett stated he had no facts to refute that.

Mr. Burkhalter stated he would like to say something about this. That here you have almost a virgin stretch of land. You are not ever going to get this opportunity again. Why not build it the right way? Why do it in a partial way? Why make compromises when there is a right way to do it? Why not make it the safest way?

Mr. Cox stated he agrees with that sentiment. He is just trying to probe to see how strongly he and Mr. Corbett feel about that.

Mr. Burkhalter stated an eight-foot median will not prohibit people from crossing - you can turn across it, you can go anywhere you want to. You can run over the shrubs, trees or whatever is planted in there, if you do not have the curb. Mr. Corbett stated if he will go out on Providence Road and look at the places where the curb does not exist and he will see where they had to go in and put up barriers in the middle of Providence Road because the traffic turned left when driveways were put in. The same thing would have to be done here.

Mr. Cox stated then what he is saying is that it is worth the \$100,000 to put in the curb and gutter? He is just probing a little bit to see if he feels it is worth it. Mr. Corbett replied he definitely thinks it is worth it.

Councilmember Leeper stated he is still concerned about those three little houses that may have a problem getting home at night; that Mr. Corbett has indicated he will look into the cost of that.

Mr. Corbett stated they can go ahead and provide the opportunity at the Colony Road intersection - they can change the plans to take care of that. That it would involve 2,400 feet. Councilmember Chafin stated that is really not bad at all.

Councilmember Short stated this money has been allocated, but Mr. Corbett does not exactly feel that he has the green light although he has the money. The thing that is really impressive about this is the difficulty that occurs if you try to do this later on. You create havoc out there when you try to do this later on. There have been experiences of that sort, particularly on North Tryon Street. The money has been allocated; wrecks and even human life may be involved. He moved that Council instruct Mr. Corbett to proceed with this project as planned. The motion was seconded by Councilmember Gantt.

Councilmember Leeper asked if the motion was to include the change they were just talking about. Mr. Short replied yes, they should do what has been suggested at what later will be the corner of Colony Road.

Councilmember Frech stated she supports the motion. That she believes the SouthPark plan which they have all received recommends that Fairview Road not be developed commercially, that it be residential, that multi-family development is suitable and that reverse frontage be encouraged. That a median is clearly a good way to carry out those recommendations. If the median is not there, it will be extremely difficult to control the development. That if they intend to go by those recommendations, this is a way to start.

Mayor Harris stated the only thing he would disagree with on that point is that there is business development already, on the first two blocks, which is indicated in the report.

Ms. Frech stated when Colony Road is built they can leave Sharon Road at Colony. Mayor Harris stated Colony Road will be built probably five years from now.

Councilmember Cox stated, following up on Ms. Frech's excellent point, some of the questions he has received about this project is the contention that Council has the power of zoning and, therefore, Council can control what goes in, all along Fairview Road, and that the median would be redundant.

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That Council certainly controls the zoning, but they do not control the reverse frontage, no control over that at all. They do not have any control over the number of driveways and single family homes that go on Fairview Road. That Ms. Frech's point is well taken; that the median would serve to deter that kind of development, and would serve where Council does not have the kind of power they would like to have.

Councilmember Carroll stated he was one of the people who, after Mr. Cox originally brought up the idea of looking at this again, thought it would be a good idea and he is glad they have had the chance. Particularly in light of their budget deliberations, it becomes significant - the amount of money that it costs to put this in and what they are getting for that. He is glad that Mr. Cox quizzed Mr. Corbett on whether or not there is a more inexpensive way to go, whether we can accomplish the same thing perhaps without the amount of expenditures that were called for. That he would favor modifications that would decrease the cost, although they do not have anything firmly before them which analyzes that.

He thinks that Ms. Frech's points are really good; that this Council has to go on record also, if they vote for this, to put it down and not to tear it up again; that just because it is easier now to put it in than when the area becomes developed, does not mean that they are not going to eventually hear from some other people about taking it up. So, he hopes that they resolve not only the question for today, but the questions they are apt to have in the future in terms of the median. That the encouragement that the median will provide as far as land use goes in the area is almost the determining point for him. That if it was not for that, and for the pressures that they will probably have to do otherwise, he would be inclined to say let's go without it. But his inclination is, despite the expense, to go ahead and support the proposal.

Councilmember Chafin stated she thinks she can speak for the members on the previous Council who pushed for this in the first place. That land use control was probably the main factor in their considerations. They recognized the safety needs, they recognized the aesthetic value, but their concern about how Fairview would develop if they did not have this kind of control mechanism was the overriding factor. That certainly from former Councilman Neil Williams' point of view this was true - that from time to time some of them kidded him about calling it the Neil Williams Memorial Median.

Mr. W. H. Fox, 5401 Hardison Road, stated he is a resident of the area and uses Fairview every morning to go to work. He understands what they are trying to do and appreciates it - the beauty and safety factors. But, he has a more selfish reason for being here - he is involved in a business at the corner of Sharon and Fairview on which construction will be started in about two weeks on the business zoned property Mayor Harris referred to. His primary concern is what this median will do to the potential volume of his business which he is already committed to. The median will cut the traffic count in half that he had counted on being able to get into his business. He would really appreciate Council taking a look at that intersection and what they will be doing to the presently business zoned property on that corner. He realizes that they do not want business zoning to extend down Fairview, but that is not the issue as far as he is concerned. It is already zoned for business and he will be counting on that for part of his livelihood in the future. He stated his business will be a restaurant.

Councilmember Frech asked him if when he built did he know the median was planned? Mr. Fox replied not when they first picked the spot, but before he closed the transaction he was. Mayor Harris stated Mr. Fox first spoke to Council on October 31, 1977.

Councilmember Gantt raised the question if it is necessary for Council to vote on this since the previous Council approved it; that unless their action is to the contrary they should not need to vote on it. Mr. Corbett stated the money has been appropriated and is already available for the project and it is their understanding that this Council wanted to review the project before it went out for bids. They are now ready to go for bids.

By general agreement a vote was taken on Councilmember Short's motion and carried as follows:

YEAS: Councilmembers Carroll, Chafin, Cox Dannelly, Frech, Gantt, Leeper, Locke, Short and Trosch.  
NAY: Councilmember Selden.

ORDINANCE NO. 32-Z, AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE OF THE CITY OF CHARLOTTE AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY FRONTING THE EAST SIDE OF NORLAND ROAD, ABOUT 400 FEET SOUTH OF THE INTERSECTION OF NORLAND ROAD AND CENTRAL AVENUE, FROM R-9 AND O-6 TO B-2(CD), ON PETITION OF DELUCA VALVE AND INSTRUMENT COMPANY.

Councilmember Locke moved adoption of subject ordinance changing the zoning of property from R-9 and O-6 to B-2(CD), as recommended by the Planning Commission. The motion was seconded by Councilmember Short.

Councilmember Trosch stated she would hope this would be as the Planning Commission says - that this is a firm line drawn here. That she rode out there yesterday and looked at this extreme traffic situation and talked with Mr. Corbett about it and there is a problem there already. She stated there is vacant land next to this and residential across the street that is zoned for business.

She stated she would support the motion because there is office zoning there already which she considers a good buffer. If this zoning were not to CD, then she would not support the motion. That in light of the controlled development, she can support it, but does firmly want to re-emphasize that Norland Road just cannot creep any further down with any kind of business development.

Councilmember Carroll stated he would like to make a brief comment similar to what Mrs. Trosch just stated. That we did have a transitional zoning here of office and we are taking that out and putting in conditional district zoning, which he feels can serve that transitional purpose but the street itself cannot stand much more transition. He stated he would anticipate that it would be likely that Council will get requests for changes to residential property that is next to B-2 property at some point in the near future and Council should make it clear that they see the B-2 conditional as being the buffer and they do not plan to extend business zoning down Norland.

Councilmember Trosch stated the reason she anticipates a problem is because there are three lots between this and the cemetery on that side and this is where the problem is going to be.

The vote was taken on the motion and carried unanimously.

The ordinance is recorded in full in Ordinance Book 25, at Page 419.

ORDINANCE NO. 33-Z, AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE OF THE CITY OF CHARLOTTE AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF ARDSLEY ROAD AND HERMITAGE ROAD, FROM R-12 TO R-15MF(CD), ON PETITION OF WILLIAM P. ALLEN.

Councilmember Gantt moved adoption of subject ordinance changing the zoning from R-12 to R-15MF(CD), as recommended by the Planning Commission. The motion was seconded by Councilmember Locke.

Councilmember Cox stated in looking at this petition, there are several issues put forward as being issues - the density issue - and to him that is not too much of an issue because of the fact that there will be six families on the lot that originally had eight; the change in character of the neighborhood - the conditional zoning has made the fact that the exterior and the grounds would not be changed; the traffic, for the same density reasons. He stated the one that does concern him is one he would

like to have Mr. Underhill's opinion on is the spot zoning, the legality issues that have been brought up. He asked Mr. Underhill about the law in a situation like this - that it has been claimed by some of the opponents that if Council does spot zone this particular piece of property, that it would create a legal precedent and Council could not legally deny a petition for an adjoining piece of property to go multi-family.

Mr. Underhill, City Attorney, stated Mr. Cox actually has two questions. The first one deals with whether or not, if this rezoning request is approved, Council constitutes illegal spot zoning. That he talked with Mr. Helms, who represents the opponents of this petition about this and reviewed the cases Mr. Helms cited to him and some law review articles on the subject; that spot zoning is an unusual kind of subject and our Supreme Court seems to deal with spot zoning depending on how they feel about it. That he finds right much inconsistency in the way they view spot zoning.

Mr. Underhill read the definition of spot zoning from the case of Blades versus the City of Raleigh: "the zoning ordinance singles out and reclassifies a relatively small tract owned by single persons and surrounded by a much larger area uniformly zoned so as to impose upon the smaller tract greater restrictions than those imposed on the larger area or to relieve the small tract from restrictions from which the rest of the area is subjected, typically classified or defined as spot zoning."

He stated he cannot assure Council, if they approve this petition and are challenged against this on the basis of spot zoning, that the Council decision would be upheld. That he does think however from his review that a case can be made or a position can be taken and on the basis of the uniqueness of this property, as to its size, its historical character, the fact that if the structure is demolished and single family dwellings were erected, it would permit a higher density, according to the Planning Commission's report. That a rational distinction can be made to allowing this piece of multi-family zoning in an otherwise single family area.

Mr. Underhill stated the second problem is - what is the immediate surrounding area or where do you draw the lines; what is the neighborhood? That a block or two away from this property, there is a variety of different things, not just single family. He stated he did not find a whole lot of help in reading the Supreme Court cases in defining that point. That in answer to the question as to whether this will constitute illegal spot zoning, he does not know the answer to that but in his opinion, if Council rezones the property to the classification requested, it will be defensible from the legal standpoint. He stated he could read these cases and reach just the opposite conclusions.

With regard to the second question of setting a precedent, Mr. Cox stated he had a letter in front of him which says "if Council let's these people do it, then we are going to do it and you don't have any defense." Mr. Underhill replied as a general proposition, with some exceptions, the Courts have used rezoning actions as a legislative process. That there are some very big exceptions in different situations - that being the case, Courts have been very loathe to overturn rezoning actions taken by a legislative body, such as the City Council, unless it can be shown

that judgement, or decision, on the part of the City Council is arbitrary. He stated he would assume that someone could make an argument allowing this introduction of multi-family zoning in this area, and being faced with a similar request in the future for another tract of land in close proximity to this, in denying that request, it would be arbitrary action on the part of the Council because they have already allowed multi-family to be introduced in the area.

Mr. Underhill stated frankly he had more problems from the lawyer's standpoint - not as a planner - with that, then he does with the spot zoning question.

Councilmember Cox asked, as Council's attorney, would he advise them not to allow this change and Mr. Underhill replied he would not advise whether to approve this change or not approve it, but is trying to tell them, in the spot zoning situation, he believes they have a defensible position if they approve this rezoning request. That on the precedent question, how they deal with future requests, this might present a problem from a legal standpoint.

Councilmember Gantt stated he would like to speak to the issue of spot zoning, particularly with the City's new parallel conditional district zoning which Council has approved. That a number of zoning petitions, for example, under the title CD, in the areas that are of predominately different land usage, primarily to preserve something or add a certain amount of character or where it was considered by this Council as appropriate. That in this particular case, they are attaching the CD designation to this particular site also.

Mr. Underhill stated this lends weight against the arguments about spot zoning and is an additional element, in addition to the location, size that one could offer as defense of Council's action.

Councilmember Carroll stated he and Mrs. Frech have talked with Mr. Helms and some of the other people who feel this would not be a wise action for the Council to take and his personal feeling, after evaluating it and in reading all the material that has been submitted to them, is that he would approve the rezoning as requested. That the reason is that we are all interested, both those in favor and those against, in preserving White Oaks in some form but they are also in favor of preserving this particular neighborhood and this particular community, primarily as a single family neighborhood. He stated what we have here is the fact if this petition is approved, Council would be preserving single family units that have an acreage of approximately twice the size as actually required, it is just that the units are stacked on top of each other in this particular configuration as opposed actually laid out in different lots.

He stated they have had the presentation from the Neighborhood Association of Myers Park in which they have indicated the fact that they feel this is the only way to preserve White Oaks. That what concerns him is that we do have a number of people in the same neighborhood who have some of the identical goals and are at odds about how they can preserve some of the things that are important to all of them. He stated Mr. Helms has suggested that this particular piece of land and the area around it might be an appropriate candidate for a historic district and perhaps if this additional overlay, and in fact, one of the reasons he would be voting to rezone this, would be because of the historic nature of this property. Therefore, it

seems to him that it is perhaps useful to investigate the zoning tool of a historic district for this particular house and land and also others in that area. He stated because of this, they have suggested they would like to try to see if the Planning Commission feels the area meets the requirements of our historic district zoning ordinance.

Councilmember Carroll moved to defer this matter for three weeks to give the Planning Commission time to consider this request. He stated if Council can come up with a solution which perhaps includes a historic district which makes the neighborhood a little happier altogether, which makes the whole result of what Council is trying to do, but people are disagreeing on the means about, it makes that result come out to be a happier one and in the long run, we are not really wasting time by waiting three weeks and asking the Planning Commission to take a look at this.

Councilmember Frech seconded the substitute motion.

Councilmember Locke stated she would disagree wholeheartedly with this; this has been through the Planning process, it has been through the hearing process and Council has to vote this thing up or down, one way or the other, today and then ask the Planning Commission to designate this as an historical district, if that is necessary, and let them take their time in doing this. That not to make a decision today, based on what the Planning Commission might say about the historical district, is not the right orderly fashion in which to do things; we need to vote this up or down today.

Councilmember Short stated this is a matter that was not mentioned at the time of the hearing and, in fact, was not discussed until today. That this is the home of Mr. and Mrs. Allan and what they are doing is, in effect, sending back to the Planning Commission a suggestion that this man and this lady's home be declared a historic district. He stated he would like to ask them what they think of this - that it is fair if they wanted to do it. That this man is actually living in the house and Council should ask him what he thinks of this

Councilmember Gantt stated he, too, talked with Mr. Helms and read all of those letters that everybody received over the week-end from interested citizens in the neighborhood. That he understands what Mr. Carroll wants to do to the extent possible that Council can promote harmony in the neighborhood on controversial issues like this, and Council should, but he does not think that the motivations for the designation of historic district have anything to do with the preservation of the neighborhood. That he does think the fact that this is a designated historic property already, that the conditional district attaches with it, no changes in the exterior of the property at all, the density of the area is not going to be increased, in fact, reduced, insures that pretty much all a developer can do, or the owner of the property can do, is make internal changes to the units. He stated he has spoken to the size of the units, the economic class of the units, and he is at some loss to figure out what can be gained, particularly in a historic district covering an area - the property is already a historic property - that a historic district would cover just what it implies by the name - a district of the entire area, which would include not one building, which would be a property, but an area of buildings. That if, in fact, what is being suggested is that all of the houses in that area have equal significant historic value for being restored in some way, he would consider that request and it would be an appropriate one to consider after the fact of zoning, not necessarily as a condition of the zoning. He stated he feels this is a delaying tactic and feels Council has exhausted this issue up and down and it appears to be the last straw.

Councilmember Dannelly asked about the limitations of being designated an historic district, whether or not it was designated an historic district and then the zoning as requested be granted, then would the owner have the freedom to go ahead and carry out his plan for condominiums on the inside as he indicated, or whether or not he could only do this with someone else's approval.

Mr. Morrill replied essentially the Historic District Commission would have the power to issue certificates of appropriateness, just as they have in Fourth Ward, for whatever property would be included in the historic district. That the certificates of appropriateness would only apply to aesthetic changes to those things which are judged to be important to the district, which would be both exterior and interior changes to that property and to the surrounding land. He stated the issue of it being used for multi-family purposes, as over against single family, would not be dealt with by including it within an historic district - that those are two entirely separate issues.

Mayor Harris asked if it would go as far as how the interiors of those units would be remodeled, etc., or would that have an affect on it and Mr. Morrill replied it would have very, very strong control over that.

Councilmember Selden asked how long it would take to get an answer about the historic district and Mr. Morrill replied it would take a considerable amount of time - more than three weeks. That the Statute requires the Planning Commission first of all, to carry out an extensive study and then this has to be submitted to Raleigh, to the Division of Archives and History, for its review and recommendations brought back to City Council before that particular decision for district could be made.

Councilmember Frech stated at the time she seconded the substitute motion, she wanted to suggest that there might be good reason to look into a group of houses in that area that have all been built by Duke Power executives, around 1915 to 1920. That if an historic district is established, it should be larger than just the four acres. She stated there are about five or six houses that might have some historic significance. That this is the way she would favor going if Council goes for the historic district.

Councilmember Carroll stated he telephoned the Planning Commission this morning and spoke with Dave Howard and asked him how long he thought it would take to get a reading on this from the Planning Commission and he said about two weeks. That this is where he got his suggestion from regarding the timing. He stated in response to Mr. Gantt's comments, he did not see this as a delaying tactic, though it may be; that he was seeing it as a way to buy some harmony with the whole community and that may be a mistake in viewpoint. He stated he did agree with Mrs. Frech that it would be appropriate for it to be larger than the one particular house and feels it is also an appropriate consideration because the rezoning really springs from a historical preservation-type of reasoning for the house.

Councilmember Chafin stated the intent of Mr. Carroll's substitute motion was not to delay action until a thorough study could be completed but rather to get an opinion from the Planning Commission as to be appropriateness of declaring this area a historic district. That in talking with Mr. Helms, she is certainly open to the idea of pursuing this as a possibility with the clear understanding that she intends to vote for the rezoning because she believes it is the only way to preserve this historic structure. She stated she is beginning to think in listening to the discussion, that perhaps they ought to go ahead and do as Mr. Gantt has suggested and vote on the rezoning and then pursue the

idea of a historic district because ultimately the majority of this Council intends to vote for the rezoning.

Councilmember Leeper was in agreement.

The vote was taken on the substitute motion to defer decision for three weeks for a study to be made, failed to carry as follows:

YEAS: Councilmembers Carroll and Frech.

NAYS: Councilmembers Gantt, Locke, Chafin, Cox, Dannelly, Leeper, Selden, Short and Trosch.

The vote was taken on the main motion to approve the rezoning, and carried unanimously.

Councilmember Gantt moved to request the Planning Commission to look into this and give Council a report on the feasibility of a historic district in the White Oaks area. The motion was seconded by Councilmember Chafin and carried unanimously.

The ordinance is recorded in full in Ordinance Book 25, on Pages 420-421.

ORDINANCE NO. 34-Z, AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE OF THE CITY OF CHARLOTTE AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY LOCATED ON THE WEST SIDE OF NATIONS FORD ROAD, ABOUT 100 FEET NORTH OF THE INTERSECTION OF NATIONS FORD ROAD AND CHOYCE CIRCLE, FROM O-15 TO B-2(CD), AS PETITIONED BY DONALD W. HILL.

Councilmember Short moved adoption of subject ordinance changing the zoning from O-15 to B-2(CD), as recommended by the Planning Commission. The motion was seconded by Councilmember Carroll.

Councilmember Carroll stated this is another example of how the CD classification is the best way of handling this and Council is not trying to spot zone.

Councilmember Cox stated one of the things that has concerned him about CD is, for example, in driving down the road and you look at a building and it is CD, and you look at the building next door to it and it has the same look about it, and it is not CD, how do you enforce the CD zoning? Mayor Harris replied when the character of the activities of what is going on in that location changes.

Councilmember Cox stated Council sent back one for more tree planting and less parking lot and asked who enforces this request in case some of the trees died and Councilmember Gantt replied in the past, when Council required certain restrictions, in many cases screening, when the property abuts a residential neighborhood, the best monitors of those conditions are the adjacent neighbors. That if we depended on the Inspections Department to keep up with it, it might be some time before the problem is discovered. Mr. Burkhalter stated the greatest difficulty is when Council does not specify the type of screening.

The vote was taken on the motion to rezone the property from O-15 to B-2(CD), and was carried unanimously.

Councilmember Cox stated he felt Council needs to be aware of these things. That just because Council says that it is CD, does not mean that it happens in real life.

The ordinance is recorded in full in Ordinance Book 25, on Page 422.

ORDINANCE NO. 35-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE OF THE CITY OF CHARLOTTE AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY FRONTING THE NORTHEAST SIDE OF BROOKSHIRE BOULEVARD (HIGHWAY 16), LOCATED ABOUT 500 FEET SOUTHEAST FROM THE INTERSECTION OF BROOKSHIRE BOULEVARD AND HOSKINS ROAD, FROM B-1SCD TO B-1, AS PETITIONED BY BOODLES, INC.

Councilmember Gantt moved adoption of subject ordinance changing the zoning of property from B-1SCD to B-1 as recommended by the Planning Commission. The motion was seconded by Councilmember Short.

Councilmember Carroll stated he is concerned a little bit about what is going to be happening on Brookshire Boulevard. That we have another petition that is pending that is close to this one which he presumes Council is going to approve. He stated he does not have any problem with it as an individual thing but feels Council does not want to strip zone Brookshire Boulevard.

Councilmember Short stated he surely does share Mr. Carroll's feeling but he knows of three different big highway plans, etc. for this immediate area. That he just concluded that they are so far down the road; more or less in the concept stage if they have even gotten that far that he does not feel that Council can penalize the individual property owner.

Councilmember Gantt stated he would agree with Mr. Short on this. That if you take the land use pattern between I-85 back as far as Hoskins Road, it is a situation that is going to be focused particularly with the kind of traffic generated.

A vote was taken on the motion, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 25, at Page 423.

ORDINANCE NO. 36-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE OF THE CITY OF CHARLOTTE AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY FRONTING THE EAST SIDE OF SHARON AMITY ROAD, ABOUT 420 FEET SOUTH FROM THE INTERSECTION OF SHARON AMITY ROAD AND CENTRAL AVENUE, FROM B-1 TO B-2(CD), AS PETITIONED BY DELCO DEVELOPMENT COMPANY OF CHARLOTTE.

Councilmember Chafin moved adoption of subject ordinance as recommended by the Planning Commission. The motion was seconded by Councilmember Selden.

Councilmember Trosch asked about the revised site plan and Mr. Landers replied basically they have increased the number of trees along the road and also removed some parking.

Councilmember Gantt asked about the kind of trees they plan to put there and Mr. Mesrobian replied the property is owned by Mr. Coleman, who is in the nursery business, and he will be most happy to work with the City Arborist on this.

Councilmember Frech stated according to the letter from Mr. Landers, there was supposed to be further consideration of storm water management measures and asked if anything was done on this and Mr. Mesrobian replied they enlarged pipe at the corner of the property, enlarged that area, flattened it out and by reducing the car count, and feel they improved the situation.

A vote was taken on the motion, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 25, at Page 424.

CONTRACT WITH JOHNSON C. SMITH UNIVERSITY FOR A SPECIAL SUMMER ACTIVITIES PROGRAM FOR WEST BOULEVARD COMMUNITY DEVELOPMENT AREA YOUTH.

Councilmember Gantt moved approval of subject contract with Johnson C. Smith University for a Special Summer Activities Program for approximately 200 West Boulevard Community Development Area youth, for a total of \$25,000. The motion was seconded by Councilmember Short.

Councilmember Trosch asked if we had other contracts coming to serve the other city area youth and if this was a part of the total summer program which they had previously and Mr. Vernon Sawyer, Director of Community Development, replied yes; these are the first of two contracts; there are four altogether and are scheduled for the agenda for the next Council meeting. He stated those are the Bethlehem Center and the South Tryon Presbyterian Church.

Councilmember Trosch asked about Reverend Battle's program and Mr. Sawyer replied his program is either already included in his regular contract or is another one that will be forthcoming - that he does not know the status of that. Mr. Sawyer stated they have all target areas covered between these contracts and those that are yet to come.

Councilmember Leeper asked Mr. Sawyer to check and see if indeed Reverend Battle's summer program is supposed to be included in his contract or if Council will be having one forthcoming and Mr. Sawyer replied he would.

The vote was taken on the motion, and carried unanimously.

CONTRACT WITH MCCROREY BRANCH OF THE YMCA OF CHARLOTTE AND MECKLENBURG COUNTY FOR A SUMMER DAY CAMP PROGRAM FOR WEST BOULEVARD COMMUNITY DEVELOPMENT AREA YOUTH.

Councilmember Chafin moved approval of the subject contract for a Summer Day Camp Program, for approximately 500 West Boulevard Community Development Area youth, for a total of \$46,000. The motion was seconded by Councilmember Short, and carried unanimously.

CONTRACT WITH MECKLENBURG COURT VOLUNTEERS FOR A PROBATIONER ASSISTANCE PROGRAM FOR COMMUNITY DEVELOPMENT AREA YOUTHFUL PROBATIONERS.

Upon motion of Councilmember Locke, seconded by Councilmember Frech, and unanimously carried, subject contract was approved for a Probationer Assistance Program for Community Development Area youthful probationers, for a total of \$26,600.

SIDEWALK CONSTRUCTION ALONG THE EAST SIDE OF SHAMROCK DRIVE, FROM EASTWAY DRIVE TO ELKWOOD CIRCLE, APPROVED.

Councilmember Frech presented some slides of the area under consideration for sidewalk construction, along the east side of Shamrock Drive, from Eastway Drive to Elkwood Circle. She pointed out where Elkwood Circle comes into Shamrock; Garringer School, etc.

She stated the question is in order to build the sidewalk, Council is going to buy right of way and they have allotted \$30,000 for acquisition of right of way and a lot of it is going to have to be condemned, which will raise the cost of construction. She asked Mr. Hopson, Director of Public Works if this was correct and Mr. Hopson replied the courts may raise the cost of this construction.

Councilmember Frech stated a lot of the residents claim they will not sign and the City will have to go to court to get their right of way. That the grievance is the ditch. She stated it was suggested that there might be a way out of this that will not mean we will have to take all this money out of the sidewalk construction funds. Instead of using \$30,000 to acquire right of way, if Council would buy the pipe to put in the ditch, and the money to install it, which the City would normally pay if the residences buy the pipe. That what Council would be doing is putting up the \$30,000 to buy the pipe and the money to install it would come from another source, from the sidewalk fund. She stated this would be under the program in which the City will install pipe if residents pay for it.

She stated she is told that \$30,000 would buy the pipe. Then the City could go ahead and construct the sidewalk on top of the pipe and have a sidewalk closer to the street. That the City would not have to buy any right of way, or if the City needed further right of way, the residents say they would donate it, if the City put the sidewalk where they want it.

Councilmember Frech stated what is in the report is just the cost of doing this if the ditch is covered and then the sidewalk built, for a total of \$111,000. That what she is suggesting is slightly different - all the \$111,000 would not come out of sidewalk funds - the pipe would be installed under a program we already have in which the residents buy the pipe, only in this case, the City will appropriate the \$30,000 to buy the pipe and the City will install the pipe.

She moved that instead of acquiring right of way with the \$30,000, the City buy drainage pipe, install the pipe and build a sidewalk on top of the pipe. The motion was seconded by Councilmember Chafin.

Councilmember Leeper asked if it had been agreed that it is going to take \$30,000 for the pipe and Councilmember Frech replied she was given this figure by someone in City Engineering Department. He asked the total cost of the project if the labor would come from another city department and Mr. Hopson replied it would be the same dollars the City is spending; whether it comes out of the sidewalk program or whether it comes out of the revenue sharing; that Council has asked the Budget people to give them the residuals out of the various capital projects; it is the same citizen's money, regardless of which way it comes. That it can either go one of three ways; one, not to do anything; two, to do what Councilmember Frech has suggested, and third, to go back to what he suggested originally. He stated it makes little different except to what we are talking about if we cover the storm drain end, the cost would be an additional \$32,000, but that does help the appearance of the neighborhood.

Councilmember Frech stated she believes if the neighborhood came in and say they would pay the \$30,000 to buy the pipe, then the City would have to spend the money to put it in anyway, would they not and Mr. Hopson replied they would spend it but not necessarily, but they would have to make a decision on it.

Mr. Burkhalter, City Manager, stated there are two things involved here. Number one, no, they do not do that on the City's right of way; the City furnishes all the pipe for their right of way and this is not the same case - this is working on their property - not in this case. Number two, nobody comes in with \$30,000 and we do not have any \$32,000 matching funds to do it; it is usually about \$1500 or \$1600 if they do any of these projects. That he does not believe at this time of year, we have that kind of money lying around. Mr. Hopson stated that is correct; the additional \$32,000 would have to come from some other source.

Mr. Burkhalter stated if Council wants to do it, just go ahead with it, but it is going to take that amount of money, wherever it comes from. That we have the sidewalk money to do it with and later if there is any of this money left over, they can put it back into sidewalk funds.

Mr. Hopson stated they can do it either way provided they have additional money if they put them on the present right of way.

Councilmember Trosch asked if this road was proposed to be widened and Mr. Hopson replied he did not know if it was still in the thoroughfare plan or not. She stated this is a question that involves whether we are going to lay the sidewalk and then come back and cover over it with a road.

In response to a question from Mayor Harris regarding the proposed Belt Road, Mr. Hopson stated the Belt Road would be a major help to this area in the future as far as traffic along this route.

Councilmember Trosch stated she would like to know what Mr. Hopson's feeling is about coming back and covering over the sidewalk at a later date and asked if the sidewalk would be damaged if that road is widened at either place and Mr. Hopson replied in his opinion, the damage would be considerably less. That they know if they widen the street now or in the future, they would have to move the sidewalk and lose all the catch basin and any side drainage ditches that go across the street. He stated if they build the sidewalks according to what Mr. Frech is suggesting, they will put the pipe low enough so they will not lose the pipe itself; that the sidewalk will go, definitely, if they ever widen it.

Councilmember Selden stated we do not know whether the road is going to be widened in the near term or even in the next five years or not; that we do not know the possibility of widening the road; we also do not know whether the neighbors will actually come up with \$32,000. Councilmember Frech stated they will not.

Councilmember Selden made a substitute motion that Council defer decision on this for one week, during which time they can determine some of the answers to some of these questions; whether the road will be widened or not. That basically this is going to cost more total dollars to do it in the manner in which Mrs. Frech suggested and it would also be something of a high risk for loss of capital improvement if the road is widened. The motion did not receive a second.

Councilmember Short asked if the idea here is to serve Garringer School and Councilmember Frech replied Garringer School and Shamrock Garden. He asked if there was a sidewalk along Shamrock and Councilmember Frech replied there is sidewalk on all the rest of Shamrock except for this last section. He asked if these houses do not back up to the school and she replied yes. Councilmember Frech stated these people live on Connecticut and streets that run into Shamrock. He stated he could not picture how anybody really needed this sidewalk to get to this school. That if they were west of this, they could go into the school without having to go this way. Councilmember Frech replied she did not think they could get through that way.

Councilmember Leeper asked if there were ample funds left in last year's sidewalk budget and Mr. Burkhalter replied in this year's budget. That the money is there to do this project. Mayor Harris asked Mr. Hopson if there was \$111,000 in this account and Mr. Hopson replied not at this point; that they are just starting to work on the Providence Road situation, too, and at this point, they only have the money available for the 78-79, and that is the \$32,000 difference they had not included in their previous account. That if the Providence Road is less, or if this happened to be less, that is the only possibility unless we add more money.

Councilmember Carroll stated he was impressed in looking at the slides; at the sizes of the yards of the houses along there - they are not that great and he can understand how a homeowner along there, seeing ten more feet taken off their yards, is going to be unhappy. He stated Councilmember Frech has done a real good job in getting out and working in the neighborhood and working in an area where there is a real sidewalk problem, and coming up with a imaginative solution. That admittedly, it costs a little bit more, but we are getting something extra; we are getting some needed drainage at the same time. He stated this is a real good example of a district representative working with the neighborhood and coming up with a way to meet needs of real concern. That he would like to support her proposal because of that and if the bids come in for less than that, maybe we can do without appropriating more money and if they don't, we can look somewhere else.

Councilmember Frech stated there were two things she would like to point out. That this is a very emotional issue with the people along Shamrock Drive, the residents; they hate the ditch. She stated if Council votes to buy the right of way, it does mean Council is going to be condemning the property and there is going to be a lot of unpleasant feelings. This is alright because the sidewalk needs to go in. She stated her understanding all along was that the City was only going to buy an easement to build a sidewalk, if they vote to buy right of way and put the sidewalk inside the ditch, but not buying right of way that can later be used for the highway. She stated the problem is the City only has a 40-foot right of way instead of the usual 60, but if the street later is to be widened, right of way will have to be bought over again for this purpose.

Mr. Burkhalter stated Mr. Hopson had informed him that only \$79,000 is available and they will not be able to let the contract this fiscal year. He suggested the motion be changed to authorize Staff to design the project as outlined here and come back to Council when they are ready to let bids on it.

Councilmembers Frech and Chafin were agreeable to the change in wording of the motion.

A vote was taken on the motion to authorize Staff to design the project as outlined and come back to Council when they are ready to let bids on it, and carried unanimously.

ACTIONS TAKEN REGULATING CABLE TELEVISION SERVICES.

The following actions were taken to regulate cable television services as required by City ordinance:

1. Ordinance No. 37-X Consenting to a Proposed Merger between American Television and Communications Corporation and Time, Incorporated.

Councilmember Gantt moved adoption of the above ordinance, seconded by Councilmember Locke.

Councilmember Short stated that so there will be no surprises, he will vote against this.

Mr. Carlton Fleming stated he represents the franchise holder of the CATV system. It is probable that they do not even need to ask for City Council approval on this. They did it as a precaution. That the way the ordinance reads, it states that if there is a transfer of controls of the CATV system that the Council must give its consent to that transfer. The status is that there is a subsidiary of ATC which is the Charlotte franchisee to which the franchise was granted some months ago by Council. That corporation will continue to own this franchise; there will be no change in the entity that holds the franchise. ATC has been actually controlled by Time, Incorporation for some time. Time owns 26 percent presently of ATC, which is effective operating control because it is a publicly held company. The proposal is that ATC would in effect become a wholly owned subsidiary of Time's.

The reason he wanted to respond to Mr. Short was so that everybody will understand that Time now owns, in effect, control of this franchise, and has for some time. That they are going from 26 percent to 100 percent but the way it is accomplished is that the shareholders of ATC will become shareholders of Time, and all of the officers of ATC, all the directors of ATC, and all of the management, remains the same. That is part of the arrangement. In fact, the local management will not change and as far as any subscriber or the City itself is concerned, there actually is no change. It is purely a technical change.

The vote was taken on the motion and carried as follows:

YEAS: Councilmembers Carroll, Chafin, Dannelly, Frech, Gantt, Leeper, Locke, Selden and Trosch.  
NAYS: Councilmembers Cox and Short.

2. Approval of a Request by Cablevision of Charlotte to Provide Pay TV Called "Home Box Office" as a New Service to Cablevision Subscribers.

Motion was made by Councilmember Locke, seconded by Councilmember Chafin, and carried unanimously, approving the above request.

The ordinance is recorded in full in Ordinance Book 25, at Page 425.

Mr. Randy Frazer, Regional Manager, distributed copies of a report on where the new services will go. Mr. Burkhalter stated they would have a full presentation in July or August when the work has been finished.

CONTRACT WITH FAMILY LEISURE CENTERS, INC. TO PROVIDE RESCUE ASSISTANCE AT CAROWINDS AMUSEMENT PARK IN THE EVENT OF OPERATIONAL FAILURE OF THE CABLE SKY RIDE.

Motion was made by Councilmember Gantt, seconded by Councilmember Locke, approving the subject contract.

Councilmember Selden asked if there were an accident or if there were a training time period, would all of the long ladder equipment that we have of a given type be absent from the City for that period of time? Chief J. C. Lee replied we have eight aerial units and they would respond with the nearest unit in the interest of time.

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Mr. Selden asked if the rates that will be charged will be portal to portal? The reply was yes.

Councilmember Frech asked if the Chief is sure he is charging enough for the City's services. That when she divided the total Fire Department budget by the number of calls that the Fire Department responds to per year, it costs the City over \$1,300 per call - this is apparently the cost per call.

Chief Lee replied that the rates are established by amortizing the cost of the vehicle over the anticipated life of the vehicle and the actual cost of the persons on duty. Whether or not that is realistic is anyone's guess. This was the best charge they could calculate. The City has access to all members of the Fire Department and all companies every minute of every hour of every day, the year round. He has no interest other than providing what seems to be, from an operational standpoint, a reasonable recovery. They do not charge for any mutual aid service other than this.

Mayor Harris stated it is a good idea; we would feel obligated to go out there and help the people out anyway if they had an emergency.

Councilmember Short stated that just as a safeguard, is there any reason why a fire insurance company that is engaging in the business of insuring buildings in the City of Charlotte would have any reason to object to our entering into a contract that would send some of our equipment out that many miles outside the city limits?

Chief Lee replied that all of their actions are in the best interests of some insurance company; that he would guess that any risk would certainly be offset by benefits.

Councilmember Short stated Council's actions should be related to the rates paid by those who live in the City.

Chief Lee stated he is not a proponent nor opponent of this; he has answered Council as honestly as he knows how. It is a matter of insurance interest, whether we do or do not; and probably to the same insurance interest.

The vote was taken on the motion and carried unanimously.

#### RESOLUTION ESTABLISHING PROCEDURE FOR NOMINATIONS, CONSIDERATION AND ELECTION OF PERSONS TO CITY BOARDS, AGENCIES, COMMITTEES AND COMMISSIONS.

Councilmember Frech provided copies of a revision of the resolution she had previously submitted; she explained the revisions and moved its adoption, which motion was seconded by Councilmember Trosch.

Councilmember Dannelly made a substitute motion, seconded by Councilmember Leeper, for the adoption of the resolution which he had proposed.

Councilmember Short stated if they had to go through the second nomination process, the Council would appear indecisive. He has not studied all of the plans submitted, but he knows that Mr. Dannelly's plan almost completely eliminates that kind of difficulty; that he will vote for it for that reason. He suggested, however, that the determination of the voice vote be made at the time the voting occurs - to start way back at the very beginning and determine this - who can make such a determination four or six weeks in advance? That a ballot would give everyone a fair chance to be voted on at one time, unless there is a motion made at that time to actually have a voice vote. That in some obvious situations they would want to have a voice vote.

Councilmember Frech stated Mr. Dannelly's plan is fine, but asked if he would incorporate in his plan her paragraph on how a voice vote is to be carried out?

Councilmember Selden stated he has prepared a slight modification of his proposed plan and made a substitute motion for its adoption. The motion was seconded by Councilmember Cox. Mr. Selden explained the change as follows: That instead of voting in the order in which they were nominated, he intended for all nominated persons for a given position to be voted on

with one vote cast for that position from each Councilmember. In other words, if you had seven nominees on the ballot, you could vote for one of those seven and if none of them got six votes, then you would come back and drop all who had less than three votes and vote on the remainder. That simply because someone was nominated before another person would not mean that he got the first vote go-round.

Councilmember Leeper asked what would you do if you had one with five votes and two with three votes? Mr. Selden replied if you had one with five votes and two with three votes, after the second go-round, then you would automatically drop the two with three votes, although the Councilmember who had nominated them could re-nominate them on the next go-round; and you would nominate other people and have a new slate as of the second go-round.

Councilmember Carroll stated Mr. Selden's change gets them back to where Mr. Dannelly is, with taking the problem with the vote that Mr. Leeper just hypothesized. This Council is fascinated, obviously, by procedures as this discussion shows. Why don't they eliminate any procedural decision and just go with the ballot as Mr. Short suggested. He made one other suggestion to be added to Mr. Dannelly's proposal - in line with something Mr. Rousseau said (at the informal session) - that the City Clerk shall tally and announce the vote.

Mayor Harris called for a point of order - they are discussing Mr. Selden's motion on his plan, not Mr. Dannelly's.

Councilmember Cox called for the question on Mr. Selden's substitute motion, seconded by Councilmember Trosch, and carried unanimously.

The vote was taken on the substitute motion and it was defeated as follows:

YEAS: Councilmembers Selden and Cox.

NAYS: Councilmembers Carroll, Chafin, Dannelly, Frech, Gantt, Leeper, Locke, Short and Trosch.

Councilmember Carroll repeated his suggestion for revising Mr. Dannelly's plan to include the announcement of the vote. Mr. Dannelly agreed to accept this revision, as did Mr. Leeper.

Councilmember Trosch stated in the first sentence of No. 2, she does not follow that even with six weeks. Mr. Dannelly stated "at the first meeting of the City Council one month following the above date."

Mr. Burkhalter stated he has a procedural question to raise. When they refer to the "above date," if somebody fails or if some mistake is made and this is not done on the day that it is supposed to be done, this fouls up the whole thing. He suggested the wording "one month of actual time, from the beginning of the above process," which means if they started one day late at the top it would not foul up the whole process. Mr. Dannelly agreed to this change.

Councilmember Gantt stated he is having trouble with that. At least six weeks before the term is up, this is announced to the public. When do the Councilmembers get the first chance to nominate? The reply was four weeks later. There was general discussion on changing this to two weeks.

At the Mayor's request Councilmember Dannelly restated the revisions to his proposed plan which are incorporated in his substitute motion. That at least six weeks prior to the expiration of terms . . .; that at the first meeting following two weeks from the beginning of the above process. . .; and the addition that the vote shall be announced by the Clerk.

Mr. Underhill asked if on this plan they want to eliminate any reference to a voice vote? Council agreed.

Councilmember Leeper raised a question about the inclusion of the paragraph which Ms. Frech had asked Mr. Dannelly to include in his motion; that reference is made to the Mayor picking one nominee, if no candidate receives six votes - that was not a part of Mr. Dannelly's initial proposal and he (Mr. Leeper) did not agree to that.

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Councilmember Frech stated they should ignore her suggestion; that voice voting has been eliminated entirely.

Councilmember Trosch raised a question about the last paragraph of Mr. Dannelly's plan with reference to the procedure if no nominee receives six votes after the second balloting. She stated she believed the intent of Mr. Short's statement and what some of the rest of them think is to get it over with that day. Mr. Dannelly replied this is a situation for various unusual circumstances; it would probably not happen if you follow this process, yet you build it in.

Councilmember Short stated it is not possible to eliminate every conceivable arrangement; for example, they could have a balloting that could end up with each of eleven people getting one vote. That as a safeguard, this had to be put in. That Mr. Dannelly's plan is such that there will be very little of that, and it probably will never occur.

Councilmember Selden asked Mr. Dannelly to consider one modification. If you have gone through the voting and have not resolved the question, at the end of all the balloting, and there is no one on Council who is ready to make a nomination for somebody outside the list that had been before, as of that date, that he would propose that they move one week forward any second nomination, so that the nomination would come after the heat was cooled. This could be accomplished by adding the words to the sentence ". . . to make one additional nomination" at the next meeting.

Motion to call the question was made by Councilmember Gantt, seconded by Councilmember Cox and unanimously carried.

Mr. Burkhalter clarified the change in Paragraph No. 2 as "at the first meeting of the City Council two weeks after the actual beginning of the above process. . ."

The vote was taken on the motion to approve Mr. Dannelly's plan with the modifications and carried unanimously.

The resolution is recorded in full in Resolutions Book 13, at Page 310 & 311.

#### AWARD OF CONTRACTS.

1. On motion of Councilmember Locke, seconded by Councilmember Frech, and unanimously carried, contract was awarded the only bidder meeting specifications, Baucom Battery Service, in the amount of \$47,669.99, on a unit price basis, for yearly requirement of automotive batteries.
2. Motion was made by Councilmember Locke, seconded by Councilmember Dannelly, and carried unanimously, awarding contract to the low bidder, Patterson Business Systems, Inc., in the amount of \$6,953.97, on a unit price basis, for Visible Record Filing System.

The following bids were received:

Patterson Business Systems, Inc.	\$ 6,953.97
Acme Visible Records, Inc.	9,593.40
Mid-South Systems, Inc.	9,800.00

3. On motion of Councilmember Short, seconded by Councilmember Selden, and carried unanimously, contract was awarded to the only bidder, Koppers Company, Inc., in the amount of \$96,264.50, on a unit price basis, for estimated yearly requirement of Emulsified Asphalt.
4. Motion was made by Councilmember Short, seconded by Councilmember Chafin, and unanimously carried, awarding contract to the low bidder, Dewey Brothers, Inc., in the amount of \$26,082.50, on a unit price basis, for estimated yearly requirement of Catch Basin Frames and Grates.

The following bids were received:

Dewey Brothers, Inc.	\$26,082.50
Neenah Foundry Company	35,850.00

5. On motion of Councilmember Locke, seconded by Councilmember Short, and carried unanimously, contract was awarded the low bidder, Carolina Concrete Pipe Company, in the amount of \$33,851.06, on a unit price basis, for Reinforced Concrete Pipe.

The following bids were received:

Carolina Concrete Pipe Co.	\$33,851.06
SCS Products, Belmont Heritage	37,302.00

6. Motion was made by Councilmember Chafin, seconded by Councilmember Frech, and carried unanimously, awarding contract to the low bidder, Lee Skidmore, Inc., in the amount of \$77,131.00, on a unit price basis, for Curb Improvements, Spring 1978, Various Streets.

The following bids were received:

Lee Skidmore, Inc.	\$ 77,131.00
Blythe Industries, Inc.	77,784.00
Crowder Construction Co.	84,905.30
T. A. Sherrill Construction Co.	102,978.00
T. L. Harrell Construction Co.	109,127.00

7. Motion was made by Councilmember Chafin, seconded by Councilmember Trosch, and carried unanimously, awarding contract to the low bidder, Moretti Construction, Inc., in the amount of \$19,300.00, on a lump sum basis, for West Boulevard Area C. D. Project (Amay James Center) - Phase II.

The following bids were received:

Moretti Construction, Inc.	\$ 19,300.00
McMullen & Sons	21,500.00
Wheeler Construction Co.	23,853.00
Lee Grading Company	28,521.00

8. On motion of Councilmember Locke, seconded by Councilmember Gantt, and carried unanimously, contract was awarded the low bidder, Sanders Brothers, Incorporated, in the amount of \$744,783.40, on a unit price basis, for Water Distribution Improvements - 1977 Annexation Area I.

The following bids were received:

Sanders Brothers, Inc.	\$744,783.40
A. P. White and Associates	760,966.00
RDR, Inc.	768,444.00
Ben B. Propst Contractor, Inc.	779,282.50
Rea Brothers, Inc.	836,163.00
Rand Construction Company	922,273.89

9. Motion was made by Councilmember Selden, seconded by Councilmember Locke, and carried unanimously, awarding contract to the low bidder, Rea Brothers, in the amount of \$63,869.50, on a unit price basis, for Sanitary Sewer Construction - Various Sanitary Sewers - Peachtree Road Area, King Road and View Way Drive.

The following bids were received:

Rea Brothers	\$ 63,869.50
Ben B. Propst	71,760.80
Rand Construction	72,861.61
Blythe Industries	90,169.50
Dellinger, Inc.	93,416.00
Sanders Brothers	128,910.00

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10. On motion of Councilmember Leeper, seconded by Councilmember Frech, and carried unanimously, contract was awarded the low bidder, Rea Construction Company, in the amount of \$692,255.90, on a unit price basis, for Spring Resurfacing - 1978, Various Streets.

The following bids were received:

Rea Construction Company	\$692,255.90
Blower Asphalt Company	698,910.00
Blythe Industries, Inc.	704,642.00
Dickerson, Inc.	752,360.50

BID ON ONE TRAILER MOUNTED HYDRAULICALLY OPERATED BORING UNIT REJECTED AND PERMISSION GRANTED TO RE-ADVERTISE FOR THIS EQUIPMENT.

On motion of Councilmember Short, seconded by Councilmember Locke, and carried unanimously, the only bid on one Trailer Mounted Hydraulically Operated Boring Unit was rejected, as recommended by the Utility and Purchasing Directors, and permission was granted to re-advertise for this equipment after July 1, 1978.

RESOLUTION AUTHORIZING CONDEMNATION PROCEEDINGS FOR THE ACQUISITION OF PROPERTY BELONGING TO DORIS GLORIA JEAN STEWART; SUBJECT TO OPEN ESTATE OF ESTHER STEWART - ALENE MCCORKLE, ADMINISTRATRIX, LOCATED 15.99 ACRES SOUTH OF JOHNETTE DRIVE, IN THE CITY OF CHARLOTTE, FOR THE ANNEXATION AREA II SANITARY SEWER TRUNKS PROJECT.

Upon motion of Councilmember Locke, seconded by Councilmember Carroll, and unanimously carried, subject resolution was adopted authorizing condemnation proceedings for the acquisition of property belonging to Doris Gloria Jean Stewart; subject to open estate of Esther Stewart - Alene McCorkle, Administratrix, located 15.99 acres south of Johnette Drive, in the City of Charlotte, for the Annexation Area II Sanitary Sewer Trunks Project.

The resolution is recorded in full in Resolutions Book 13, on Page 312.

RESOLUTION AUTHORIZING CONDEMNATION PROCEEDINGS FOR THE ACQUISITION OF PROPERTY BELONGING TO N. C. N. B. MORTGAGE CORPORATION, LOCATED AT 5307 DAWNDEER LANE, IN THE CITY OF CHARLOTTE, FOR THE ANNEXATION AREA II SANITARY SEWER TRUNKS PROJECT.

Motion was made by Councilmember Locke, seconded by Councilmember Short and unanimously carried, adopting subject resolution authorizing condemnation proceedings for the acquisition of property belonging to N.C.N.B. Mortgage Corporation, located at 5307 Dawndeer Lane, in the City of Charlotte, for the Annexation Area II Sanitary Sewer Trunks Project.

The resolution is recorded in full in Resolutions Book 13, at Page 313.

RESOLUTION AUTHORIZING CONDEMNATION PROCEEDINGS FOR THE ACQUISITION OF PROPERTY BELONGING TO JOHN W. KILLIAN AND WIFE, SARA K., LOCATED AT MCDANIEL LANE, OFF 6300 BLOCK OF OLD CONCORD ROAD, IN THE CITY OF CHARLOTTE, FOR THE TOBY CREEK OUTFALL SANITARY SEWER TRUNKS PROJECT.

Councilmember Selden moved adoption of subject resolution authorizing condemnation proceedings for the acquisition of property belonging to John W. Killian and wife, Sara K., located at McDaniel Lane, off 6300 block of Old Concord Road, in the City of Charlotte, for the Toby Creek Sanitary Sewer Trunks Project, which motion was seconded by Councilmember Short, and unanimously carried.

The resolution is recorded in full in Resolutions Book 13, at Page 314.

RESOLUTION AUTHORIZING CONDEMNATION PROCEEDINGS FOR THE ACQUISITION OF PROPERTY BELONGING TO MALCOLM B. BLANKENSHIP, JR., AND BESSIE G. BLANKENSHIP, GUARDIAN FOR JANE ELLEN BLANKENSHIP (A MINOR), LOCATED AT 192.80 ACRES NEWELL ROAD, AT FAIRHAVEN TO WILSON DRIVE, IN THE CITY OF CHARLOTTE, FOR THE TOBY CREEK OUTFALL AND ANNEXATION AREA I SANITARY SEWER TRUNKS PROJECTS.

Motion was made by Councilmember Selden, seconded by Councilmember Locke, and unanimously carried, adopting subject resolution authorizing condemnation proceedings for the acquisition of property belonging to Malcolm B. Blankenship, Jr., and Bessie G. Blankenship, Guardian for Jane Ellen Blankenship (a minor), located at 192.80 acres Newell Road, at Fairhaven to Wilson Drive, in the City of Charlotte, for the Toby Creek Outfall and Annexation Area I Sanitary Swere Trunks Project.

The resolution is recorded in full in Resolutions Book 13, at Page 315.

CONTRACT WITH SERVICE RESOURCES, APPROVED.

Motion was made by Councilmember Locke, seconded by Councilmember Selden, and unanimously carried, approving a contract with Service Resources for professional assistance in acquiring sanitary sewer easements in the 1977 Annexation Areas, for a total amount not to exceed \$130,623.

PUBLIC HEARING SCHEDULED ON THE 1978-79 PROPOSED BUDGET AND PLANNED USE OF GENERAL REVENUE SHARING FUNDS ON MONDAY, JUNE 12, 1978 AND TUESDAY, JUNE 13, 1978, IN THE COUNCIL CHAMBER, CITY HALL.

Upon motion of Councilmember Chafin, seconded by Councilmember Frech, and unanimously carried, a public hearing was scheduled on the 1978-79 Proposed Budget and Planned Use of General Revenue Sharing Funds on Monday, June 12, 1978, at 3:00 o'clock p.m., and on Tuesday, June 13, 1978, at 7:30 o'clock p.m., in the Council Chamber, City Hall.

RESOLUTION PROVIDING FOR PUBLIC HEARINGS FOR ZONING CHANGES, DEFERRED.

Councilmember Leeper moved to defer subject resolution for public hearings on Monday, June 19, 1978, at 8:00 o'clock p.m., in the Education Center, on Petition Nos. 78-32 and 78-33 for zoning changes. He stated this includes the Toomey property and Mr. Pat Hunter advised they would like to have an opportunity to meet with some of the people in the community. The motion was seconded by Councilmember Dannelly, and carried unanimously.

LOAN AGREEMENT WITH ROBERT A. OLDHAM & TWILLA OLDHAM, APPROVED.

Upon motion of Councilmember Locke, seconded by Councilmember Frech, and unanimously carried, subject Loan Agreement was approved, in the amount of \$5,100, with Robert A. Oldham & Twilla Oldham, at 627 Charles Avenue, in the North Charlotte Target Area.

SPECIAL OFFICER PERMITS, APPROVED.

Councilmember Gantt moved approval of the renewal of Special Officer Permits for use on the premises of Park and Recreation to James Leslie Bell and Ellis Ray Black. The motion was seconded by Councilmember Locke.

In response to a question from Councilmember Cox, Mr. Underhill explained this permit gives the park officer police powers on the premises of park property.

The vote was taken on the motion, and carried unanimously.

ORDINANCES AFFECTING HOUSING DECLARED "UNFIT" FOR HUMAN HABITATION.

Councilmember Selden moved adoption of an ordinance ordering the occupied dwelling at 3622 Oakwood Avenue, in a CDRS area, to be vacated and closed. The motion was seconded by Councilmember Locke.

Councilmember Short stated this is a matter that is very pertinent with the Operations Committee where Councilmember Carroll has been making some very good points and they have all been discussing various means of having a situation like this. That they have another meeting scheduled for June 8 and if, out of that meeting, comes a system whereby we could let this family stay in this home, it would be a good thing. He stated he would suggest they defer this item.

Councilmember Carroll stated he would certainly agree. This is an ideal example to, rather than take off the market, try to retain on the market. He stated the problem here is it is in the North Charlotte area and not in one of the four target areas where we are talking about using the repair remedy. That it is a good example of what we could do.

He stated Mr. Jamison would tell Council that this particular landlord would probably do something with the property once Council issues this order.

The vote was taken on the motion, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 25, at Page 426.

Motion was made by Councilmember Locke, seconded by Councilmember Chafin, and unanimously carried, adopting an ordinance ordering the unoccupied dwelling at 1225 Louise Avenue to be demolished and removed.

The ordinance is recorded in full in Ordinance Book 25, at Page 427.

RESOLUTION AUTHORIZING THE REFUND OF CERTAIN TAXES COLLECTED THROUGH CLERICAL ERROR AND ILLEGAL LEVY AGAINST ONE TAX ACCOUNT.

Upon motion of Councilmember Locke, seconded by Councilmember Trosch, and unanimously carried, subject resolution was adopted authorizing the refund of certain taxes, in the total amount of \$58.00, which were collected through clerical error and illegal levy against one tax account.

The resolution is recorded in full in Resolutions Book 13, at Page 316.

CONTRACTS FOR WATER AND SEWER CONSTRUCTION, APPROVED.

Upon motion of Councilmember Selden, seconded by Councilmember Frech, and unanimously carried, the following contracts for water and sewer construction were approved:

(a) Contract with P. J. Development Company for the construction of 495 feet of 2-inch water main to serve Lansing Drive, inside the City, at an estimated cost of \$2,750.00. The location is immediately north of Sardis Lane, west of Sardis Road and east of Providence Road, inside the City.

(b) Contract with D. L. Phillips Investment Builders for construction of 1,770 linear feet of 8" water main and two fire hydrants to serve Dwight Evans Road, inside the City, at an estimated cost of \$18,900.00.

Located immediately west of I-77, south of Clanton Road and north of Yorkmont Road.

(c) Contract with H. C. Bissell & Associates, Inc. for the construction of 1,130 linear feet of 8" and 6" water mains to serve Policy Place, inside the City, at an estimated cost of \$11,500.00.

Located immediately north of Fairview Road, west of Sharon Road and east of Park Road.

(continued)

- (d) Contract with Car Ky Land Company for the construction of 1,405 linear feet of 8" sewer line to serve Plantation Park, inside the City, at an estimated cost of \$28,100.00.

Located off I-85, west of Starita Road.

- (e) Contract with the Most Reverend Michael J. Begley for the construction of 200 linear feet of 8" water main to serve Suther Road, outside the City, at an estimated cost of \$2,000.00.

Located on the west side of Suther Road, south of Sandburg Avenue.

- (f) Contract with George Goodyear Company for the construction of 1,696 linear feet of 8" sewer line to serve Old Oaks Subdivision, Phase II, inside the City, at an estimated cost of \$25,440.00. /

Located off Idlewild Road North, inside the City.

- (g) Contract with First Colony Corporation for the construction of 5,430 linear feet of 8" sewer line to serve Twelve Oaks, Phase III, outside the City, at an estimated cost of \$108,600.00.

Located off Musket Lane, east of Steele Creek.

- (h) Contract with Paul G. Reynolds and Larry R. Atkins for the construction of 370 linear feet of 8" sewer main to serve 800 and 803 Old Bell Road, inside the City, at an estimated cost of \$7,400.00.

Located east of Wilby Drive, inside the City.

**ORDINANCES ORDERING THE REMOVAL OF TRASH, RUBBISH, JUNK AND AN ABANDONED MOTOR VEHICLE FROM PROPERTIES IN THE CITY.**

Upon motion of Councilmember Chafin, seconded by Councilmember Short, and unanimously carried, the following ordinances were adopted ordering the removal of trash, rubbish, junk and an abandoned motor vehicle from properties in the city:

- (a) Ordinance No. 40-X ordering the removal of weeds and grass from premises on vacant lot at 512 East Boulevard.
- (b) Ordinance No. 41-X ordering the removal of trash and rubbish from premises at 2944 Ravencroft Drive.
- (c) Ordinance No. 42-X ordering the removal of trash and rubbish from premises at 710 East 26th Street.
- (d) Ordinance No. 43-X ordering the removal of weeds and grass from premises at 528 East Worthington Avenue.
- (e) Ordinance No. 44-X ordering the removal of weeds and grass from premises at 4032 Sheridan Drive.
- (f) Ordinance No. 45-X ordering the removal of weeds and grass from premises of vacant lot adjacent to 1130 Robinhood Circle.
- (g) Ordinance No. 46-X ordering the removal of weeds and grass from vacant lots adjacent to 6108 Lake Forest Drive.
- (h) Ordinance No. 47-X ordering the removal of weeds and grass from premises at 1507 East Boulevard (vacant lot).
- (i) Ordinance No. 48-X ordering the removal of weeds and grass from premises at 701 East Boulevard.
- (j) Ordinance No. 49-X ordering the removal of weeds and grass from premises at 419 East Kingston Avenue.
- (k) Ordinance No. 50-X ordering the removal of an abandoned motor vehicle from premises at 445 Skyland Avenue.

The ordinances are recorded in full in Ordinance Book 25, beginning at Page 428.

AGREEMENTS WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION AND PARK AND RECREATION DEPARTMENT FOR PURCHASE OF RIGHT OF WAY FOR PLAZA ROAD EXTENSION.

Motion was made by Councilmember Chafin, seconded by Councilmember Short, and unanimously carried, approving two Agreements with the North Carolina Department of Transportation and the Park and Recreation Department of the City to provide for the purchase of right of way for Plaza Road Extension, for a total of \$924.00.

ENCROACHMENT AGREEMENT WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION, APPROVED.

Upon motion of Councilmember Dannelly, seconded by Councilmember Chafin, and unanimously carried, subject Encroachment Agreement was approved with the North Carolina Department of Transportation permitting the City to construct a 54-inch sanitary sewer line in Big Sugar Creek, southerly 4,800 feet from SR 1138, Arrowood Road.

PROPERTY TRANSACTIONS, APPROVED.

Councilmember Selden moved approval of property transactions a through h, as follows. The motion was seconded by Councilmember Frech and carried unanimously:

- (a) Option on 2.54 acres of property at 4824 Maple Knoll from James C. Hill and wife, Marceil A. Hill, at \$11,000.00, for the Delta Road Area Park Project.
- (b) Acquisition of 15' x 195.61' of easement, plus a temporary construction easement at 517 Sandy Avenue, from Marie Mitchell, at \$700.00, for Annexation Area I Sanitary Sewer Project.
- (c) Acquisition of 15' x 227.03' of easement, plus a temporary construction easement at 5507 Indian Lane, from Lee Roy Moore and Helen S. Moore, at \$1,250.00, for Annexation Area I Sanitary Sewer Project.
- (d) Acquisition of 7.5' x 183.30' of easement, plus a construction easement on eastside of 6400 block of McGill Street, from William V. Carder and Shirley A. Carder, at \$360.00, for Annexation Area I Sanitary Sewer Project.
- (e) Acquisition of 15' x 62.17' of easement, plus a construction easement at 9100 block of Newell Hickory Grove Road, from John D. Taylor and wife, Ann Doris at \$60.00, for Annexation Area I Sanitary Sewer Project.
- (f) Acquisition of 20' x 1,578.84' of easement at 10899 off Steele Creek Road, from Lucy Holmes Carson Haddow, at \$1,585.00, for Steele Creek Outfall - Westinghouse Boulevard to Battery Place.
- (g) Acquisition of 15' x 26.60' of easement at 6813 Carmel Road Extension, from The Benjamin Miles Corporation (and Southern Bell Telephone and Telegraph, Lessee), at \$1.00, for Sanitary Sewer to serve 6817 Carmel Road.
- (h) Acquisition of 7.5' x 303.18' of easement north of 6300 block of Morrison Boulevard on Policy Place, from James J. Harris and Angelia M. Harris, at \$1.00, for Sanitary Sewer to serve Policy Place.

ACQUISITION OF THREE PARCELS OF REAL PROPERTY LOCATED IN THE WEST MOREHEAD COMMUNITY DEVELOPMENT TARGET AREA AND DEMOLITION OF THE STRUCTURES, AUTHORIZED.

Councilmember Locke moved approval of the purchase of the following three parcels of real property located in the West Morehead Community Development Target Area and approval for demolition or the moving and rehabilitation of the structures. The motion was seconded by Councilmember Leeper.

- (1) 5,796 sq. ft. from Susan Counts, 1233 South Church Street, at \$6,632.
- (2) 5,520 sq. ft. from Jay H. Smith, 1301 South Church Street, at \$5,500.
- (3) 7,500 sq. ft. from Sarah B. Mulligan, 318 Quincy Street, at \$10,400.

Councilmember Carroll stated the item reads "for demolition or the moving and rehabilitation" and he would suggest that Council approve demolition for No. 1 and rehabilitation and moving for Nos. 2 and 3.

Mayor Harris asked why he wanted to take the discretion away from the staff and Councilmember Carroll replied because he feels this is very significant; that Mr. Sawyer and his staff have gone to a lot of work at a very timely point in the process to bring to Council the chance to make a decision on whether or not the properties are going to be rehabilitated and preserved or demolished. That very often, once the City decides to acquire property, if it is not decided at the initial time, that property could become vacant and run down and the chance to rehabilitate will kind of go by the boards.

Councilmember Gantt asked if the difference between the two was because of the difference in the cost of rehabilitation and Councilmember Carroll replied it is more of his own appraisal of what the houses looked like and what kind of condition they were in by going out there and looking at them. That when you look at it on just a square foot cost, it looks like an awful lot. He stated as a comparison he obtained some data on the other three houses which were on the Fourth Street Connector, which the City moved and MOTION rehabilitated in Third Ward. That the cost of all of that rehabilitation and moving is roughly the same as the ones we have here. He stated we have had successful rehabilitation and moving of those three houses - they have all been sold and are being paid for by occupants who are living in them and have low interest loans.

Councilmember Carroll stated it looks like a right sizeable amount of money to spend for rehabilitation.

Councilmember Carroll made a substitute motion that the City acquire and demolish No. 1 and acquire and rehabilitate Nos. 2 and 3. The motion was seconded by Councilmember Trosch.

Councilmember Gantt asked about the property at 1233 South Church Street, which has a \$32.50 per square foot cost, for almost 1,000 sq. ft., and asked if Mr. Carroll's motion is to demolish that house and on the other hand, retain the house that has approximately 800 sq. ft. at the same per square foot cost, and the house that has 729 sq. ft. at \$36.00 per square foot. That he seriously has some difficulty because we are still not going to get new housing for \$26,000 and he does not feel Council is doing anyone a service here. Councilmember Carroll stated the difference is in going out there and looking at the houses; the two houses, the other at 1301 South Church and the one at 318 Quincy Street, are very substantial houses - they are not big in area - but they are not in bad shape

and if Council will look at the nature of the rehabilitation, they will see there are not major structural things that are being done to them. That the cost to do these things and move them, when you look at it on a per square foot basis, does seem high but we have to look at some of the costs that the City is getting back; they are not spending whatever the cost to demolish the buildings and we are getting back, over a period of time, the money that is going to be paid back for the sale of the house to the new owner.

Councilmember Gantt stated that is the issue, the sale of the house to the new owner, and if he is going to buy approximately 800 square feet, at something in excess of \$30,000, he is going to buy it somewhere else. Councilmember Carroll stated he is not suggesting that the City is going to sell it for \$30,000. He asked Mr. Sawyer what the City sold the three houses for in Third Ward and Mr. Sawyer replied one was sold for \$20,700; one for \$22,500 and one for \$20,800.

Councilmember Cox asked how much the City had in the houses and Mr. Sawyer replied we have a whole lot more than that in them. That the reason the City has more in them than they are selling them for is because of the procedure which Council approved for the City's buying and rehabilitating and that is, when the City buys the property, they buy it at its Fair Market Value from the owner.

Councilmember Cox stated what he is saying that under No. 1, that piece of property would bring on the market \$6,632, if we went out and tried to sell that as is. Then we have to turn right around and put \$20,000 into it to get it up to Code, or up to habitable condition, so we are really saying someone is going to buy that 1,000 sq. ft. piece of property for \$26,000; that he does not believe we can sell it for that. Mr. Sawyer replied he is not saying that.

Councilmember Cox stated what he is saying is that \$6,600 is not the Fair Market Value for that piece of property. Mr. Sawyer replied yes it is - that is the price the City is willing to pay for it and is the Market Value.

Councilmember Selden made a second substitute motion that Council approve the demolition of these three houses. The motion was seconded by Councilmember Gantt.

Councilmember Dannelly asked why Mr. Sawyer had "demolition or the moving and rehabilitation" and Mr. Sawyer replied to clarify the amount or to try to give them some guidance into how much the Council is willing to spend to rehabilitate some of these structures. That they had a standard which they used for some time and the top amount they would spend under that standard was about \$18.00 per square foot, or something in that neighborhood. Mr. Sawyer stated there was a discussion with Council during the time Council was considering the preliminary plan for the use of Community Development Funds, it became obvious that Council wanted to spend more money than that. He stated the question now is, how much more. That he thought if he gave Council this information and let them consider it from now on, or until they want to call a halt and establish a standard, they would leave it this way.

Councilmember Cox stated apparently this is a kind of test case and he is glad they made it a test case because it highlighted for him the need for some kind of accounting for the best way Council can spend the limited resources we had in order to address the objective which is housing, neighborhood preservation, etc. and he does not feel good about spending \$30,000 on this particular one for an 860 sq. ft. piece of property when he knows he can go out and rebuild it for less than that and he can go out and buy it on the market for less than that and resell it for whatever price he wanted to resell it for. That in all prudence, when Council is

getting ready to spend maybe a couple hundred thousand dollars here that we ought to think about this a little bit more.

Councilmember Cox made a third substitute motion to defer this. The motion did not receive a second.

In response to a question about why he made the substitute motion, Councilmember Cox stated it looks like what we want to do is to demolish them; the arithmetic looks like what we ought to do is demolish but if we are going to have it come up again, the Council is going to be put into the position of going out and looking at the properties and deciding whether we are going to demolish or rehab. That he feels we need a policy to wrap up that decision.

Councilmember Gantt stated if he would look at some of the other ones on this same issue, the cost of the rehabilitation is quite reasonable - the Marvin Road property, etc.

Councilmember Locke stated the problem with these properties is that they have to be moved and moving costs \$5,000, otherwise it might be feasible but not these structures.

Councilmember Trosch asked about the cost of the MOTION homes in Third Ward; how much per square foot were spent on these and Mr. Sawyer replied this figure was in the additional information which was furnished to Council. Councilmember Trosch stated she is really caught up in the problem as to what we do and at what point we cut the expenditures off because we do not have money to put homes in the place of the homes we are tearing down. She stated this is the only method by which we can and asked if this was correct and Mr. Sawyer replied that is correct because we cannot use Community Development funds for new construction but the funds can be used for rehabilitation.

She asked if it was correct that if we spend \$30,000 on these homes, we could probably sell them for about \$20,000 and Mr. Sayer replied that is correct.

She stated when you have a home that is owned by the occupant who will live in that home and it is probably someone the City has moved in a short period of time, she does not think the moving and rehab take that long, as she understands it and Mr. Sawyer replied the moving will add some time to the rehabilitation process but not all that much. She stated we might end up with a home for this person, the same home, in another community development area, with as little disruption as possible to the person.

Councilmember Carroll stated he did not think anything was going to be served by deferring this matter. That he is glad we have this before Council because it is a significant decision and he can understand how members might think the cost is too much to move these, but he does not think it is; the cost is a lot, but what we are doing is providing replacement houses, the only way we have the money through Community Development to do it, in a target area, we are trying to rebuilt Third Ward and as Mrs. Trosch said, with the possibility of moving a family in there that would otherwise might have to be relocated, but could stay in their same house and become a property owner in Third Ward. That the largest cost is basically the cost of moving and that is subsidy of maybe five to ten thousand dollars on each of these houses. He stated we will not have to pay for the cost of demolition and we will recover back what is paid over a period of time, as the house is purchased through a low interest low. That it is not the best situation in the world, but is an important direction for Council to move in.

Councilmember Dannelly moved a call for the question, which motion was seconded by Councilmember Locke, and carried unanimously.

The vote was taken on Councilmember Selden's substitute motion for demolition of the three units, which carried as follows:

YEAS: Councilmembers Selden, Gantt, Chafin, Dannelly, Frech, Leeper, Locke and Short, Cox  
NAYS: Councilmembers ~~Kox~~, Trosch and Carroll.

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ACQUISITION OF TWO PARCELS OF REAL PROPERTY LOCATED IN GRIER HEIGHTS COMMUNITY DEVELOPMENT TARGET AREA, DEFERRED.

Councilmember Chafin moved approval of the acquisition of two parcels of real property located in Grier Heights Community Development Target Area and approval for rehabilitation of the structures. The motion was seconded by Councilmember Dannelly. The properties are as follows:

- (1) 6,300 sq. ft. from Theodore A. Nodell, 3429 Marvin Road, at \$10,000.
- (2) 65,610 sq. ft. from Mary Gilmore, 3433 Marvin Road, at \$26,200.

Councilmember Trosch stated this has come up before as far as the first property goes on Marvin Road, the other property is next door and as she reads the information, this involves two owners who will not make repairs. That one of the houses is a very nice little home, with a beautiful yard and hanging baskets and the other one is occupied now (the agenda material states it is vacant). In this case, you have owners that are not willing to make the property livable. This speaks to what Mr. Short was saying earlier where the City is actually purchasing two homes that are very nice homes - one they are taking a tremendous amount of land. We are taking the land and will probably move the house too.

Mr. Sawyer stated there is enough land to use for additional housing or to re-sell.

Ms. Trosch stated we are basically taking this off their hands because they will not repair it? Mr. Sawyer replied that is right; they absolutely refuse to go in and do anything. Ms. Trosch stated her basic question is if this is code violation and you have two units that are occupied, instead of the City taking the property off their hands, why can't we make the owners fix it up?

Mr. Sawyer replied they have tried everything - every remedy we have presently.

Mayor Harris stated that items where Councilmembers have these kinds of questions should be deferred and Councilmembers should confer with Mr. Sawyer personally.

Councilmember Carroll asked Mr. Sawyer if he has an estimate on what it would cost to bring these two houses up to code, as opposed to CD standards? Mr. Sawyer replied no; this is the only estimate they have. Mr. Carroll asked if it is proposed to acquire these houses for any other purpose than rehabilitation? Mr. Sawyer replied that is all.

Councilmember Carroll stated this gets back to what Mr. Short said a while ago about the property which was in the North Charlotte Target Area - these two are candidates for really bringing them up to code, using the repair remedy. He does not see any reason for the City to buy these properties. They are nice properties; they are occupied; they do not know what it would cost to bring them up to code - it does not look like much, just looking at them.

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Mr. Carroll made a substitute motion to defer any further action, requesting that the City Attorney prepare an ordinance using the repair remedy of the housing code to get the needed repairs done and present that to Council at a later date, after perhaps the Operations Committee has finalized their work on the repair remedy. The substitute motion was seconded by Councilmember Chafin, and carried unanimously.

ACQUISITION OF THREE PARCELS OF REAL PROPERTY LOCATED IN WEST MOREHEAD COMMUNITY DEVELOPMENT TARGET AREA, AUTHORIZED.

On motion of Councilmember Dannelly, seconded by Councilmember Locke, and carried unanimously, approval was given for the purchase of the following three parcels of real property located in West Morehead Community Development Target Area:

- (1) 1,600 sq. ft. from Wachovia Bank and Trust Company, Trustees, 305-09 West Palmer Street, at \$3,840.
- (2) 1,600 sq. ft. from Isabelle Clanton Kennamer, 313-17 West Palmer Street, at \$3,840.
- (3) 986 sq. ft. from Louise Clanton, 321 West Palmer Street, at \$2,266.

ACQUISITION OF TWO PARCELS OF REAL PROPERTY LOCATED IN FIVE POINTS COMMUNITY DEVELOPMENT TARGET AREA FOR DEMOLITION, AUTHORIZED.

Motion was made by Councilmember Dannelly, seconded by Councilmember Locke, that the following two parcels of real property located in Five Points Community Development Target Area be purchased for demolition or the moving and rehabilitation of the structures, as recommended by the Community Development Director:

- (1) 4,792 sq. ft. from Thomas E. McCoure Heirs, 424 Solomon Street, at \$6,500.
- (2) 9,801 sq. ft. from Dr. Frank O. Alford, 323 Murrell Street, at \$2,500.

Councilmember Selden made a substitute motion for the purchase of the two parcels, stipulating that the structures be demolished. The substitute motion was seconded by Councilmember Cox.

Councilmember Carroll moved, as a second substitute motion, that the first structure be rehabilitated and the second structure be demolished. This motion was seconded by Councilmember Frech.

Councilmember Cox asked on what basis Council decides whether one is demolished and whether it should be rehabilitated? That \$33.95 a square foot is obviously too high, but \$29.95 might not be; \$23.00 might be enough. They have just decided that somewhere between \$9.00 and \$33.00 they go over some magic threshold that says they demolish rather than rehabilitate.

Mayor Harris stated he thinks the point is a matter of individual choice by the Council when they vote.

Councilmember Carroll stated that in looking at this house and looking at the two others in West Morehead, they are smaller houses and for that reason they are easier to move, but if we do not rehabilitate houses that appear to be as good as these and move them, there is not going to be anything there to rehabilitate. They may decide that the cost is too great, but that is what it looks like.

Councilmember Dannelly stated he does not have a problem with the cost of rehabilitating a house, but he does have a problem with moving a house and rehabilitating it - that is where the problem is. If they can find houses

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in the target areas that can be rehabilitated where they are, as Mr. Sawyer has done in the past, the prices will be acceptable to him. But when they have to pay \$6,000 on top of rehabilitation, then that takes it too far out.

Councilmember Carroll stated a lot of what they are doing is demolishing houses in some of these areas. They do not have any way right now to put anything back. He understands that it is costing \$5,000 to \$10,000 to put a house back that somebody can buy, but that, as he sees the issue, is the way to get a rehabilitated house back or leave it vacant.

Councilmember Selden stated when you get above 30,000 sq. ft., that is the total break point - anything above 30,000 sq. ft. for this type housing. That we have a substantial quantity in inventory of housing that we will rehabilitate. Below \$30.00 he will consider a whole lot of consideration.

Call for the question was made by Councilmember Cox, seconded by Councilmember Locke, and unanimously carried.

The vote was taken on Mr. Carroll's second substitute motion and failed as follows:

YEAS: Councilmembers Gantt, Short, Carroll, Frech and Trosch.

NAYS: Councilmembers Chafin, Cox, Dannelly, Leeper, Locke, Selden.

The vote was taken on Mr. Selden's substitute motion and carried as follows:

YEAS: Councilmembers Chafin, Cox, Dannelly, Gantt, Leeper, Locke, Selden, Short and Trosch.

NAYS: Councilmembers Carroll and Frech.

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COUNCILMEMBER CARROLL EXCUSED FROM PARTICIPATING IN THIS MEETING AND ANY OTHER MEETINGS REGARDING THE INVESTIGATION OF ALLEGED WIRETAPPING.

Councilmember Carroll stated after the closed session of City Council on April 11, 1978, he wrote Mr. Underhill a letter and he, with Council's permission, would like that letter, along with Mr. Underhill's reply, to be a part of the record, and that he be excused from any further participation in this meeting or any other meetings regarding the investigation of alleged wiretapping.

Motion was made by Councilmember Chafin, seconded by Councilmember Trosch, and carried unanimously excusing Councilmember Carroll.

The letters are as follows:

"Mr. Henry W. Underhill, Jr.  
City Attorney  
City Hall  
600 East Trade Street  
Charlotte, North Carolina 28202

708 Clement Avenue  
Charlotte, N.C. 28204  
April 11, 1978

Re: Investigation of Alleged Wiretapping

Dear Henry:

Long before my election to the City Council my law firm was consulted by The Knight Publishing Company with respect to the libel suit brought against it by Chief J. C. Goodman and with respect to the articles concerning police wiretapping out of which that suit arose. I have not participated in the handling of this matter, but various members of the firm have had and continue to have access to information regarding the subject matter of the lawsuit, most of which it received by virtue of the attorney-client relationship.

The City Council at its last meeting initiated inquiries concerning the alleged wiretapping. It appears that some of the subject matter of the lawsuit may also become the subject of the Council's inquiry in determining whether and how to investigate the alleged wiretapping in the Police Department.

The information available to various members of my firm by virtue of their representation in the libel suit might not be subject to disclosure to the City Council. As a legal matter their knowledge is imputed to me. In addition, members of my firm will be involved in the ongoing process of preparing the libel suite for trial while the Council is considering the matter. For these reasons I feel that it would be inappropriate for me to participate in the deliberations of the Council concerning the alleged wiretapping.

While the facts of my situation may not give rise to a conflict of interest as defined in the Council's present conflict of interest policy, in order to avoid the appearance of unfairness to anyone who may become a subject of the Council's inquiry, to my firm's client or to the Council, I have determined that I should withdraw myself from any participation in the matter.

Very truly yours,

W. Donald Carroll, Jr."

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"April 12, 1978

Councilmember Don Carroll  
708 Clement Avenue  
Charlotte, NC 28204

Re: Investigation of Alleged Wiretapping

Dear Don:

This will reply to your letter of April 11, 1978 and your request for my advice concerning your participation in the recently initiated investigation by City Council of alleged wiretapping activities by the Charlotte Police Department. I have reviewed the contents of your letter, and I concur in your determination that you should withdraw from any participation in the investigation.

At your request, I will so advise the City Council of this determination.

Sincerely,

Henry W. Underhill, Jr.  
City Attorney"

MOTION TO CONSIDER A NON-AGENDA ITEM.

Councilmember Chafin moved that Council place on the agenda a motion she will introduce regarding investigation of alleged wiretapping. The motion was seconded by Councilmember Dannelly, and carried unanimously.

MAYOR AND MAYOR PRO TEM, ASSISTED BY CITY ATTORNEY, AUTHORIZED TO RECRUIT AND NEGOTIATE CONTRACT WITH MEMBER OF THE MECKLENBURG COUNTY BAR AS AN INVESTIGATOR IN CONNECTION WITH ALLEGED WIRETAPPING.

Councilmember Chafin moved that the Council authorize the Mayor and the Mayor Pro Tem, with the assistance of the City Attorney, to recruit and negotiate a contract with a respected member of the Mecklenburg County Bar to be retained temporarily as an investigator working directly for the Mayor, the Council and City Manager in connection with alleged wiretapping and destruction of evidence by officers and their superiors in the Charlotte Police Department. The contract will be promptly negotiated and presented to Council for approval. Further, that the contract call for a preliminary review to be conducted by the investigator during a period of two to six weeks, of all documents and data available under the federal Freedom of Information Act, from the office of the U. S. Attorney, from the District Attorney's office, from City files and records, and any other source that becomes apparent, in order to advise the Mayor and Council regarding guidelines and procedure for a complete investigation. The motion was seconded by Councilmember Locke.

Councilmember Selden proposed that Ms. Chafin amend her motion by striking the words "two to". In other words during a period of six weeks. The reason for that is we have not received all the information that is expected from Washington - he strongly believes we will get it; but he wants to leave sufficient time for us to get it. Councilmember Chafin replied she has no problem with that except she thinks it is within the realm of possibility that we might get it sooner. And that the investigator have an opportunity to review it, and come back to us in four weeks. She would rather leave that flexibility.

The vote was taken on the motion, and carried unanimously, with Councilmember Carroll having been excused from the meeting.

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MAYOR'S UPTOWN DEVELOPMENT COMMITTEE REQUESTED TO MAKE A REPORT TO COUNCIL DURING THE HEARING ON MUNICIPAL SERVICES DISTRICT.

Councilmember Chafin requested the City Manager to contact the Mayor's Uptown Development Committee to make a presentation to City Council during the public hearing on the Municipal Service District.

MOTION TO SUSPEND THE RULES TO CONSIDER NON-AGENDA ITEM: CHARGE GIVEN TO TRANSPORTATION COMMITTEE TO LOOK INTO MATTER OF BUS ADVERTISING CONTRACTS AND REPORT BACK TO COUNCIL.

Councilmember Chafin asked before Council eliminates bus advertising per Mr. Kidd's memo of May 10 that this be placed on the agenda for discussion by Council.

Councilmember Leeper stated the Transportation Committee has looked into this and probably will be making some recommendation to the Council; they asked Mr. Kidd to give them some information on it. Councilmember Chafin stated that is fine as long as it comes back to Council before a decision is made.

Councilmember Trosch stated the Committee discussed this informally because it did not have a charge.

Motion was made by Councilmember Cox, seconded by Councilmember Dannelly, and carried unanimously to suspend the rules to allow the charge to be made to the Transportation Committee.

Councilmember Chafin moved that the Transportation Committee look into the matter of bus advertising contracts and report back to Council. The motion was seconded by Councilmember Frech, and carried unanimously.

GREETINGS EXTENDED TO MAYOR AND CITY COUNCIL FROM MAYOR OF CHARLESTON AND MAYOR OF SPOLETO, ITALY.

Councilmember Locke stated she had the opportunity this past weekend being in Charleston to speak to the Mayor and to the Mayor of Spoleto who sent his greetings to this Council, and said it was a pleasure to meet a woman council member as he has never had that pleasure before.

RULES SUSPENDED TO CONSIDER NON-AGENDA ITEM: PLANNING COMMISSION REQUESTED TO STUDY INDUSTRIAL PROPERTY BETWEEN EASTBROOK WOODS AND ORR ROAD FOR REZONING.

Councilmember Frech stated an item was left off the agenda which was a request for the Council to ask the Planning Commission to study the land on Orr Road between Eastbrook Woods.

She asked that this be placed on the agenda.

Motion was made by Councilmember Locke, seconded by Councilmember Trosch, and carried unanimously to suspend the rules to allow the item to be placed on the agenda.

Councilmember Frech moved that Council request the Planning Commission to study the industrial property between Eastbrook Woods and Orr Road for possible rezoning. The motion was seconded by Councilmember Locke, and carried unanimously.

PROPOSAL TO OBSERVE MECKLENBURG DECLARATION ON MAY 30 TO BE PLACED ON AGENDA FOR CONSIDERATION AT LATER TIME.

Councilmember Frech stated she has circulated a little statement about the Mecklenburg Resolves of May 31, 1775. She stated she has a reason for bringing this up at this point. That she is not particularly happy with being

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here today on May 30, which is a holiday for a lot of people; it is a holiday for her husband; he is vacationing and she would like to be with him.

She would like to propose to Council that we consider moving the celebration of Mecklenburg Declaration of Independence to whatever day Memorial Day is celebrated on; that Memorial Day is celebrated by many more people; the County has taken both last week and this week.

That this can be controversial; and the people need to know what is going on.

Mayor Harris stated the Mecklenburg Historical Society and their representatives and the rest of them, between 10 and 11, met at the front of the Courthouse on that day. He discussed with them, and they had no objections as long as the Mecklenburg Declaration of Independence is not hidden, or put away under the auspices of the National Memorial Day.

Councilmember Frech stated she would like to point out that our ancestors in Mecklenburg County took another extremely significant step. She would like for them to read it; that she wants to get them a copy of the actual resolves. What they did was an extremely brave and revolutionary action on May 31, 1775, which is well documented, and she does not like for that action to be lost. She thinks both are important, and she would like that one to be celebrated along with it.

She suggested it be placed on the agenda, and Council consider changing the date.

#### COMMENTS ON INVESTIGATION OF THE ANIMAL SHELTER.

Councilmember Frech stated she has talked to the Mayor and she understands now the Committee the Mayor has appointed does have full authority, authority delegated from him, to carry out an investigation of conditions at the animal shelter, so there is no need at this point to ask Council for further authority. The Committee will go ahead with the charge it was given. In view of what happened last week they will probably change their method of operations. She does not know whether the Manager wants to bring any report; or if they want to go on the way they are going, and wait for the Committee to report.

Mr. Burkhalter, City Manager, stated he is going to take action if the police come up with something without waiting for any report from anybody. If they find some people are guilty of some criminal action, they cannot wait for any report. He assumes when the criminal investigation is finished he should give it to Council. That he just hopes nothing the Committee does will interfere with that investigation.

Mayor Harris stated there are two different things. That Ms. Frech and her Committee has the power to go ahead and have the investigation. If she needs any funds for the investigation she will have to come to Council for that authority. The important thing is the area of the criminal investigation is not the area of the committee; that is a matter for the police department. They are doing their duty in that regard, and that is what Mr. Burkhalter is alluding to as far as any report. When they finish their report it is coming back to Council through the City Manager's office.

#### COMMENTS BY COUNCILMEMBER TROSCH.

Councilmember Trosch stated quite a few weeks ago Mr. Gantt requested the City Manager to bring back to Council his ideas and thoughts for the Planning Director. She would encourage him to bring this to them.

Mr. Burkhalter, City Manager, replied he has not rushed this at all; that he gathered from Council they wanted this process to proceed rather deliberately. That he told Mr. Gantt today he would send it to his Committee.

Councilmember Trosch stated she would like to invite every member of Council, Mr. Burkhalter, Mr. Underhill and Miss Armstrong to the Council Meeting in District 5 next week. Council will meet at 4:30 on the upper deck of Eastland Mall. From Eastland Mall they will go straight to Grayson Park. She stated

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she wanted to share with Council that they would be greeted at Grayson Park with a host and hostess from a respective neighborhood, who will serve as their hosts for the picnic; from there they will take a tour of the District 5 ending up at Eastland Mall with a reception in the Community Room.

There will be a picnic and a reception. Eastland Mall got very excited because Council was coming there too, and offered the refreshments.

Mayor Harris stated we all look forward to being with you, and expressed appreciation to her for all the preparations. Councilmember Trosch stated this is the Mayor's district; that she has also asked Neil Williams to attend as a special guest of the district

FORMAL PRESENTATION ON SOUTHPARK STUDY REQUESTED AT FUTURE MEETING.

Councilmember Selden stated there was a SouthPark Study received in the mail, and it was very interesting. He asked at the first opportunity when we do not have an overcrowded agenda, that Council have a formal presentation of the study.

RULES SUSPENDED IN ORDER TO CONSIDER NON-AGENDA ITEM.

Motion was made by Councilmember Chafin, seconded by Councilmember Trosch, and carried unanimously to suspend the rules in order to consider a non-agenda item.

PERMISSION GRANTED NORTHSIDE BAPTIST CHURCH TO HOLD A SKEET SHOOT.

Motion was made by Councilmember Cox, seconded by Councilmember Chafin to authorize the Northside Baptist Church to conduct a skeet shoot on their property on June 17, 1978 in accordance with the conditions spelled out in their letter to Council.

Councilmember Selden stated he found that the shooting of firearms on a case where this Council granted authority was both in a different month and a different hour from the authority Council granted. He thinks we should be very careful in seeing that the time and dates are followed.

The vote was taken on the motion and carried unanimously.

COMMENTS CONCERNING POLYGRAPH TESTS REQUIRED OF POLICE OFFICERS.

Councilmember Dannelly stated he understands, but does not know if it is true, that police officers when there is a problem or some concern relative to their not carrying out their duties, or violating some department rules, from time to time they may be asked or required to take a polygraph test. He asked if that is so? Mr. Burkhalter, City Manager, replied he is not sure, but he will check into this; they may be required to take them when they are employed. Councilmember Dannelly stated his question is whether or not that is required of all persons employed in the police force or whether it is just patrol officers.

Mr. Burkhalter stated he would check on this to be sure.

COMMENTS ON NEWLY ADOPTED APPOINTMENTS PROCEDURES.

Councilmember Frech stated now that the new procedure for appointments have been adopted, how will they proceed on the Planning Commission. That the procedures call for six weeks, and we are now four weeks from the expiration of those terms. Mayor Harris replied if they do not fill a seat by the time one expires.....Mr. Burkhalter stated that is the reason he asked them to amend the procedures; that he would suggest they follow the procedures.

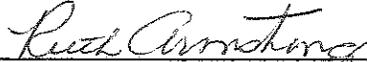
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Mayor Harris stated the main thing is they have resolved the procedures.

Councilmember Selden asked if it is possible to have the announcement today in order to save one week? Mayor Harris replied not with some members of Council absent.

ADJOURNMENT.

Upon motion of Councilmember Cox, seconded by Councilmember Locke, and carried unanimously, the meeting adjourned.

  
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Ruth Armstrong, City Clerk