

Mayor Patrick McCrory

Nancy Carter
Harold Cogdell, Jr.
Malcolm Graham
Don Lochman
James E. Mitchell, Jr.

Mayor Pro Tem Patrick De'Angelo Cannon

Patrick Mumford
Sara S. Spencer
John Tabor
Lynn Wheeler
Joe White

CITY COUNCIL MEETING

Tuesday, May 27, 2003

5:00 p.m.

Conference Center

**Dinner Briefing
(See Table of Contents)**

6:30 p.m.

Meeting Chamber

- **Invocation**
- **Pledge of Allegiance**
- **Citizens Forum**

7:00 p.m.

- **Awards and Recognitions**
- **Formal Business Meeting**

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5:00 P.M. DINNER BRIEFING CONFERENCE CENTER

1. Agreement with Ferebee Corporation to Relocate Asphalt Plant

Resources: Jeb Blackwell, Engineering and Property Management
Debra Campbell, Deputy Planning Director
Bob Hagemann, City Attorney's Office

Time: 25 minutes

Synopsis of Presentation:

Staff will review the following information on the proposed agreement with the Ferebee Corporation to relocate an asphalt plant from the Optimist Park neighborhood to city-owned land located on the I-85 Service Road.

- Description of the asphalt plant and its use
- Planning comments on the proposed site and a report on the community meeting
- Outline of the proposed agreement with the Ferebee Corporation

Future Action:

Council will consider the proposed agreement on tonight's agenda, item number 15 on page 19. Staff will continue to work on the development of a proposed site distance regulations for various usages, including asphalt plants.

2. Charlotte Arena Construction Manager Contract

Resources: Jim Schumacher, Engineering and Property Management
David Garner, Engineering and Property Management
Greg Gaskins, Finance

Time: 30 minutes

Synopsis of Presentation:

Construction Manager at Risk project services are selected on a qualifications basis in accordance with state statutes. Hunt Construction Group, in partnership with RJ Leeper Construction, was selected by the City Council on September 23, 2002.

As the Construction Manager, Hunt/Leeper is responsible for:

- Monitoring the design process for adherence to the project budget
- Scheduling and managing all phases of construction and the performance of all subcontractors in construction of the project
- Organizing the work into bid packages, conducting a public bidding process for each subcontract, and awarding the work to the lowest, responsive, responsible bidder
- Implementation of the project Small Business Opportunity Plan with a small business enterprise participation goal of 15 percent; and
- Substantial completion of the construction by November 1, 2005

The Construction Manager at Risk contract provides for a Guaranteed Maximum Price (GMP) to be established during the project as follows:

1. the aggregate value of all subcontracts awarded at the time of GMP;
2. an estimate of the value of subcontracts yet to be awarded;
3. the General Conditions cost of the Construction Manager;
4. a construction contingency calculated as 3 percent of 1, 2, and 3 above; and
5. the Construction Manager's fee, calculated as 3 percent of 1, 2, 3 and 4 above (to be a minimum of \$4,800,000.)

The GMP will be calculated and established after bids are received on approximately 70 percent of the work, or April 1, 2004, whichever is first.

Public agencies are exempt from sales and use taxes in the construction of public projects. However, the State's procedure requires that the taxes be paid as materials are purchased by contractors and then reimbursed to the City. For City projects, those funds are always returned to the individual projects accounts.

The arena project estimate does not include taxes, however, in accordance with the State procedure, the total encumbrance for Hunt and the subcontractors must include the taxes, estimated to be up to \$7,000,000. Therefore, the total project encumbrance must be \$165,500,000 + \$7,000,000, or \$172,500,000. As a result of quarterly reimbursements from the State to the project account, the actual, net cost will be no more than \$165,500,000.

Future Action:

Approval of the contract is on the Business Meeting agenda, item 22 on page 27.

3. Transportation Committee: South Tryon Bus Operations and Maintenance Center

Committee Chair: Sara Spencer

Resource: Keith Parker, Charlotte Area Transit System
Brad Miller, Charlotte Area Transit System

Time: 10 minutes

Synopsis of Presentation:

Staff will provide an informational update of the activities associated with the design and construction of the South Tryon Bus Operations and Maintenance Center. The presentation will include information about the design, functions, and role the new garage will play in the CATS system. Also, staff will update Council on their efforts to provide job opportunities to communities neighboring the new facility.

Future Action:

On July 27, 2003 Council will be asked to approve a Construction Contract for approximately \$35 million, as well as other contracts associated with the new facility.

**6:30 P.M. CITIZENS FORUM
MEETING CHAMBER**

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

CONSENT

- 4. Consent agenda items 17 through 35 may be considered in one motion except those items removed by a Council member. Items are removed by notifying the City Clerk before the meeting.**

PUBLIC HEARING

5. Public Hearing and Resolution to Close a Portion of Whitten Street between Kohler Avenue and Carter Avenue

Action: A. Conduct a public hearing to close a portion of Whitten Street between Kohler Avenue and Carter Avenue, and
B. Adopt a Resolution to Close.

Staff Resource: Scott Putnam, Transportation

Policy:

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

Explanation:

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

Petitioner:

Charlotte-Mecklenburg Housing Partnership – Patricia Garrett

Right-of-Way to be abandoned:

Whitten Street between Kohler Avenue and Carter Avenue

Location:

Located within the Druid Hills Neighborhood Association beginning from Carter Avenue continuing north approximately 280 feet to terminus at Kohler Avenue

Reason:

To incorporate the right-of-way into adjacent property owned by Charlotte-Mecklenburg Housing Partnership for the construction of a 63 unit multi-family senior facility

Notification:

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

Adjoining property owners

Robin Brooks – No objections

Ernest Wilson – No objections

Neighborhood/Business Associations

- McCrorey Heights–Oaklawn Association – No objections
- McCrorey Heights – No objections
- Lincoln Heights Neighborhood Association – No objections
- Greenville HOA & Resident Association – No objections
- Double Oaks Community Organization – No objections
- Druid Hills – No objections
- Oaklawn Community Improvement Organization – No objections

Private Utility Companies – No objections

City Departments –

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

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

Attachment 1

Map
Resolution

6. Public Hearing and Resolution to Close Carter Avenue between Whitten Street and Statesville Avenue

Action: A. Conduct a public hearing to close Carter Avenue between Whitten Street and Statesville Avenue, and
B. Adopt a Resolution to Close.

Staff Resource: Scott Putnam, Transportation

Policy:

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

Explanation:

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

Petitioner:

Charlotte-Mecklenburg Housing Partnership – Patricia Garrett

Right-of-Way to be abandoned:

Carter Avenue between Whitten Street and Statesville Avenue

Location:

Located within the Druid Hills Neighborhood Association beginning from Statesville Avenue continuing east approximately 558 feet to terminus at Whitten Street

Reason:

To incorporate the right-of-way into adjacent property owned by Charlotte-Mecklenburg Housing Partnership for the construction of a 63 unit multi-family senior facility

Notification:

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

Adjoining property owners

Adams Outdoor Advertising – No objections

William C. Douglas – No objections

William E. Eastridge – No objections

Neighborhood/Business Associations

McCrorey Heights–Oaklawn Association – No objections

McCrorey Heights – No objections

Lincoln Heights Neighborhood Association – No objections

Greenville HOA & Resident Association – No objections

Double Oaks Community Organization – No objections

Druid Hills – No objections

Oaklawn Community Improvement Organization – No objections

Private Utility Companies – No objectionsCity Departments –

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

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

Attachment 2

Map

Resolution

7. **Public Hearing and Resolution to Close a Portion of Galleria Boulevard and Sardis Crossing Drive**

Action: **A. Conduct a public hearing to close a portion of Galleria Boulevard and Sardis Crossing Drive, and**
B. Adopt a Resolution to Close.

Staff Resource: Scott Putnam, Transportation

Policy:

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

Explanation:

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

Background:

The developer is planning a development called Galleria Village Shopping Center that will require a portion of Galleria Boulevard and Sardis Crossing Drive to be realigned. The rezoning of this property was approved by City Council on October 23, 2002 from I-1 to CC. This development has been submitted to the Charlotte-Mecklenburg Planning Commission for review/approval. The Resolution to Close will state that the abandonment shall not be effective and the document may not be released for recording until the developer obtains a subdivision plan approval from the Charlotte-Mecklenburg Planning Commission and the right-of-way for the realigned portion of the unnamed street is conveyed/recorded. In the event that the developer fails to obtain the approval within one year, this conditional abandonment approval shall be void.

Petitioner:

Sardis-Monroe Road Investors/John Carmichael

Right-of-Way to be abandoned:

A portion of Galleria Boulevard and Sardis Crossing Drive

Location:

Located within the vicinity of Sardis Oaks Neighborhood Association

Galleria Boulevard: beginning approximately 321 feet from the intersection of Sardis Road North continuing approximately 1,200 feet southwestwardly to its terminus at the proposed intersection of new Galleria Boulevard and Sardis Crossing Drive

Sardis Crossing Drive: beginning from existing Galleria Boulevard continuing northeastwardly approximately 380 feet to a point of tangency with new Sardis Crossing Drive

Reason:

To incorporate the right-of-way into adjacent property owned by Sardis-Monroe Road Investors for the realignment of the relevant portions of Galleria Boulevard and Sardis Crossing Drive in order to construct the proposed Galleria Village Shopping Center

Notification:

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

Adjoining property owners

Alltel Mobile Communications of Carolinas Inc. – No objections
Garbison Enterprises, Inc. – No objections

Neighborhood/Business Associations

Newman Manor – No objections
Sardis Oaks HOA – No objections
Sardis Forest Homeowners – No objections
Benton Woods – No objections
Heritage Woods Neighborhood Association – No objections
Sardis by the Park (Sardis Woods) – No objections

Private Utility Companies – No objections. Easements are provided to utility companies to maintain their existing facilities as requested.

City Departments –

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

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

Attachment 3

Map
Resolution

8. Public Hearing on the FY2004 and FY2005 Operating Budgets and the FY2004-FY2008 Capital Investment Plan

Action: Receive public comment on the City Manager's recommended budget.

Staff Resource: Ruffin Hall, Budget & Evaluation

Explanation:

State law requires a public hearing be held following presentation of the Manager's recommended budget (May 12, 2003) and prior to Council adoption of the budget (June 23, 2003).

State law also requires that a public notice be published following presentation of the Manager's recommended budget and before the scheduled public hearing. The required public notice was published in local newspapers on May 15, 2003.

FY2004 Budget Summary:

The total recommended budget is \$1.39 billion with \$736.5 million for operating expenses and \$656.4 million for capital expenditures.

Revenues:

Significant revenues include:

- A property tax rate decrease of 4.7¢, from 46.7¢ to 42.0¢ per \$100 of property valuation for FY2004
- A water/sewer rate increase of 5.15%, a \$1.98 average monthly increase
- An increase in storm water fees of 7.5%, an average monthly variable rate increase from \$3.87 to \$4.16

Operating Budget

Reductions:

Continues \$10 million in budget reductions from FY2003 through the next two fiscal years. Additional decreases in the FY2004 operating budget total \$3.6 million and include:

- Hold vacant 10 police officer positions formerly assigned to Mint Hill
- Hold vacant 11 Police civilian positions (Communications and Animal Control)
- Delay hiring a position in Small Business Development
- Reduce non-critical maintenance/repair of Fire equipment
- Reduce funding for grounds and landscape maintenance
- Reduce traffic operations inventory of signage and pavement marking materials
- Hold positions in Planning that support preparation of rezoning materials
- Eliminate printing/ mailing of annual report

- Reduce printing, publishing, training, travel and general operating expenses

Increases:

Expansions in the operating budget include:

- Funding for the new Solid Waste Services west quadrant contractor, Inland Services Corporation
- Funding to offset the possible loss of “hold harmless” funds from the State in FY04. If the State distributes the “hold harmless” funds, the funding would transfer as a contribution to reserves in support of Council’s 16% fund balance policy
- Funding for disaster recovery preparedness and backup of the City’s critical data systems
- Operating expenses related to the new Trolley corridor. Expenses include landscape maintenance, garbage collection, and electricity for new lighting and irrigation systems.
- Funding is added in FY05 to the City’s contribution to the Arts & Science Council to fund the Children’s Theatre building maintenance expenses in their new facility.

Capital Budget

Municipal Debt-Funded

The recommended FY2004-FY2008 General Capital Investment Plan (CIP) includes \$264.8 million in debt financing; \$126.8 million in existing, approved debt and \$138.0 million in planned general government bond referendum scheduled for November 2004. Recommended uses of voter-approved general obligation bonds are as follows:

- \$68.0 million for Streets
- \$30.0 million for South Corridor infrastructure
- \$20.0 million for Affordable Housing
- \$15.0 million for Sidewalks, and
- \$ 5.0 million for Neighborhood Improvements

Pay-As-You-Go-Funded

The five-year FY2004-FY2008 CIP includes \$165.6 million in Pay-As-You-Go and current revenues, an \$8.7 million or 5% decrease over the current FY2003-2007 CIP.

FY04 Pay-As-You-Go revenues have decreased \$2.1 million or 5.9% over the current year (FY03) due to:

- Lower projected sales tax growth
- Lower automobile tax growth
- Much lower fund balances in Pay-As-You-Go and Capital Reserve. The decline in capital reserve is the result of moving the City’s fund balance policy from 10% to 16%, as well as an estimated current fund balance level below 16%.

Impacts from lower revenues are as follows:

- Elimination of the Transportation Connectivity project
- Reduction in the targeted annual appropriation to Smart Growth Land Acquisition project
- Elimination or reduction of seven projects beginning in FY2005, including Neighborhood Matching Grants, Small Area Plans, Neighborhood Traffic Calming (speed humps), Infrastructure Grants, Business Facades, Development and Revitalization Fund (DARF) Program and Median Improvements

The recommended five-year Pay-As-You-Go expenditures include:

- \$92.0 million for the City's Maintenance of Effort (MOE) contribution to Transit
- \$21.0 million for building and roof maintenance
- \$19.9 million for Innovative Housing
- \$9.8 million for Smart Growth land acquisition

Enterprise-Funded

Major Storm Water projects include:

- \$84.0 million for Neighborhood Flood Control Projects
- \$29.7 million for Repairs to the Existing Storm Water System
- \$22.9 million for Storm Water Channel Restoration

Major Water and Sewer projects include:

- \$50 million for Water and Sewer Line Rehabilitation
- \$41.3 million for Briar Creek Relief Sewer
- \$41.0 million for McAlpine Nutrient Reduction
- \$39.0 million for McDowell Waste Treatment Plant expansion

Major Aviation projects include:

- \$80.0 million for a New Third Parallel Runway
- \$71.5 million for continued expansion of Air Cargo Operations

Calendar

Upcoming City Council meetings concerning the budget are outlined as follows:

- June 4th: Final budget retreat
- June 11th: Adjustments to Manager's recommended budget
- June 18th: Straw votes on June 11th adjustments
- June 23rd: Budget adoption

ZONING

9. Zoning Petition 2002-143

Action: Consider a decision on petition 2002-143 by The Boulevard 2000, LLC to rezone approximately 1.2 acres located at the northwest corner of Selwyn Avenue and Hassell Place from O-2 and R-5 to UR-2(CD).

Staff Resource: Keith MacVean, Planning

Explanation:

The petitioner and the adjoining neighborhood requested a one week deferral of this petition so that the full Council could be present to make a decision. The City Council deferred this item from the May 19, 2003 Zoning Meeting to the May 27, 2003 Business Meeting.

Attachment 4

Zoning Committee Recommendation on Petition 2002-143

10. Zoning Petition 2003-022

Action: Consider a decision on petition 2003-022 by Crossman Communities, Inc. for a change in zoning from R-3 and Inst.(CD) to R-4(CD) on approximately 24.2 acres located on the east side of Perkins Road, south of Gibbon Road.

Staff Resource: Keith MacVean, Planning

Explanation:

A protest petition has been filed and is sufficient to invoke the 20% rule requiring affirmative votes of $\frac{3}{4}$ of the Mayor and Council, not excused from voting, in order to rezone the property.

This item was deferred from the May 19, 2003 Zoning Meeting because the full council was not present.

The Zoning Committee voted 5-1 to recommend deferral of this petition

Attachment 5

Zoning Committee Recommendation and Staff Analysis on Petition 2003-022

POLICY

11. City Manager's Report

12. Public Art Ordinance



Action: Adopt an ordinance amending Chapter 15 of the City Code:

A. Authorizing the allocation of funds for public art programs, and

B. Restructuring the Public Art Commission.

Staff Resource: Curt Walton, City Manager's Office
Jude Starrett, City Attorney's Office

Explanation:

Allocation of Funds

The City of Charlotte accepts responsibility for expanding the opportunity for its citizens to experience art in public places. To that end, the City adopted a resolution in 1993 that allocated up to 1% of the construction cost for capital projects for public art specific to that project. The funding allocation was negotiated on a project-by-project basis. Since 1993, 20 public art projects have been completed with an average percentage allocation of 0.96%.

The recommended ordinance directs that an amount equal to 1% of the construction costs of all eligible capital projects be provided for public art. Eligible projects include any capital improvement project with the exception of (1) those projects that have statutory, contractual or other legal restrictions that prohibit expenditures for artwork from all portions of the project funds, and (2) art in transit projects that are governed by the guidelines established by the Metropolitan Transit Commission for CATS' capital programs.

The ordinance reserves City Council's right to exclude certain projects from consideration as an eligible project or to limit the percentage of construction costs appropriated for artwork on an eligible project on a case-by-case basis.

Public Art Commission Structure

Under the 1993 Public Art Resolution, the Public Art Commission is comprised of 12 members, with six appointed each by the City Council and the County Commission. All are selected from persons nominated by either the Arts and Science Council or the Public Arts Commission. Appointees currently represent the following four categories:

	<u>City</u>	<u>County</u>
The Field of Education	1	2
Artistry/Architecture	2	1
Business	2	1
At Large	1	2

Under this proposed ordinance, the Public Art Commission will be comprised of no less than nine and no more than 12 members, three of which will be appointed by the City, three by the County, and the remainder by the Board of Directors of the Arts and Science Council. Two of the members appointed by the City shall be appointed by City Council and the Mayor shall appoint the other member. The members of the Commission shall be appointed as follows:

	<u>City</u>	<u>County</u>	<u>ASC</u>
Visual arts or design professionals			3
Representatives of the business sector	1	1	
Representatives of the education field	1	1	
Representatives of the community	1	1	

The Public Art Master Plan includes a recommendation that the public art program be expanded county wide. Expansion of the board to 12 members is to allow for possible membership from the six Mecklenburg County towns if additional public art ordinances are adopted in those communities. The Arts and Science Council Board of Directors, if and when appropriate, would appoint those representatives.

The ordinance becomes effective on July 1, 2003.

Funding:

1% for eligible projects will be included in the CIP beginning in FY2004.

Attachment 6

Public Art Ordinance

13. Storm Water Fee Rates

Action: Approve the Storm Water fee rates, effective July 1, 2003, for the Minor Drainage System in the City of Charlotte.

Staff Resource: Tim Richards, Engineering & Property Management

Explanation:

In accordance with the interlocal agreement on storm water services, this action will inform the County of the amount to be charged for the City's portion of the fee. The County Commission will take action on the fee at their

meeting on June 17, 2003, and the interlocal agreement requires City Council approval prior to County Commission action.

The following fee changes are proposed for FY04:

	FY03 Monthly Fee	FY04 Monthly Fee
Detached homes with less than 2,000 sf impervious area	\$2.63	\$2.83
Detached homes with 2,000 sf or more impervious area	\$3.87	\$4.16
Other residential or non-residential development per acre of impervious area	\$64.51	\$69.35

The current long-range plan for the storm water program includes annual increases in the City's storm water fee in order to pay debt service on bonds, which finance the ongoing response to new and backlogged citizen requests for service.

Storm Water Services plans to complete over 75 large, neighborhood-sized capital improvement projects requiring substantial system upgrades over the next 12 years. In addition, a significant backlog of lower priority system repair and channel erosion problems (up to 6000 service requests) will be addressed over the next 10 years. In 2001, Storm Water Services met its first 10 year service goal in only eight years by completing the backlog of high-priority service requests. The long-term plan includes an enhanced water quality program that responds to state and federal requirements as well as coordination with transit planning, schools, and parks.

The long-term programmatic and financial plan includes annual 7.5% fee increases through FY06 with progressively smaller increases thereafter. This plan meets the following financial goals:

- To meet debt service requirements for revenue bonds sold to address the backlog of citizen requests in a timely manner
- To have adequate pay-as-you-go funding in the capital program
- To limit and reduce debt service costs in the long term

The Charlotte-Mecklenburg Storm Water Advisory Committee (SWAC), which is charged with reviewing and commenting on the Storm Water budget annually prior to presentation to Council, recommends approval of the proposed long-range Storm Water program, the FY04 Storm Water budget, and the 7.5% fee increase. Their letter to City Manager Pam Syfert is attached.

In accordance with the interlocal agreement for storm water services, the City of Charlotte and Board of County Commissioners conducted a joint public hearing on changes to the City's portion of the storm water fee on May 20, 2003.

14. Commercial Non-Discrimination Ordinance



Action: Discuss the status of the Commercial-Non Discrimination Ordinance.

Staff Resources: Mac McCarley, City Attorney's Office
Vi Lyles, Assistant City Manager
Boyd Cauble, City Manager's Office

Explanation:

City Council adopted the Commercial Non-Discrimination Ordinance on September 23, 2002, contingent on the City obtaining legislative approval for the following two key provisions:

- a. Defining "discrimination" to include discrimination based on gender, age and disability, even though those types of discrimination may not be unlawful in the commercial context under existing state or federal law
- b. Providing that a business may be disqualified from participating in City contracts for a specified time if found by a third party arbitrator to have violated the Ordinance

This contingency was included on the advice of the City Attorney, in order to clarify the City's authority to adopt the Ordinance and thus avoid legal challenges.

Legislative Process Summary:

The City's Commercial Non-Discrimination Ordinance was presented to the Delegation and received mixed reviews. There was never a vote of the Delegation, but rather, Representative Cunningham assumed the role of reviewing the bill with key attorneys and legislative staff representing the Department of Commerce and the Attorney General's office. There was concern that Senate Bill 914 (S914), a statewide bill on MWBD programs adopted last year, might address the issues raised regarding non-discrimination. After considerable discussion and attempts to revise S914 in order to include the City's non-discrimination request, the subgroup, which consisted of Representatives Cunningham, McMahan, Alexander, Saunders, and Senator Clodfelter, agreed that a separate stand-alone request would be the only alternative.

Considerable opposition arose from various lobbying organizations representing the business and construction industry that was not included in

the discussions of Representative Cunningham's committee. The industry interests were instrumental in raising doubts and questions with the House and Senate committees to which the bill was assigned. Toward the end of deadline for local bills, the Senate Local Government Committee scheduled a hearing, but the bill was pulled because of lack of support by those committee members in attendance. The next week, the Chairman of the House State and Local Government Committee scheduled the bill for hearing. On the day prior to the committee meeting, the bill was pulled because of the controversial nature and the committee members' negative input. Since the City's request did not make the deadline for continued debate, it remains alive for consideration in the short session. The only constraint will be a requirement that the Delegation unanimously endorse submittal during the 2004 session.

The final version of the City's non-discrimination request was greatly enhanced by the work and time devoted to the Cunningham subcommittee and the questions raised by the committee staff and attorneys. The major objections, which concerned many members of the Legislature, were:

- The lack of examples of discrimination that occurs
- The definition of discrimination; are individual preferences for doing work with companies familiar with the prime contractors the main reason for not including new firms, both black and white?
- Frivolous lawsuits could ruin the reputation of good contractors who are falsely accused of discrimination.
- That the ordinance applied to discrimination in the private sector.

Finally, the one objection most commonly heard was that the courts were in place to determine discrimination and that a staff process, even with arbitrators, was considered an inadequate method for investigating and/or proving discrimination.

Discussion:

Not having the requested legislation leaves City Council with several possible courses of action, some of which may be undertaken concurrently.

1. Do nothing. One possibility would be to take no action. In that event the Ordinance would remain dormant with the continued potential that it goes into effect if the City were to obtain the requested legislation in the future.
2. Amend or revise. A second possibility would be to have the City Attorney's Office research possible options for implementing a commercial non-discrimination ordinance without special legislative authority. The areas where further research are required include: (a) options for defining discrimination, (b) the extent to which disqualification from participating in City contracts could be employed as a remedy, and (c) the legality of having the City conduct its own investigative process to determine whether discrimination occurred. This research would include an analysis

of the Orange County case referenced below, along with cases from other jurisdictions.

3. Rescind. A third possibility would be to rescind the Ordinance.
4. Try again. Another possibility would be to take no action now, and try to obtain the requested legislation at some point in the future. The Ordinance contains no deadline for obtaining the requested legislation. If the legislation were obtained at some point in the future, the Ordinance would become effective automatically on the thirtieth day following adoption of the legislation.

If this alternative were adopted, the City Attorney's Office recommends that further research be undertaken prior to embarking on a second request for legislative authority. A North Carolina Supreme Court decision issued on May 2, 2003 changed the legal landscape in this area somewhat by invalidating a local act authorizing Orange County to adopt a civil rights ordinance. While the City Attorney's Office believes that the Commercial Non-Discrimination Ordinance adopted by City Council is distinguishable from the civil rights ordinance adopted by Orange County, this case warrants further study and research prior to crafting any future legislation that might be presented. Additionally, staff understands that Orange County has submitted a request that the Court reconsider part of the opinion it rendered in that case.

15. **Agreement with Ferebee Corporation to Relocate Asphalt Plant**

Action: A. Approve a term sheet and authorize the City Manager to execute agreements with RealEstate Investment Corp., LLC, Ferebee Family Limited Partnership, Caldwell Street Partners, LLC, and Joseph B. Ferebee/Tiffany W. Ferebee that will result in the relocation of a proposed asphalt plant from the Optimist Park neighborhood to City-owned land located off of I-85 Service Road at the old landfill site, and

B. Adopt a budget ordinance appropriating sufficient funds for the relocation of the proposed asphalt plant.

Staff Resources:

Vi Lyles, Assistant City Manager
 Jeb Blackwell, Engineering and Property Management
 Debra Campbell, Planning
 Bob Hagemann, City Attorney's Office

Explanation:

On January 30, 2003 zoning and environmental permits were issued for an asphalt plant on a site located at 1005 North Davidson Street in the Optimist Park neighborhood. The property is currently zoned I-2 (heavy industrial). I-2 zoning permits uses such as asphalt plants. The proposed use is inconsistent with the land use recommendations in the *Optimist Park Plan* adopted by Council in March 2002. The plan calls for mixed use development at the proposed site.

The neighborhood attended several Council meetings and requested that the plant be moved to another site. Over the past several months, City staff has worked with Council and the property owner to consider alternative sites. Possible locations that were considered included the Graham Street area, Westinghouse/Arrowood area, and along the I-85 Service Road near the Statesville Avenue Landfill site. The I-85 Service Road/Landfill site was identified as the preferred site due to the following:

- Accessible to I-85 and I-77
- Located one-half mile from residential areas
- Natural separation from residential areas by I-85, I-85 Service Road, and the landfill
- Appropriate zoning in place
- Adjacent to other industrial uses
- Use does not conflict with any adopted land use plan for the site
- Limited or no traffic impacts and traffic would not be routed through any residential areas
- Limited or no environmental impacts

Description of Use:

The proposed facility will have a drum where asphalt is heated and mixed that is rated to produce up to 350 tons per hour. Typical actual production is 200 to 300 tons per hour depending on conditions. This will generate 20 to 30 trucks per hour total, taking material in and asphalt out. There will be three 50-foot tall towers to store asphalt until it is needed. The towers allow different asphalt products to be stored for use as needed. Different asphalt mixes are needed for different uses such as parking lots or different surface or base courses (layers) on road projects.

The drum operation is expected to have minimum impact on surrounding neighborhoods because the plant will use only natural gas or clean number two diesel oil which produce virtually no smoke.

The trucks will have a minimum impact on surrounding neighborhoods because the site is on the I-85 service road with easy access to Statesville Road and the interstate highways without use of neighborhood streets.

The towers are expected to have minimum impact on the surrounding neighborhood because there is a large setback from the road that is heavily

wooded and an even larger wooded buffer to the nearest residential properties which will provide a major visual barrier.

Proposed Agreement:

City staff and representatives of the owners of Optimist Park proposed asphalt plant property ("Ferebee") have negotiated a term sheet that would govern the relocation of the proposed asphalt plant.

The term sheet provides that Ferebee will:

- Convey to the City easements prohibiting the use of their Optimist Park land for an asphalt plant
- Agree not to protest or otherwise oppose a City-initiated rezoning of the Ferebee Land from I-2 to Mixed Use Development District
- Obtain a Zoning Land Use Permit for use of the Ferebee Land for outside storage thereby abandoning Ferebee's vested right in an asphalt plant
- Pay the City \$50,000 for title to the approximately 10 acre tract on I-85 Service Road

The term sheet states the City's obligations as follows:

- Pay \$242,500 for negative easements in Ferebee's Optimist Park land
- Initiate a rezoning of the Ferebee's Optimist Park land from I-2 to Mixed Use Development District
- Obtain a letter from the Zoning Administrator stating that the storage of equipment and materials on the Ferebee's Optimist Park land within designated areas will be a grandfathered non-conforming use
- Construct a driveway to provide access from the I-85 Service Road Site to I-85 Service Road
- Provide for the extension of water, sewer and electrical utilities to the I-85 Service Road Site
- Procure a methane gas monitoring study and implement any recommended mitigation
- Convey to Ferebee title to approximately 10 acres of the City-owned land off of I-85 Service Road and in the driveway corridor that connects the I-85 Service Road Site to I-85 Service Road
- Agree to indemnify and hold harmless Ferebee for environmental issues related to the landfill and for any existing environmental conditions of the I-85 Service Road Site property, and retain responsibility for any necessary remediation of existing hazardous/toxic materials at this site
- Grant Ferebee a right of entry to the I-85 Service Road Site to allow site preparation prior to conveyance of fee simple interest
- Work with Ferebee to fast track the I-85 Service Road Site permitting process

The proposed agreement is contingent on permitting of the I-85 Service Road Site and City Council's final approval of a private sale of the I-85 Service Road property (Note: Under the City Charter, notice of a proposed private sale must be published at least ten days before final Council approval. If

Council approves this agenda item, staff will advertise the proposed private sale for approval on the June 9, 2003 consent agenda.).

The financial terms of the proposed transaction are as follows:

Ferebee Relocation Costs:

- I-85 Service Road Site work equal to Optimist Park Site	\$436,000
- Office/lab at new site	50,000
- Environmental	16,000
- Legal fees	20,000
- Lost Profits	<u>325,000</u>
 Total Cost to Ferebee	 \$847,000
	=====

City Contribution:

- I-85 Service Road Site Current Value	\$194,500
Estimated Improvements	+ <u>460,000</u>
- I-85 Service Road Site Subtotal	\$654,500
 - Additional Cash Contribution Acquisition of Optimist Park Negative Easement	 \$242,500
* Sale Offset of I-85 Service Rd	- <u>50,000</u>
 Net City Cash Subtotal	 \$192,500
	=====
Total Net City Contribution	\$847,000

*Ferebee pays \$50,000 to lower capital gain liability.

Community Input:

A meeting was held with leaders of neighborhoods located near the I-85 Service Road site on Tuesday, May 13, 2003. A public meeting was held on Thursday, May 22, 2003 at Druid Hills Elementary School. These meetings included site visits to the I-85 Service Road site.

Attachment 7

- Fact Sheet
- Map of Optimist Park site
- Map of I-85 Service Road site
- Budget Ordinance

BUSINESS

16. Nominations to Boards and Commissions

Action: Nominate citizens to serve as specified.

A. PRIVATIZATION/COMPETITION COMMITTEE

One appointment beginning immediately and ending March 2005.
Road Ammons has moved out of State.

Attachment 8

Applications

Introduction to CONSENT

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

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

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

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

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

Contractors and Consultants

All contractors and consultants selections follow the Council approved process unless explained otherwise.

CONSENT I

17. Various Bids

A. Road Humps, FY2003

E&PM

Recommendation:

The City Engineer recommends the low bid of \$154,180 by Oliver Paving Company, Inc. of Charlotte, North Carolina. This contract is part of an on-going program to install traffic-calming road humps on various streets. The work includes traffic control; construction of approximately 90 plain asphalt road humps, and 15 road humps with textured and colored surfaces; providing and installing preformed pavement-marking symbols.

B. Bus Wash System Replacement**CATS**

Recommendation: The CATS Chief Executive Officer recommends the low bid of \$338,119 by Ross & White Company of Cary, Illinois. The bus wash system contains equipment necessary to provide a fully functioning system designed for the cleaning of the outer bus and undercarriage. The bus wash is located at the bus garage on North Davidson Street.

18. Resolution of Intent to Abandon Street and Set Public Hearing for Durwood Avenue between Kenilworth Avenue and Harding Place

Action: A. Adopt the Resolution of Intent to abandon Durwood Avenue between Kenilworth Avenue and Harding Place, and

B. Set a public hearing for June 23, 2003.

Attachment 9

Map

19. Resolution of Intent to Abandon Street and Set Public Hearing for 2nd Street between West Todd Lane and East Todd Lane

Action: A. Adopt the Resolution of Intent to abandon 2nd Street between West Todd Lane and East Todd Lane, and

B. Set a public hearing for June 23, 2003.

Attachment 10

Map

20. Refund of Property Taxes

Action: Adopt a resolution authorizing the refund of property taxes assessed through clerical or assessor error in the amount of \$5,300.29.

Attachment 11

Resolution

List of Refunds

21. In Rem Remedy

For In Rem Remedy #A the public purpose and policy are outlined here.

Public Purpose:

- Eliminate a blighting influence in a Communities Within A City neighborhood.
- Reduce the proportion of substandard housing.
- Increase tax value of property by making land available for potential infill housing development.

Policy:

- Communities Within A City
- Community Safety Plan

The In Rem Remedy items were initiated from 3 categories:

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

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

Field Observation

- A. 5420 Amity Place (Neighborhood Statistical Area 152)

Field Observation:

- A. **5420 Amity Place**

Action: Adopt an Ordinance authorizing the use of In Rem Repair to the structure at 5420 Amity Place located outside Communities Within A City.

Attachment 12

CONSENT II

22. New Arena Construction Manager Contract

Action: Approve a Construction Manager at Risk contract with Hunt Construction Group as follows: \$165,000,000 for construction costs, plus an allowance of \$7,000,000 for sales and use taxes on the construction that will be reimbursed by the State.

Staff Resource: Jim Schumacher, Engineering and Property Management
 Greg Gaskins, Finance
 David Garner, Engineering and Property Management

Explanation:

A. Construction Manager at Risk Contract

Construction Manager at Risk project services are selected on a qualifications basis in accordance with state statutes. Hunt Construction Group, in partnership with RJ Leeper Construction, was selected initially in May 2001 and re-confirmed by the City Council on September 23, 2002. As the Construction Manager, Hunt/Leeper is responsible for:

- Monitoring the design process for adherence to the project budget
- Scheduling and managing all phases of construction and the performance of all subcontractors in construction of the project
- Organizing the work into bid packages, conducting a public bidding process for each subcontract, and awarding the work to the lowest, responsive, responsible bidder
- Implementation of the project Small Business Opportunity Plan with a small business enterprise participation goal of 15 percent; and
- Substantial completion of the construction by November 1, 2005

The Construction Manager at Risk contract provides for a Guaranteed Maximum Price (GMP) to be established during the project as follows:

1. the aggregate value of all subcontracts awarded at the time of GMP;
2. an estimate of the value of subcontracts yet to be awarded;
3. the General Conditions cost of the Construction Manager;
4. a construction contingency calculated as 3 percent of 1, 2, and 3 above; and
5. the Construction Manager's fee, calculated as 3 percent of 1, 2, 3 and 4 above (to be a minimum of \$4,800,000.)

The GMP will be calculated and established after bids are received on approximately 70 percent of the work, or April 1, 2004, whichever is first. This allows the City, rather than the Construction Manager, to have direct control of the scope and investment and meet obligations to the team. Because there is a succession of bid packages, staff will have the ability to manage the scope, adding or deleting features in order to meet the project budget. The GMP cannot exceed \$165,500,000 + \$7,000,000 (see below) or \$172,500,000, without the approval of City Council.

B. Encumbrance for Sales and Use Taxes

Public agencies are exempt from sales and use taxes in the construction of public projects. However, the State's procedure requires that the taxes be paid as materials are purchased by contractors and then reimbursed to the City. For City projects, those funds are always returned to the individual projects accounts.

The arena project estimate does not include taxes, however, in accordance with the State procedure, the total encumbrance for Hunt and the subcontractors must include the taxes, estimated to be up to \$7,000,000. Therefore, the total project encumbrance must be \$172,500,000. As a result of quarterly reimbursements from the State to the project account, the actual, net cost will be no more than \$165,500,000.

The construction cost of \$165.5 million is also based on using an Owner's Comprehensive Insurance Program (OCIP). Insurance proposals have been requested during the week of May 19. Should the proposals indicate that an OCIP is not prudent, an addition to the Hunt contract amount for subcontractor insurance costs will be discussed during consideration of this contract award.

These contracts have been reviewed and approved by Engineering & Property Management and the City Attorney's office.

SBE:

Hunt/Leeper, in conjunction with Linda Lochman Brooks, has developed a Small Business Opportunity Plan with a SBE participation goal of 15 percent. The City Council endorsed this Plan on April 14, 2003.

Funding:

Economic Development Capital Investment Plan, Charlotte Arena Account

23. Union County Regional Transit Service Agreement

Action: Authorize the Chief Executive Officer of the Charlotte Area Transit System (CATS) to execute a three year reimbursement agreement with Union County, North Carolina to provide regional transit service between Charlotte and Union County. The estimated annual cost to the City is \$75,000, or 50% of the \$150,000 total annual operating cost.

Staff Resource: Keith Parker, Charlotte Area Transit System

Explanation:

To meet the current and future transit needs of the citizens of the greater Charlotte Metropolitan area, CATS has negotiated an agreement with Union County to provide transit services between Charlotte and Union County.

This agreement has been approved by the Union County Board of Commissioners. Union County will reimburse CATS 50 percent of the gross operating cost for the service. The annual operating costs are estimated not to exceed \$150,000. The agreement calls for CATS to retain all farebox revenue so the annual cost to the City will be less than \$75,000. Service is scheduled to begin on June 2, 2003.

Route #74x will serve Indian Trail, Stallings, Lake Park, Monroe, Wingate and Marshville. Park and Ride lots are planned for Wingate, Monroe and Indian Trail. The fares have been set at \$2 per trip rising to \$2.20 this fall when the fare increase is implemented. CATS will monitor this route using a performance monitoring system that continually analyzes both the cost efficiency and productivity of this route compared to other similar regional express routes.

This action authorizes the Chief Executive Officer of the Charlotte Area Transit System (CATS) to execute the agreement with Union County on behalf of the City and Council.

Funding:

In addition to the reimbursement funds from Union County, the service will be funded from CATS Operating funds.

24. Resolution to Ratify State Transit Assistance

Action: Adopt a resolution authorizing CATS CEO to submit and execute the State Full Funding Grant Agreement with North Carolina Department of Transportation for the South Corridor Light Rail Project providing for 25% funding for the project.

Staff Resource: Ron Tober, Charlotte Area Transit System

Explanation:

North Carolina law permits North Carolina Department of Transportation (NCDOT) to enter into State Full Funding Grant Agreement (SFFGA) with local project sponsors for major transit investment projects funded under the Federal "New Starts" program administered by the Federal Transit Administration. A SFFGA is subject to legislative appropriations and has terms and conditions modeled after the Federal Full Funding Grant Agreement. The SFFGA is tied to the existence of Federal and local funding for the project.

On April 14, 2003 City Council approved the SFFGA and authorized CATS CEO to negotiate and execute the SFFGA. This resolution will ratify that action and provide NCDOT with official legal documentation for awarding the SFFGA.

Attachment 13

Resolution

25. Sale of Old Convention Center

Action: Continue consideration of sale of the Old Convention Center from the advertised date of May 27, 2003 to June 9, 2003.

Staff Resource: Susanne Todd, City Attorney's Office

Explanation:

Arena Holdings, LLC made an offer to purchase the Old Convention Center property for \$14 million. The offer was advertised on April 27, 2003 stating, in part, that Council would consider accepting the offer at its May 27, 2003 meeting unless the offer was upset before May 8, 2003. No upset bids were received. Final documents are still being prepared. Therefore, staff requests that this matter be continued from the May 27th agenda and placed on the agenda for June 9, 2003.

26. Brookshire Boulevard (NC 16) Widening

Action: A. Adopt a budget ordinance appropriating \$650,000, and
B. Approve the low bid of \$1,892,432.19 by Sealand Contractors Corporation of Charlotte, North Carolina.

Staff Resource: Bette Frederick, Engineering and Property Management

Explanation:

This project is part of the City's 1998 Road Bond Package for State Road Projects and is located on Brookshire Boulevard from the ramps of Interstate 85 to 700 feet north of the intersection of North Dakota Street. The project will provide construction for the widening of Brookshire Boulevard from four through lanes to six through lanes. The work includes traffic control; erosion control; grading; drainage, water/sanitary sewer construction; concrete curb and gutter, sidewalk, drives and wheelchair ramps; asphalt pavement, pavement markings, retaining walls, and electrical conduit and pull boxes. The schedule for construction will be from summer 2003 through winter 2004.

The budget ordinance is necessary to cover additional costs incurred due to the following:

- NCDOT required the asphalt pavement to be SuperPave, which is superior performing asphalt pavement. The state mandated SuperPave on all state roads effective March 2003. SuperPave improves performance and durability of asphalt pavements by reducing rutting, thermal cracking, and fatigue cracking.
- NCDOT required channelized left turn lanes instead of a standard median opening at Crigler Street.
- NCDOT required the replacement of the overhead interstate sign structure at the interchange.
- NCDOT requested a more extensive storm drainage system than was originally anticipated.

The additional funding is available from the Statesville Avenue widening project, another 1998 bond project, due to favorable bids.

SBE:

Established SBE Goal: 9%

Committed SBE Goal: 1.2%

Sealand Contractors met the Good Faith Efforts.

Funding:

Transportation Capital Investment Plan

Attachment 14

Budget Ordinance

27. I-277/Independence Boulevard Intersection/Stonewall Intersection

Action: Approve an agreement for planning and preliminary design services for the Stonewall Streetscape Improvement Project with PBS&J for \$211,878.

Staff Resource:

Tim Greene, Engineering and Property Management

Explanation:

This project will provide pedestrian and automobile connectivity for the intersection of the I-277 off-ramp at Kenilworth Avenue and the realigned old Independence Boulevard at Stonewall Street. The project is part of the Stonewall Streetscape Improvements to make a more pedestrian friendly area by realigning the I-277 ramps, and installing sidewalks and planting strips. The intersection improvement to provide better access to the area is part of Planning Commission's Midtown Plan developed in the mid -1990's. These preliminary design services will develop a plan for review by the NCDOT and the Federal Highway Administration, who must approve the changes. This contract does not include final design work which will be added by amendment if the project goes forward.

The consultant for this project was selected using the Council-approved process.

Funding:

Transportation Capital Investment Plan

Attachment 15

Map

28. Myrtle/Morehead Storm Drainage Improvements

Action: Approve amendment #2 to the agreement for engineering services with Geoscience Group, Inc. (Geoscience) for \$163,836.

Staff Resource: Tim Richards, Engineering and Property Management

Explanation:

The City Council approved the original agreement for \$299,460 with Geoscience Group, Inc. in August 2000 to provide general planning phase services for the Storm Water Capital Investment Plan. In December 2001, the City Council approved Amendment #1 for \$59,152 to develop a special hydraulic model of Little Sugar Creek, the outlet of the Myrtle/Morehead drainage system. This amendment will complete the modeling and planning of the Myrtle/Morehead project and a culvert beneath Kenilworth Avenue. This contract may be amended for design and construction administration services.

Funding:

Storm Water Capital Investment Plan

29. Jefferson Storm Water Capital Improvement

Action: Approve amendment #1 for \$393,210 with W.K. Dickson for engineering planning services for the Jefferson Storm Water Capital Improvement Project.

Staff Resource: Tim Richards, Engineering and Property Management

Explanation:

The Jefferson Storm Water Capital Improvement project covers about 850 acres, and includes neighborhoods along Providence Road south of Fairview Road and Sardis Road. The project will analyze and consider improvements for 15 road culverts, nine ponds, and approximately 22,000 feet of stream channel, 18,000 feet of roadside ditch, and 12,500 feet of pipe system. Improvements may include culvert replacements; pipe system upgrades and channel improvements to alleviate existing house and road flooding and stream erosion, pond repairs and water quality improvements.

Due to the significant scope of this project, the original contract covered planning services related to surveying, analyzing existing conditions and public involvement, as approved by City Council on September 23, 2002. This first amendment covers the alternatives analysis and public involvement to complete the planning phase. Once planning is completed, a second amendment will cover design and bid services.

Funding:

Storm Water Capital Investment Plan

30. Water and Sewer Main Construction Street Main Extensions Renewal

Action: Approve renewal #3 for \$837,890.70 with R.H. Price, Incorporated for continued construction of FY02 Contract C water and sewer street main extensions.

Staff Resource: Doug Bean, Utilities

Explanation:
 This renewal will enable Utilities to continue construction throughout the City of Charlotte and Mecklenburg County for applicants who have requested water and sewer main street main extensions.

The contract document provides for renewal of the contract up to three times, at the City’s option, as an incentive to the contractor for productivity and workmanship. Renewal #3 will be the final renewal for this contract and the contract amount will increase to \$3,351,562.80. A summary of FY02 Contract C follows:

	Council Approval Date	Contract Amount
Original Contract	November 26, 2001	\$837,890.70
Renewal #1	June 10, 2002	\$837,890.70
Renewal #2	September 23, 2002	\$837,890.70
Renewal #3	May 27, 2003	\$837,890.70
Total Contract Amount		\$3,351,562.80

Small Business Opportunity:
 Established SBE Goal: 0%
 The SBO Program Manager set a 0% SBE utilization goal for this contract. Using the prescribed methodology, which included a comparison of SBE and non-SBE firms in the Metropolitan Statistical Area, subcontracting opportunities were set at 0%.

Funding:
 Water and Sewer Capital Investment Plan

31. US Airways Hangar Repairs

Action: Award a contract to C.A. Scism Construction Company of Midland, North Carolina for the low bid amount of \$149,200 for repairs to the US Airways Hangar.

Staff Resource: Jerry Orr, Aviation

Explanation:

This contract will provide for the demolition, removal, and replacement of the damaged metal wall panels on the heavy maintenance hangar.

Fire caused by the Air Midwest accident damaged some insulated metal panels on the US Airways hangar. Air Midwest's insurance carrier will reimburse the Airport for this expenditure.

SBE:

Bids for this project were received on February 18, 2003 prior to the initiation of the City's SBE program.

Funding:

Aviation Capital Investment Plan

32. Airport Concession Construction Contract

Action: A. Award a contract to Morlando-Holden Construction Company of Charlotte, NC in the amount of \$232,000 for the construction of the Cinnabon/Carvel concession on Concourse E,

B. Authorize the Aviation Director to execute an amendment to HMS Host's Concession agreement to add the Cinnabon/Carvel space to HMS Host's leased premises, and

C. Adopt a budget ordinance in the amount of \$232,000 from the Airport Discretionary Fund Balance to be repaid by HMS Host upon completion of the concession.

Staff Resource: Jerry Orr, Aviation

Explanation:

Concourse E, the Airport's regional concourse, opened in February 2002 and the Airport has developed a concession plan for the concourse. Currently, HMS Host, the Airport's master concessionaire, has a contract to operate all concessions on Concourses A, B, C, and D.

This project will upfit 700 square feet of space located on Concourse E for a Cinnabon/Carvel concession. Work includes the construction of kitchen and eating areas to include equipment, furniture, fixtures and finishes.

Upon completion of the construction, HMS Host's concession agreement will be amended to add this space to their lease. They will sub-lease this space to a qualified Disadvantage Business Enterprise (DBE) operator, who will reimburse the City for the construction costs.

The Airport Advisory Committee recommends this action.

Small Business Opportunity:

Established Goal: 15%

SBE Committed Goal: 12.66%

Morlando-Holden Construction Company complied with good faith efforts. They have committed 12.66% (\$29,360) of the total contract amount to SBE participation.

Funding:

In order to provide interim funding until permanent financing is secured, Airport Discretionary Fund Balance in the amount of \$232,000 will be appropriated. These funds will be replaced upon issuance of future General Airport Revenue Bonds. The bonds will be repaid from Airport concession revenue.

Attachment 16

Budget Ordinance

33. Aircraft Loading Bridge Purchase

Action: A. Acquire two used aircraft loading bridges from US Airways for \$130,000, and

B. Adopt a budget ordinance appropriating \$130,000 from the Airport Discretionary Fund Balance to be repaid from proceeds of future General Airport Revenue Bonds.

Staff Resource: Jerry Orr, Aviation

Explanation:

The loading bridges located at Gates C3 and C6 are approximately 21 years old. The bridge at Gate C3 needs to be replaced because it will not service the new Airbus aircraft used by US Airways. The bridge at Gate C6 has suffered a mechanical failure and is inoperable. A new bridge would cost \$400,000 and would take 12 weeks to acquire.

US Airways owns two surplus loading bridges currently located in Kansas City. The Airport has had the bridges appraised by an independent contractor and wishes to acquire the two loading bridges from US Airways for \$65,000 each and install them on Gates C3 and C6.

The Airport's investment will be recovered through rental fees for use of the bridges.

The Airport Advisory Committee recommends this action.

Funding:

In order to provide interim funding until permanent financing is secured, Airport Discretionary Fund Balance in the amount of \$130,000 will be appropriated. These funds will be replaced upon issuance of future General Airport Revenue Bonds. The bonds will be repaid from airline rental fees.

Attachment 17

Budget Ordinance

34. Property Transactions

Action: Approve the following property acquisitions (A-D) and adopt the condemnation resolutions (E-G).

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

Acquisitions:

- A. Project:** Hickory Grove Road Widening, Parcel # 11,
Owner(s): Jill C. Millard and Charles E. Abernathy
Property Address: 5301 Hickory Grove Road
Property to be acquired: 3,924 sq.ft. (0.091 ac.) of Fee Simple, plus 1,970 sq.ft. (0.045 ac.) of existing right-of-way, plus 253 sq.ft. (0.006 ac.) of Permanent Utility Easement, plus 1,130 sq.ft. (0.026 ac.) of Temporary Construction Easement
Improvements: None
Purchase Price: \$12,450
Remarks: This acquisition is required for the Hickory Grove Road Widening Project. Compensation was based on an independent, certified appraisal and an appraisal review.
Zoned: R-3
Use: Residential
Tax Code: 099-271-12
Total Parcel Tax Value: \$105,700
- B. Project:** Foxcroft/Ferncliff Storm Water CIP, Parcel # 11,
Owner(s): Ralph H. Falls, III and Wife, Nancy Babb Falls
Property Address: 3415 Foxcroft Road
Property to be acquired: 4,571 sq.ft. (0.105 ac.) of Permanent Sidewalk Easement plus 1,267 sq.ft. (0.029 ac.) of Temporary Construction Easement
Improvements: Landscaping
Purchase Price: \$26,000
Remarks: This acquisition is required for the Foxcroft/Ferncliff Storm Water CIP. Compensation was established by the project manager for replacement of landscaping.
Zoned: R-3
Use: Single Family Residential

Tax Code: 181-172-02
Total Parcel Tax Value: \$580,540

- C. Project:** Central Avenue Streetscape-Phase III, Parcel # 334 and 335,
Owner(s): Exxon Corporation
Property Address: 3415 and 3721 Central Avenue
Property to be acquired: 861 sq.ft. (0.020 ac.) of Permanent Easement plus 2,207 sq.ft. (0.051 ac.) of Temporary Construction Easement
Improvements: None
Purchase Price: \$13,000
Remarks: This acquisition is required for the Central Avenue Streetscape-Phase III Project. Compensation was based on an independent, certified appraisal and an appraisal review.
Zoned: B-1
Use: Gas Station
Tax Code: 095-132-37 and 095-132-38
Total Parcel Tax Value: \$401,630
- D. Project:** Edwards Branch Watershed Improvements, Parcel #4,
Owner(s): Herbert K. Cook and Wife, Mary E. Cook
Property Address: 1101 Tarrington Avenue
Property to be acquired: 13,971 sq.ft. (0.032 ac.) of Storm Drainage/Conservation Easement plus 4,425 sq.ft. (0.101 ac.) of Temporary Construction Easement
Improvements: Storage Building, carport and pad, deck, landscaping
Purchase Price: \$17,300
Remarks: This acquisition is required for the Edwards Branch Watershed Improvements Project. Compensation was based on independent, certified appraisals in the area.
Zoned: R-4
Use: Residential
Tax Code: 131-115-03
Total Parcel Tax Value: \$110,990

Condemnations

- E. Project:** Graham Street Improvements, Parcel # 4,
Owner(s): North Graham Properties, LLC and any other Parties of Interest
Property Address: 1100 North Graham Street
Property to be acquired: 14,383 sq.ft. (0.330 ac.) of Permanent Fee Simple Right-of-Way plus Permanent Utility Easement and Temporary Construction Easement
Improvements: Asphalt and concrete paving, and fencing, sign
Purchase Price: \$127,000

Remarks: This acquisition is required for the Graham Street Improvements Project. Compensation was established by an independent, certified appraisal and appraisal review. City Staff has yet to reach a negotiated settlement with the property owner.

Zoned: I-2

Use: Warehouse/Industrial

Tax Code: 078-111-03

Total Parcel Tax Value: \$738,320

- F. Project:** Central Avenue Streetscape-Phase III, Parcel # 321,
Owner(s): Barbee Investments Associates, A North Carolina General Partnership and any other Parties of Interest
Property Address: 3111 Central Avenue
Property to be acquired: 19,642 sq.ft. (0.451 ac.) of Fee Simple plus Permanent Easement and Temporary Construction Easement
Improvements: Landscaping, Sign, Two Lights
Purchase Price: \$23,000
Remarks: This acquisition is required for the Central Avenue Streetscape-Phase III Project. Compensation was established by an independent, certified appraisal and an appraisal review. City Staff has yet to reach a negotiated settlement with the property owner.
Zoned: R-22MF
Use: Apartment
Tax Code: 095-123-30
Total Parcel Tax Value: \$3,283,070
- G. Project:** 2001 Annexation US Highway 29 Area Sewer Line Extension, Parcel # 13,
Owner(s): The Tiny Ware, LP and any other Parties of Interest
Property Address: 11844 US Highway 29
Property to be acquired: 1,247 sq.ft. (0.029 ac.) of Permanent Easement plus Temporary Construction Easement
Improvements: None
Purchase Price: \$250
Remarks: This acquisition is required to extend sewer service for the 2001 Annexation US Highway 29 Area Water and Sewer Project. Compensation was established by an independent, certified appraisal and an appraisal review. City Staff has yet to reach a negotiated settlement with the property owner.
Zoned: B-1
Use: Commercial
Tax Code: 051-411-02
Total Parcel Tax Value: \$176,400

35. Meeting Minutes

Action: Approve the titles, motions and votes reflected in the Clerk's record as the minutes of:

- **April 14, 2003 Business Meeting**
- **April 21, 2003 Zoning Meeting**
- **April 23, 2003 Budget Retreat**