AGENDA

Meeting Type:	B
Date	11-26-1990
SUBJECT	

City of Charlotte, City Clerk's Office

CHARLOTTE

Council Agenda

November 26, 1990

FILE COPY

CHARLOTTE

Meetings in November '90

THE WEEK OF NOVEMBER 1 - NOVEMBER 3

No meetings are scheduled for this week

THE WEEK OF NOVEMBER 4 - NOVEMBER 10

5	Monday, 12 Noon	**PLANNING COMMISSION/Work Session** - CMGC, 8th Floor Conference Room
	Monday, 5 00 p m	**CITY COUNCIL WORKSHOP** - CMGC, Meeting Chamber
7	Wednesday, 4 00 p m	**AIRPORT ADVISORY COMMITTEE/Proposed Southwest District Plan** - Charlotte/Douglas International Airport, Conference Room A
	Wednesday, 6 00 p m	**YOUTH INVOLVEMENT COUNCIL** CMGC, Conference Center
8	Thursday, 8 00 a m	**CHARLOTTE CHAMBER INTRACITY VISIT**- CMGC, Meeting Chamber

THE WEEK OF NOVEMBER 11 - NOVEMBER 17

12	Monday	**VETERANS' DAY** - All City Offices Closed
	Monday, 7 30 p m	**HISTORIC LANDMARKS COMMISSION** - 1221 S Caldwell Street
13	Tuesday, 7 30 a m	**POLITICAL CONSOLIDATION STUDY COMMISSION** - CMGC, Conference Center
	Tuesday, 8 00 a m	**AIRPORT ADVISORY COMMITTEE** - Charlotte/Douglas International Airport, Conference Room A
	Tuesday, 4 00 p m	**PLANNING COMMISSION/Planning Committee** - CMGC, 8th Floor Conference Room
	Tuesday, 6 00 p m	**COUNCIL/MANAGER DINNER** CMGC, Meeting Chamber Conference Room
	Tuesday, 6 30 p m	**CITIZENS HEARING** - CMGC, Meeting Chamber (Televised Channel 32)
	Tuesday, 7 00 p m	**CITY COUNCIL MEETING** - CMGC, Meeting Chamber (Televised Channel 32)
14	Wednesday, 8 00 a m	**CLEAN CITY COMMITTEE** - CMGC, Room 270
	Wednesday, 8 30 a m	**CIVIL SERVICE BOARD** CMGC, 7th Floor Conference Room
	Wednesday, 9 30 a m	**CIVIL SERVICE HEARING** - CMGC, Rooms 270-271
	Wednesday, 2 30 p m	**CHARLOTTE-MECKLENBURG ART COMMISSION/Executive Committee** - CMGC, 8th Floor Conference Room
	Wednesday, 4 00 p m	**HISTORIC DISTRICT COMMISSION** - CMGC, 8th Floor Conference Room
15	Thursday, 7 00 p m	**CHARLOTTE TREE ADVISORY COMMISSION** - CMGC, Room 270
16	Friday, 11 30 a m	**CHARLOTTE-MECKLENBURG ART COMMISSION/WTVI Ribbon Cutting, "Transmission of Light" Dedication** - WTVI, 42 Coliseum Drive
16 17	Friday/Saturday	**CITY COUNCIL RETREAT** - Park Hotel, 2200 Rexford Road

(CONTINUED ON BACK)

Public Service And Information Department

600 East Fourth Street

Charlotte NC 28202 2861

704/336-2395

THE WEEK OF NOVEMBER 18 - NOVEMBER 24

19	Monday, 5 00 p m	**COUNCIL/MANAGER DINNER** - CMGC, Meeting Chamber Conference Room
	Monday, 6 00 p m	**CITY COUNCIL/Zoning Hearing** - CMGC, Meeting Chamber
20	Tuesday, 12 Noon	**CITY COUNCIL/COUNTY COMMISSION/SCHOOL BOARD LUNCHEON** - CMGC, Conference Center
	Tuesday, 2 00 p m	**HOUSING AUTHORITY** - Sunridge Apartments, 4005 Sunridge Lane
	Tuesday, 3 30 p m	**PLANNING COMMISSION/Executive Committee** CMGC, 8th Floor Conference Room
	Tuesday, 6 00 p m	**CHARLOTTE ADVISORY PARKS COMMITTEE** - CMGC, Conference Center
22	Thursday	**THANKSGIVING HOLIDAY** - All City Offices Closed

THE WEEK OF NOVEMBER 25 - NOVEMBER 30

26	Monday, 1 00 p m	**COUNCIL/MANAGER LUNCHEON** - CMGC, Meeting Chamber Conference Room
	Monday, 2 00 p m	**CITIZENS HEARING** - CMGC, Meeting Chamber (Televised Channel 32)
	Monday, 2 30 p m	**CITY COUNCIL MEETING** - CMGC, Meeting Chamber (Televised Channel 32)
	Monday, 4 30 p m	**PLANNING COMMISSION/Zoning Committee** - CMGC, 8th Floor Conference Room
27	Tuesday, 7 30 a m	**POLITICAL CONSOLIDATION STUDY COMMISSION** - CMGC, Conference Center
	Tuesday, 10 30 a m	**AUDITORIUM-COLISEUM-CONVENTION CENTER AUTHORITY** - Charlotte Convention Center, 101 South College Street, VIP-B Conference Room
	Tuesday, 2 00 p m	**CITY ZONING BOARD OF ADJUSTMENT** - Hal Marshall Building, Building Standards Training Room, 700 North Tryon Street
	Tuesday, 4 00 p m	**PLANNING COMMISSION/Planning Committee** - CMGC, 8th Floor Conference Room
28	Wednesday, 7 45 a m	**PRIVATE INDUSTRY COUNCIL** - CMGC, Conference Center
	Wednesday, 2 30 p m	**CHARLOTTE-MECKLENBURG ART COMMISSION/Executive Committee** - CMGC, 8th Floor Conference Room
29	Thursday, 5 00 p m	**CHARLOTTE-MECKLENBURG ART COMMISSION** - CMGC, 10th Floor Conference Room
30	Friday, 7 30 a m	**PLANNING LIAISON COMMITTEE** CMGC, 8th Floor Conference Room

These organizations will <u>not</u> meet in November
Community Facilities Committee
Housing Appeals Board

November 26, 1990 City Council Agenda
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CHARLOTTE

Mayor Sue Myrick	Mayor Pro Tem Cynthia Patterson
Stanley M Campbell	Hoyle H Martin
Daniel G Clodfelter	Roy Matthews
Ann Hammond	Ella Butler Scarborough
Pat McCrory	Richard Vinroot
Tom Mangum	Lynn M Wheeler

Council Agenda

Monday, November 26, 1990

4:00 PM	Stormwater Briefing, Rm. 267
5:00 PM	Council-Manager Dinner
5:15 PM	. Advisory Committee on CMUD Policies
6:30 PM	Citizens Hearing
7:00 PM	Council Meeting

ITEM NO.

1. Invocation.

VOTE ON CONSENT ITEMS

2. Agenda items 15 through 28 may be considered in one motion except for those items removed from the consent agenda as a result of a Council member making such a request of the City Clerk prior to the meeting.

POLICY

3. Recommend approval of changes to the City Charter related to the Civil Service Board to be included in the 1991 legislative package as proposed by the committee to review the Civil Service Board.

Civil Service Board Review

On March 26 City Council appointed a committee to review the City's Civil Service Board. The committee was charged with responsibility to review the Civil Service Board in the following areas:

1. Evaluate current Board functions including hiring, firing, disciplinary actions, approval of promotions and authority to conduct investigations in personnel matters of the Fire and Police Departments.

2. Consider whether these functions shall be continued as presently authorized, whether these functions should be modified, or whether any of the functions should be eliminated.

3. Consider whether the Civil Service Board should be continued and identify revisions needed in the City Charter to accommodate the recommendations to the City Council regarding the future of the Civil Service Board. The committee was composed of eight persons; two Fire Department employees, two Police Department employees, two members of the Civil Service Board, and two citizens, one of whom served as Chairperson.

Recommendations

The committee's report is attached. The committee recommends the continuation of the Civil Service Board with the following changes or modifications in its function:

1. Amend the City Charter to authorize the Chief of the Police Department and the Chief of the Fire Department, in conjunction with the City Personnel Department, to employ personnel for entry level police officers and entry level fire fighter positions subject to final approval by the Civil Service Board. The Civil Service Board would be restricted to hiring only those applicants recommended by the Chief.

   . The Charter presently gives the Civil Service Board responsibility for hiring uniform Police and Fire employees. However, over the past several years, the City Personnel Department and the Civil Service Board have had an agreement that the Personnel Department would recruit Police and Fire employees and make recommendations to the Board.

2. Amend the City Charter to authorize the Chief of the Police Department and the Chief of the

Fire Department, in conjunction with the Personnel Department, to promote personnel to the positions of Police Sergeant, Police Captain, Police Major, Fire Fighter--Engineer, Fire Captain, and Battalion Fire Chief. The department shall be required to notify the Civil Service Board of each promotion. Promotion of Assistant Police Chiefs, Police Commanders, Assistant Fire Chiefs and Division Fire Chiefs shall be made without notifying the Civil Service Board. The Board would have authority to request information or an investigation if the promotion process or a particular promotion appears to be unfair.

- The Charter currently provides for the two Chiefs to recommend promotions of uniform police and fire personnel for Board approval. Under the current reading, the Board is responsible for the promotion of police and fire personnel.

3. Amend the City Charter to clarify the terms "officer or employee" or "officer" as used in the Charter to refer to Police Officers in the Police Department and uniformed fire personnel in the Fire Department.

   - The current language is misleading and seems to imply all personnel including civilian personnel.

4. Amend the City Charter to authorize the Chief of the Police Department and the Chief of the Fire Department or a designee of either Chief to suspend, terminate, or demote an officer or employee. An officer or employee who has been suspended, terminated, or demoted shall be verbally informed by his/her immediate supervisor and informed in writing by the department of the action taken to suspend, terminate, or demote, the basis for the action taken, and the facts supporting the action; and information on his/her right of appeal to the Civil Service Board. The Civil Service Board shall be authorized to hear appeals from Police and Fire employees on such disciplinary action taken by the department. However, such hearing shall not

be automatic but shall be upon written appeal made to the Board by the affected employee.

. Under the current procedures, the Civil Service Board is authorized to hear and determine all disciplinary matters except certain suspensions of less than 30 days. In suspensions of less than 30 days, Police and Fire employees may appeal their case to the Civil Service Board for a hearing.

5. Amend the City Charter to authorize the Civil Service Board to request of the City Manager an investigation of any incident or circumstance involving officers of such department which shall come to the Board's attention. The City Manager shall submit his report to the Civil Service Board as prescribed.

. Under the present procedures, the Civil Service Board may require the Chief of Police or Fire Departments to conduct such an investigation.

Committee Input

The committee to review the Civil Service Board had input from the Police Department and the Fire Department employees through the Police and Fire representatives on the committee. The chairman of the committee also requested that the chairman of the Civil Service Board, who was a member of the committee, report the work of the committee to the Civil Service Board to keep them informed on the committee's recommendations. In addition, on one occasion, a former member of the Civil Service Board appeared before the committee and a current member appeared before the committee.

The City Manager's Recommendations

The City Manager would prefer that he have final authority in matters of grievances. However, considering the work of the committee, he recommends approval of the committee's recommendations.

Clearances

City Attorney, Personnel Department, Police Department, Fire Department and City Manager's Office.

Attachment No. 1

4. Discussion to select a method for handling rezoning petitions.

Rezoning Process

Over the past several years, the rezoning process has become a significant consumer of time for City Council. As the process has become more time consuming and detail oriented, there have been discussions among various interested parties of alternative procedures for the processing of rezoning requests.

The alternatives to current practice have all revolved around the Planning Commission assuming at least some of the responsibility for conducting the public hearings.

Options

Listed below are several options for Council's consideration and discussion. Also provided are the number of City 1990 rezoning petitions and text amendments that would have been heard by City Council or Planning Commission based on the various options. Except for Option E, all other options would require enabling legislation adopted by the General Assembly.

Option A - City Council would conduct the public hearing and render decisions on "major" rezoning petitions, such as large shopping centers, large residential developments or where the proposal is inconsistent with an adopted plan. Planning Commission would hold hearings and render the decision on "minor" petitions. The zoning ordinance would need to identify "major" and "minor".

To date, there have been 91 City rezoning petitions and text amendments submitted for consideration during 1990. Of these 91 petitions, 9 have sought the B-1SCD district. Therefore, under option A, City Council would have conducted the public hearing on at least these 9 petitions and Planning Commission would have conducted the 82 remaining public hearings. These numbers would change depending upon the uses or districts targeted as "major" or "minor".

Option B - Planning Commission would conduct all public hearings on rezoning petitions. The Planning Commission recommendation would then be forwarded to City Council, as well as minutes from the public hearing, for decision by City Council.

Under Option B, Planning Commission would have conducted the public hearing on each of the 91 City rezoning petitions and text amendments. City Council would, therefore, render 91 decisions.

Option C - Planning Commission would conduct all public hearings on rezoning petitions. Those petitions that result in unanimous votes by Planning Commission would not proceed further to City Council. Unanimous decisions by Planning Commission would be final. However, all petitions resulting in a split vote are forwarded along with minutes from the hearing, to City Council for the final decision.

There were 26 petitions thus far in 1990 that resulted in a split vote by Planning Commission. Therefore, under Option C, Planning Commission would have conducted each of the 91 public hearings, and rendered decisions on the 65 cases that resulted in a unanimous vote. The 26 petitions not resulting in a unanimous vote would have been referred to and decided upon by City Council.

Option D - Planning Commission would conduct all public hearings on rezoning petitions and also be vested with the decision making. However, any interested party could appeal the Planning Commission's decision to City Council.

Under Option D, Planning Commission would have conducted each of the 91 hearings and rendered the decision on each petition.

Option E - Leave current process in place.

5. Recommend approval of the Finance Committee's unanimous recommendation to seek legislation to change the penalty rate on the Business Privilege License Tax (BPLT) from 5% to 2 1/2%; give a one-year credit to taxpayers who were penalized within the past three years; and to supplement current notification efforts.

Council Action

The Operations Committee unanimously recommends that the Council take three actions with regard to the Business Privilege License Tax (BPLT):

1. Increase communication efforts to taxpayers through a program of mail and media to be developed by PS&I. Part of this program would specifically target annexed areas and new businesses. This program would be a supplement to communications efforts already being conducted by the County License Tax Division. The estimated cost is $7,500.00.

2. Lower the penalty rate on all future violators from 5% per month to 2 1/2% per month beginning after July 1, 1991 (if legislation is adopted by that time).

3. For taxpayers who were assessed penalties between July 1, 1988 and June 30, 1991 have the City Attorney draft legislation to allow a credit in the first feasible tax year (FY92 and FY93) by computing the penalty as if it had accumulated at 2 1/2% and allowing a taxpayer to apply for a credit of up to his tax liability in the year of the credit.

Finance Committee

On November 7, 1990 the Council Finance and Long Range Funding Committee met for the third time to consider methods by which businesses were informed of the BPLT and the penalties that were imposed for failure to pay this tax on time. The November 7 executive summary minutes are attached. At the earlier meeting there was some evidence that in spite of attempts to notify taxpayers of this tax and their legal obligation to make themselves familiar with it, some new businesses and newly annexed businesses were not adequately informed.

The committee investigated methods to better notify businesses of the BPLT obligation. The committee emphasized finding a way to equitably provide some credit relief for businesses that might not have had notice of the BPLT, but they sought a credit method that would be practical and not cost so much in administrative effort as to make it burdensome or harmful to the program. They were influenced by information that the County was looking at a penalty reduction on occupancy taxes in the 2% range.

In order to understand the problem and potential solution the committee considered two illustrations. Attachment A illustrates a $2,000 maximum taxpayer who has not paid for three years and who was discovered at the end of the third year. This shows the highest tax ($6,000) and penalty ($7,200) that can be paid under the current program.

Attachment B illustrates the committee recommendation for a $2,000 taxpayer who does not pay for three years. This recommendation reduces the penalty rate for all future violators from 5% to 2 1/2% per month. The credit is determined by calculating the taxpayer's penalty at the new rate and subtracting from the penalty paid. This alternative would give a one year tax delinquent a $600 credit and a three year delinquent a potential $3,600 credit. The committee recommends that the credit be limited to the tax liability in the year the credit is given ($2,000 in our example) in order to reduce the administrative burden and cost.

Impact

The impact of this action is anticipated to be revenue neutral. Enhanced media/communication efforts should increase revenue which should offset a reduced penalty rate.

Attachment No. 2

6. Consideration and adoption of the City's 1991 Legislative Program.

Attached is a memorandum from the City Attorney containing the suggested program with revisions to reflect those actions taken by the Council during the November 13 briefing and the Council retreat.

Attachment No. 3

7. Consider removal of the segment of Independence Pointe Road Extension between Monroe and Weddington Roads from the Thoroughfare Plan and to direct the City's representative to the Metropolitan Planning Organization (MPO) concerning that thoroughfare's removal.

Council Action

Council is requested to consider the removal of the proposed Independence Pointe Road Extension between Monroe Road and Weddington Road from the Thoroughfare Plan and to provide direction for the City's representative to the MPO when a vote is taken on November 28 regarding Thoroughfare Plan amendment. There will be a brief presentation at the Council meeting.

Advance information on this item was sent to Council in the November 9 Council-Manager memorandum. The Technical Coordinating Committee will discuss the roadway's needs on November 21. We will advise Council of the TCC's response in the November 23 Council-Manager memorandum.

Indep. Pointe Road Extension

Independence Pointe Road Extension is a minor thoroughfare which was added to the Thoroughfare Plan on November 30, 1988. The thoroughfare was included as part of the completely-revised, countywide Thoroughfare Plan developed during the 2005 Transportation Plan.

The thoroughfare would be constructed within a 70-foot right-of-way. A two-lane roadway with sidewalks and planting areas would be located within the right-of-way and turn lanes would be located at intersecting streets. Attachment 1 is a map of the two alignments developed for this roadway in 1989. No homes are taken by either of the preliminary alignments for this roadway. The proposed thoroughfare is located completely within Matthews' corporate limits or sphere-of-influence.

The Independence Pointe Road Extension was added to the Thoroughfare Plan in November 1988 because the proposed minor thoroughfare will:

- Serve short east-west trips between neighborhoods north of the Outer Loop
- Provide access from these neighborhoods north of the Outer Loop to the major and minor radial thoroughfares (Weddington Road, Pleasant Plains Road, and Monroe Road)
- Improve access from Matthews neighborhoods to the commercial areas along and north of the Matthews-Mint Hill Road.
- Provide additional local traffic capacity in south Matthews.

Projected traffic demand along Independence Pointe Road Extension varies among the different roadway segments. Using the revised population projections developed by the Planning Department and used in the Sardis Road/Weddington Road Connector analysis, CDOT projects the following traffic volumes:

3,000- 4,000 vehicles per day (Weddington Road to Pleasant Plains Road)
7,000- 8,000 vehicles per day (Pleasant Plains Road to Monroe Road)
9,000-10,000 vehicles per day (Monroe Road to Matthews-Mint Hill Road).

A chronology of events related to this thoroughfare follows:

July 27, 1988	The Town of Matthews requests addition of Independence Pointe Road Extension to the Thoroughfare Plan. Attachment 2 is a copy of Mayor Shawn Lemmond's letter to Mecklenburg County Engineering.
Nov. 30, 1988	The Metropolitan Planning Organization adopts the new countywide Thoroughfare Plan which includes Independence Pointe Road Extension.
May 8, 1989	The Town of Matthews adopts the 1988 Thoroughfare Plan. There is discussion among Board members on the need for and impacts of Independence Pointe Road Extension.

July 24, 1989	County Engineering presents possible alignments for Independence Pointe Road Extension to the Matthews Board of Commissioners. Although there continues to be some concerns over impacts of the roadway, County Engineering prepares for a public meeting (which is never held) to review various alignments.
October 9, 1989	Matthews Board of Commissioners votes unanimously to direct their MPO delegate to request MPO consideration for removing Independence Pointe Road Extension between Monroe and Weddington Roads from the Thoroughfare Plan.
Sept. 7, 1990	MPO Chairman Troy Pollard receives a letter from Wachovia Bank and Trust explaining problems presented by Independence Pointe Road Extension on the development of a 39-acre tract located on Pleasant Plains Road. The location of this property is shown on Attachment 1. Attachment 3 is a copy of the request for discussing this road's need at the September 19 MPO meeting.
Nov. 1, 1990	Matthews Town Manager Barry Webb outlines the Town's reasons for thoroughfare removal in a letter to the Chairman of the Technical Coordinating Committee (TCC). Attachment 4 is a copy of this correspondence.

Attachment No. 4

8. Recommend adoption of an ordinance amending Chapter 2 of the City Code by establishing a new section entitled Open Meetings as unanimously approved by the Operations Committee.

Open Meetings Ordinance

The attached memorandum from the City Attorney summarizes the proposed open meetings ordinance. Key points are:

(A) Requires meetings of four or more elected officials and another party to be open to the public.

(B) Requires meetings between the Mayor or Mayor Pro Tem with the Chairman or Vice Chairman of the County Commission and another party to be open to the public.

(C) Generally requires advance notice of the meeting described in (A) and (B).

(D) Ordinance would not apply to meetings to discuss a subject for which a public body could hold an executive session.

(E) Spells out penalties for violation of the ordinance.

(F) Requires minutes be kept of all executive sessions except on personnel matters and release of those minutes once Council determines no legitimate reason exists to keep minutes confidential.

(G) Requires Council review of ordinance at end of one year.

Effective Date

As noted in the City Attorney's memorandum, the ordinance as written would become effective upon its adoption. However, Council may wish to consider delaying the effective date in order to allow some time for those affected to become familiar with its terms and its implementation. The recently adopted Mecklenburg County policy becomes effective December 1, 1990.

Executive summaries of the October 2 and August 8, 1990 Operations Committee meetings are attached.

Attachment No. 5

9. Recommend approval of a recommendation of the Planning and Public Works Committee and adopt a budget ordinance for $51,442 to add staff to administer the Tree Ordinance.

Council Action

Council is requested to approve the recommendations made by the Planning and Public Works Committee regarding administration of the City's Tree Ordinance. The recommendations are:

1. Tree Ordinance Requirements: No changes to the Tree Ordinance are recommended.

2. Level of Service for Plan Review and Reinspection:

   A. Plan review activities - One staff activity (presubmittal site visits with the developer/owner) is recommended for elimination to reduce the amount of time required for processing a building permit.

   B. Reinspection - The committee recommends that staff reinspect at least ten percent of sites after one, two, and five years with the goal of reviewing more than ten percent as staffing allows.

3. Workload:

   A. Due to the downturn in the economy and reduced construction activity in the City, projections for staffing have been revised to reflect a 25 percent reduction in the number of building permits received.

   B. Review of Redevelopment Sites - No change is recommended to the existing guideline that determines which redevelopment sites must come into compliance with the Tree Ordinance. The existing guideline calls for Tree Ordinance staff to review plans for renovations or building additions which add over 1,000 square feet or more than five percent of the existing building area.

   Without the reduced workload projection and elimination of staff activity, the staffing recommendation would have been for three additional full time positions to administer the tree ordinance.

Staff Requirements

These recommendations result in the following staffing requirements:

* One full-time position is recommended to supplement the existing staff. Even with the projected economic downturn, the additional position is required in order to meet the service levels as recommended above.

* A temporary position is recommended to allow the Tree Ordinance staff to reinspect more than ten percent of sites after one, two, and five years.

The Tree Commission was involved in the committee's review and responded to the different enforcement strategies. The commission agrees with all recommendations except for the staffing level for reinspection. The Tree Commission's position calls for staff to reinspect 100 percent of all sites after one year, 50 percent after two years, and 10 percent after five years.

Funding

The cost of one additional full-time position and a temporary position totals $51,442 for the remainder of FY91. The committee received information on different options for increasing the fee and funding the positions from contingency. These options are attached. The staff recommended increasing the fee from $145 to $200 this year and covering the balance of cost from General Fund Contingency.

General Fund Contingency (balance: $169,178)	$43,192
User Fees	$ 8,250
Total	$51,442

To meet City Council's policy of 80 percent cost recovery, the user fee would need to be set at $290.00. We are recommending that we do not increase the fee to the 80 percent cost recovery level at this time because of the large one-time increase which would be required and the Committee's recommendation for staff to look at changing the current flat fee to a graduated-fee scale. Under a graduated-fee scale, an individual

developing or redeveloping large tracts of land would pay a higher user fee than an individual developing or redeveloping a small parcel of land. The change to a graduated-fee scale will be developed by Engineering and presented as part of the FY92-93 budget.

The committee also recommended that fines should be significantly increased from their current levels to discourage developers from violating the Tree Ordinance. Engineering staff is currently reviewing changes to fines for Tree Ordinance violations. These will be presented for Council's consideration in January, 1991.

Background

On August 27, 1990, Council was asked to select from four staffing alternatives to administer the City's Tree Ordinance. City Council referred the action to the Planning and Public Works Committee. The Planning and Public Works Committee reviewed the requirements of the Tree Ordinance and the activities performed by the Tree Ordinance staff and discussed different strategies for enforcing the Tree Ordinance.

To assist the committee, Internal Consulting provided an overview of their evaluation of the Tree Ordinance and presented alternative strategies for enforcing the Tree Ordinance. As discussed by the committee, the staffing required to administer the Tree Ordinance is dependent primarily on three factors:

1. The tree planting and tree preservation requirements as stated in the Tree Ordinance.

2. The level of service provided for plan review and reinspection.

3. The number of plans to be reviewed (workload).

The committee reviewed changes to the above factors in determining the appropriate staffing levels to administer the Tree Ordinance.

Clearances

Engineering and Budget and Evaluation.

Attachment No. 6

10. Accept recommendations from the Advisory Committee on Charlotte-Mecklenburg Utility Department Policies and request the City Manager develop a staff response and/or an implementation plan for each recommendation.

Council Action: Council is requested to accept the recommendations of the Advisory Committee on Charlotte-Mecklenburg Utility Department Policies and to request the City Manager to develop a staff response and/or an implementation plan for each recommendation.

Committee Recommendations: The committee's eight recommendations are summarized as follows:

1. Amend the street main extension policy such that CMUD installs, at CMUD expense, requested street main extensions for "single-family residential dwellings previously served by other water and sewer systems."

2. Implement a financial assistance program to assist homeowners in financing tapping privilege fees and connection charges.

3. Pursue state approval to delegate permit issuing authority to CMUD for extensions which will be operated as part of the CMUD system.

4. Evaluate the need for a project coordinator which would provide for the developer, property owner, and contractor a central contact for questions about projects.

5. Establish a working group with CMUD staff and representatives from the development community.

6. Review and investigate actions which would facilitate the design and construction of water and sewer lines to the CMUD system (six separate actions are proposed by the committee).

7. Pursue actions to formalize the process available and criteria used to establish and change materials specifications.

8. Maintain a citizens advisory committee for CMUD but change the composition and size of the committee and amend its roles and responsibilities.

The recommendations and committee report will be presented at the briefing prior to the Council meeting. City staff has been involved in the development of all committee recommendations and agrees with the intent of each recommendation.

The committee continues to discuss one remaining issue, long-range planning for wastewater treatment plant capacity. When the committee concludes its review of this issue, any recommendation will be brought to City Council.

Advisory Committee on CMUD Policies

On March 26, 1990, Council approved the 13-member Advisory Committee on CMUD Policies. Attached is a list of the members of the Advisory committee. The committee's charge was approved as follows:

To assist the City Council and City Manager in the review of the Charlotte-Mecklenburg Utility Department policies by:

1. Soliciting developer and other customer feedback about the policies and services administered by CMUD;

2. Reviewing existing extension and other related utility policies;

3. Reviewing how the policies are interpreted, implemented, and enforced by CMUD staff and if they are consistent and equitable;

4. Identifying potential changes to existing utility policies;

5. Recommending to City Council changes to existing policies, including the perceived benefits (financial or otherwise) and the potential impact on water and sewer rates;

6. Reviewing the charge and function of the Community Facilities Committee in order to recommend to City Council and the County Commission how or if the Committee should function on a permanent basis.

Since April, the Committee has:

- mailed over 800 questionnaires to developers, engineers, contractors, neighborhood associations, and consultants and received over 80 responses to the questionnaires,

- held a public input meeting to receive input on CMUD,

- defined six areas which needed reviewing,

- established sub-committees to further discuss the six areas, and

- developed recommendations for City Council's consideration.

Funding

No funds are required at this time. Implementation of some of the recommendations may require additional staffing and funding. The City Manager's staff response and implementation plan will detail additional staffing and funding requirements and is scheduled to be presented to Council in mid-January.

Attachment No. 7

BUSINESS

11. Consider request from Mr. William G. Allen, Jr. to lease the old Coliseum.

Old Coliseum

In response to the need to provide an economic stimulus to the Independence Boulevard corridor, Council released a Request for Proposals on April 20, 1990 to reopen the old Charlotte Coliseum. The D. H. Phillips Group submitted the only response and was instructed to refine the proposal with regard to minimizing public financial investment, addressing the parking issue with Ovens Auditorium, and providing a plan to minimize competition with the new Coliseum.

Hockey Franchise

During the past few months, Mr. William G. Allen, Jr. has been working with the Phillips Group in hopes of opening the old Coliseum to accommodate his newly acquired minor league hockey franchise. Although the Phillips Group continues to seek

financing to implement their proposal, they have given Mr. Allen permission to seek his own deal for reopening the old building and, furthermore, have agreed to cooperate in providing parking for the old Coliseum if Mr. Allen's proposal is implemented.

Council Action

Mr. Allen is requesting Council authorize staff to negotiate with him a triple net lease for the old Coliseum. His request is based upon the need to have the building under his control prior to spending money to verify the physical condition of the building. Also, he believes that the lease is necessary to sell investors on the merits of opening the old Coliseum. A copy of Mr. Allen's proposal is attached.

Lease

Lease information:

- The length of the lease is 30 years with an option to renew for two additional 10 year periods.
- Mr. Allen would advance the first year's guaranteed rent of $20,000 after the contract is executed.
- If during the first year the physical investigation of the building discloses that improvements would significantly exceed $3 million, Mr. Allen could terminate the lease and be refunded his $20,000 deposit. If, however, he is unable to raise investment capital or otherwise fails to renovate the building, the $20,000 would be non-refundable.
- The triple net lease requires Mr. Allen to make all improvements, pay all operating costs, maintain the building, and escrow adequate funds for future long-term improvements.

Pros and Cons of Allen Proposal

Pros:

- The old building has the potential to improve the economic vitality of the Independence Boulevard corridor.

- The Authority does not wish to risk capital investment necessary to bring the building back. The Allen proposal will spend up to $3 million in non-public dollars to reopen the building.

- Hockey and other events will become available for citizens of our region.

- The public good of economic development, physical redevelopment, and job creation through reopening the old building could be accomplished by a private entrepreneur - Mr. Bill Allen.

Cons:

- The public sector loses control of a public facility for a 50 year period. There are no provisions for quality control, level of services, management policy, etc.

- The old building could drain revenues from the new Coliseum through direct competition for the 8,000 person events.

- There could be potential coordination problems with Ovens if parking, scheduling, utilities, and other operational issues are not resolved prior to a final lease.

- The financial details of the proposal do not adequately address the City share of profits if the Coliseum is very successful.

Options

The following options are for Council's consideration:

Option 1: Open the RFP process for anyone wishing to once again respond to Council's Request for Proposals to reopen the old Coliseum.

Option 2: Continue to wait for the Phillips Group to secure financing and submit a refined proposal to the City.

Option 3: Accept the Bill Allen proposal and request staff to negotiate a lease following the general terms of Mr. Allen's proposal and any additional Council instructions.

Funding: None of the above options require City funding.

Clearances: City Manager's Office, City Attorney's Office, and City Finance Office.

Attachment No. 8

12. Action relating to the Park at The Square.

Preliminary information on this item was sent to Council in the November 14 Council-Manager memorandum. Details are still being worked out, and the agenda item will be sent to Council in the Friday, November 23, Council-Manager memorandum.

13. Recommend approval of a contract with Carolina Transit Service for $77,170 for operating express bus services to the Arrowood Industrial Park and Carowinds.

This item was deferred at the November 13, 1990 Council meeting.

Contract: The City's present one-year contract with Executive Transportation Services, Inc. for operating express bus services to Arrowood Industrial Park and Carowinds ends on November 30. A Request for Proposal (RFP) to operate the services was mailed on September 6 to 15 companies.

Carolina Transit Services of Charlotte submitted the only response to the RFP on October 4.

Recommendation: CDOT recommends contract award to the company because:

1) Carolina Transit performed satisfactorily when the company operated the Arrowood and Carowinds routes between June and November 1989. The City received no complaints from transit passengers, Arrowood employers, or Carowinds management.

12. Recommend adoption of a resolution approving a lease with the Virginia Retirement System for a one foot strip of City property along the side of the First Southeastern Center.

Park at The Square

In the early 1980's, property was acquired at The Square for constructing a public park. During the park conceptualization process, the Council selected an option requiring demolition of several buildings located on the property. When these buildings were demolished, an unsightly portion of the First Southeastern Center's wall was exposed. For several years the City has attempted to get the owner of the building to improve this wall.

- The building was recently acquired by the Virginia Retirement System (VRS) which has agreed to spend in excess of $100,000 to improve the facade in return for the use of a small portion of park property to construct and maintain the new facade.

- There is no room to add the new facade unless it is permitted to extend into the park.

- No more than a one foot strip will be required along the side of the First Southeastern Center.

- Monetary consideration for use of park property is nominal in light of the substantial cost in constructing the facade and the resulting benefits to the park.

- Use of this narrow strip for the facade will not adversely affect the design or use of the park and will greatly enhance the park's appearance.

- No funds are included in the Plaza Park project budget for improvement to the wall at City expense.

In addition to facade improvements, VRS also proposes to renovate interior space for food service use with up to two doors onto the Park and make other improvements to the property. One door will be constructed in conjunction with the facade improvements and the other door will be installed at a later date. Renovations to the building and construction of the facade will also include windows at the second floor level. The general concept proposed by VRS has been approved by Planning staff. The final design of the facade, including its appearance, must receive City approval prior to construction. As part of that approval the park designer's comments will be considered.

Council Action

Council is requested to approve a long term lease with VRS of a narrow strip of the park site which will contain the new facade. Council is also requested to authorize the City Manager to negotiate and execute a second agreement with VRS which will permit the temporary use of a portion of the park site for construction of the facade. The portion of the park needed for construction purposes includes the area not currently developed for park purposes plus a small portion of the park site adjacent to the Interstate Tower. This agreement will be similar to the agreement reached with the contractor who built the Interstate Tower, with the exception that the term of the agreement will be much shorter and there will be no substantial monetary consideration for the temporary use of the park, unless VRS does not complete its work in a timely manner. The construction period has not been finalized, but is anticipated to begin in December and end in March or April of 1991. This timetable will delay construction of the park by one or two months. Staff feels the delay to be justified considering the resulting benefit to the park.

Lease

The more significant provisions of the proposed lease are as follows:

- Lease of one foot strip adjacent to the First Southeastern Center.

- 50 year initial term with renewals up to 99 years, if the First Southeastern Center and facade are maintained in reasonably good condition.

- Construction and maintenance of the facade is the sole expense of VRS.
- Monetary consideration of $50.00
- Lease terminates if First Southeastern Center is demolished or a majority of the Park Site is no longer used as a Park.
- City Approval of facade required.
- Up to two doors into the Park to access food service.

Clearances Engineering, Planning and Legal staff have participated in preparation of the agreement and recommend its approval.

2) Carolina Transit Service's cost proposal is competitive when compared to the estimated cost for Charlotte Transit System's operation of these two routes. Although Carolina Transit's proposal of $77,170 is higher than Executive Transportation's 1989-90 annual cost of $56,100, it reflects the operation of full-size buses and higher capital costs than Executive Transportation's equipment.

Carolinas Transit's proposal also is higher than Executive Transportation's 1989-90 cost because it reflects fuel prices which have increased 100 percent between August 1989 and September 1990. As requested by Carolina Transit, the proposed contract will include provisions for adjusting the daily charge for route operation for each $0.05 change (up or down) in the price per gallon of diesel fuel.

3) Carolina Transit Services is certified with the City as a woman-owned business (M/WBE).

Ridership

During the 1990 Carowinds season (March-October), approximately 7,800 passengers used the Carowinds service for commuting to and from summer jobs at the theme park. Average ridership of 12 passengers per trip (70 riders per day) compares favorably with patronage figures for five of Charlotte Transit's 11 express routes. Frequently, the number of riders to Carowinds has exceeded the seat capacity of 22 on the vehicles used by the previous contractor. The proposed contractor will be 40-passenger buses to meet ridership needs.

Operation of this transportation service has been the key factor in increasing the Employment and Training Department's placement of youth workers at Carowinds. To illustrate the impact of this service, during the Summer of 1990, 130 youth were placed at Carowinds. Prior to the introduction of this service in 1986, less than 5 youths were placed.

Over the past year, average daily ridership on the Arrowood route has been 40 passengers (10 riders per trip). Patronage has been as high as 50 riders per day during certain months as several new companies which employ inner-City workers have moved to the Arrowood area. Continued operation of the Arrowood route is considered the most cost-effective way of providing this vital transportation service and will enhance the Employment and Training Department's efforts to place additional workers at the Arrowood Industrial Park.

Funding	Transportation Fund	60%	$46,302
	Fare Box Revenues	20%	$15,434
	Employment and Training Department's Contribution to Transportation Fund	20%	$15,434

It is estimated that the Employment and Training Department's contribution combined with farebox revenues will total 40% of the total cost of the service. The Employment and Training Department allocates $100,000 annually in support of Transportation services for job training.

Clearances CDOT, Employment and Training, Budget and Evaluation, and Purchasing.

14. These contracts were deferred at the November 13, 1990 Council Meeting. Additional information that Council requested will be sent in the Friday, November 23, Council-Manager memorandum.

The following are five engineering services contracts for projects that Council approved in the 1991-95 Capital Improvement Program.

The projects are: Area Plan Capital Improvements, Business Corridor Revitalization, Neighborhood Reinvestment, Minor Intersections Improvements, Sidewalk Construction, and Storm Drainage Improvements.

We recommend these contracts due to current staffing levels in order to keep implementation of the CIP projects on schedule. Work covered by these contracts includes planning, project design, subsoil testing, land acquisition, bidding, construction administration, and construction inspection.

Each contract is recommended by a selection committee made up of representatives from several City departments.

A. Recommend approval of an agreement with HDR Engineering, Inc. of North Carolina for $200,000.00 to provide engineering services for the Area Plan Capital Improvements Program.

The Area Plan Capital Improvements Program provides for roads, sidewalks, storm drainage, and landscaping improvements in Council-approved community plans.

HDR will begin design on three areas - Beatties Ford Road, Chantilly/Commonwealth area, and Greenville Neighborhood area. Additional project locations may be added at a later date.

Funding Area Plan Capital Improvements Capital Account.

B. Recommend approval of an agreement with GNA Design Associates (GNA) for $250,000.00 to provide engineering and landscape architectural services for the Business Corridor Revitalization Program.

The Business Corridor Revitalization Program provides for sidewalks, street trees, medians, curb and gutter, lighting, seating, and a reduction of overhead wires in depressed business corridors in an effort to stimulate private investments.

The six business corridors to be improved are: Wilkinson Boulevard, South Boulevard (Dilworth), North Tryon Corridor, Beatties Ford Road, West Morehead Area, and Plaza/Central.

GNA, in a previous agreement, has completed irrigation and landscape plans for the demonstration area from Old Steele Creek Road to Ashley Road for the Wilkinson Boulevard Corridor Improvement Project.

In addition to the Wilkinson Boulevard project, GNA will also begin work on two other corridor projects: the Beatties Ford Road and the Plaza/Central Business Corridors. The limits to the Beatties Ford Road business corridor are from I-77 to I-85. The number one priority on the Beatties Ford Road corridor project is the redesign of the Five Points Intersection. GNA will prepare a streetscape plan for the area that will tie the intersection with the rest of the Beatties Ford Road corridor improvement plan. The intersection will serve as the demonstration

area for the Beatties Ford Road corridor. For the Plaza/Central Corridor, GNA will prepare design plans for the entire business corridor, from the railroad tracks on Central Avenue to Nandina Street.

Funding Business Corridor Revitalization Capital Account. The cost for the traffic improvement design at the Five Points intersection will be reimbursed by the Minor Intersection Improvement Capital Account.

C. Recommend approval of an agreement with HDR Engineering, Inc. of North Carolina for $200,000.00 to provide engineering services for the Neighborhood Reinvestment Program.

The Neighborhood Reinvestment Program provides for new or reconstructed infrastructure in areas of the City where substandard or no infrastructure exists (e.g., sidewalks, curb and gutter, street trees, neighborhood parks, and storm drainage).

On October 1, 1990, the City Manager approved a $47,000.00 contract with HDR to begin design of improvements in the Belmont Neighborhood. This agreement with HDR will cover the cost for completing the design plans and for bid phase services for the Belmont neighborhood improvements. Additional neighborhood projects such as Druid Hills and Severville/Smallwood could be added later depending on scheduling requirements.

Funding Neighborhood Reinvestment Capital Account.

D. Recommend approval of two agreements with Presnell Associates, Inc.: an agreement for $200,000.00 to provide engineering services for the Sidewalk Program and, (2) an agreement for $100,000.00 for program engineering services for the Minor Intersection Improvement Program.

The Sidewalk Program provides for the engineering, design, and construction of new sidewalks along thoroughfares and major collector streets. The program also constructs high priority residential sidewalks where the requested sidewalks qualify under a requirement of at least a 75% citizen approval along the proposed route.

The Minor Intersection Improvement Program provides for relatively low cost intersection improvements to problem intersections. The program provides a relatively quick response to problems with congestion, safety, and air quality.

The Engineering Department has provided a list of priority sidewalk locations for the consultant to begin engineering, design, and construction administration. The Department of Transportation has compiled a list of 12 intersection locations. The consultant will recommend to the City how best to proceed in order to design and construct as many of the projects as possible.

Funding Minor Intersection Improvement Capital Account and the Sidewalk Program.

E. Recommend approval of an agreement with Espey, Huston & Associates, Inc. (EHA) for $150,000.00 to provide program engineering services for the Storm Drainage Improvement Program.

The Storm Drainage Improvement Program provides for the reconstruction of major storm drainage problem areas within the public right-of-way. Storm drainage repairs usually entail the upgrade of an existing culvert system that is undersized, and can include the replacement of a pipe system and construction of catch basins.

The Engineering Department has selected the Linda Lake and Village Lake Dam projects for the EHA to begin design. On August 27, 1990, Council approved funding these dam projects through the Storm Drainage Improvement Program. Future dam and/or culvert projects could be added to these two projects at a later date.

Funding Storm Drainage Improvement Capital Account.

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CONSENT

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BUDGET ORDINANCE

15. Recommend adoption of a budget ordinance to advance $465,000 to the Browne Road and DeArmon Road Water Main Construction projects until 1990 water bonds are issued.

Bond Referendum — Funds of $700,000 were approved in the November, 1990 bond referendum for construction of water main extensions along Browne Road and DeArmon Road. In order to award the construction bid for these projects which follows in the bid section, it is necessary to advance funding until the bonds are issued. Total project cost is estimated to be $535,000.

Due to the lower than estimated bid price along with existing account balances, only $465,000 of the $700,000 authorization will be required.

Funding — Funds are to be transferred from the Water and Sewer Unappropriated Operating Fund Balance. They will be replaced when bonds are issued.

Clearances — Utility Director.

BID LIST

16. Recommend adoption of the bid list as shown. The following contract awards are all low bid and within budget estimate unless otherwise noted. Each project or purchase was authorized in the annual budget.

A. Optimist Park Project, Phase II — Engineering

Recommendation: By the City Engineer, based on the recommendation of ESP Associates that the low bid of $319,035.80, as submitted by Ferebee Corporation, be accepted for award on a unit price basis.

Project Description: This project will construct sidewalks, curb and gutter, and storm drainage improvements on 16th, 17th, 18th and 19th Streets between Davidson Street and Caldwell Street.

Source of Funding: General Capital Improvement Fund - (Area Plan Improvements - Pay-As-You-Go Funding).

B. Water Distribution Project 16-Inch Water Main Along Browne Road and 12-Inch Water Main Along DeArmon Road — Charlotte-Mecklenburg Utility Department

Recommendation: Director, Charlotte-Mecklenburg Utility Department recommends that the low bid by Sanders Brothers, Incorporated of Charlotte, North Carolina in the amount of $486,359.05 be accepted for award of contract on a unit price basis.

Project Description: Construction of the water line along Browne Road would fulfill a strategy of the 2005 Plan, i.e. to redirect growth to the northeast section of the County by providing necessary infrastructure as an incentive for development. Construction of the water main along DeArmon Road also meets redirection of growth efforts and will provide a connection between Prosperity Church Road and Browne Road.

Source of Funding: Water and Sewer Capital Improvement Fund - (Water Main Along Browne Road) and (Water Main Along DeArmon Road).

C. 17 - Rear Loading Refuse Collection Vehicles — Solid Waste Sers. Dept.

Recommendation: By Purchasing Director and Solid Waste Services Director that the following proposals from Crane Carrier Company, Tulsa, Ok., in the amount of $1,044,888.00, and Quality Equipment & Supply Company, Inc., Charlotte, N. C., in the amount of $379,559.00, be accepted for award of contracts.

Project Description: This equipment is for replacement of old equipment to reduce high maintenance costs and to provide for more efficient refuse pick-up in the City. These are rear-loading vehicles used for trash collection.

Source of Funding: Capital Equipment Fund - (Solid Waste Services).

D. 65 - Portable Radio — Police Dept.

Recommendation: By Purchasing Director and Police Chief that 65 portable radios with chargers be purchased from County Contract #10543. This is a new contract established by the County for the 800 MHz system on November 19, 1990. This is the same radio in use by City and County. Amount of purchase is $201,240.00.

Project Description: This equipment will be used to expand existing 800 MHZ system and for new recruits in the Police Department. This is the same equipment as presently being used by City and County Police and this new contract established lower prices than we have been paying - $103 less per unit.

Source of Funding: General Fund (Police Department) and Capital Equipment Fund (Police).

BUDGET ORDINANCE/CONTRACT AMENDMENTS

17. The City has received $87,128 from the State's Worker Training Trust Fund and $67,763 in carry-over funds from FY90 JPTA Title II-A funds for a total of $154,891.

It is proposed that these funds be used to (1) finance an additional 110 occupational skills training slots through the contract with Central Piedmont Community College ($69,500), (2) that an additional 36 daycare slots be provided through the contract with Child Care Resources, ($80,852), and that $4,539 be allocated to the Private Industry Council public relations committee for marketing activities.

The action in A. appropriates the funds; the actions in B. and C. amend the contracts with Central Piedmont Community College and Child Care Resources.

These actions are recommended by the Private Industry Council, the Employment and Training Department, and Budget and Evaluation.

A. Recommend acceptance of a State Worker Training Trust Fund grant of $87,128 and JTPA FY'90 carry-over funds of $67,763 for the financing of an additional 110 occupational skills training slots and 36 child care slots for economically disadvantaged residents; and adopt a budget ordinance for $154,911 for the remainder of FY'91.

B. Recommend approval of an amendment to the FY'91 contract between the City of Charlotte and Central Piedmont Community College to provide 110 additional occupational skills training slots at an additional cost of $69,500 to be funded through Title II-A of the Job Training Partnership Act (JTPA) and the Worker Trust Fund grant.

C. Recommend approval of an amendment to the FY'91 contract between the City of Charlotte and Child Care Resources, Incorporated to provide 36 additional daycare slots for participants of employment and training programs at an additional cost of $80,852, to be funded through Title II-A of the Job Training Partnership Act (JTPA) and the Worker Training Trust Fund grant.

AGREEMENTS

18. A. Recommend approval of an agreement with Ralph Whitehead and Associates (RWA) for $149,750.00 for planning phase and survey services for the South Boulevard/Archdale Drive Intersection Improvement Project.

Recommendation: Using the Council-approved consultant selection process, Ralph Whitehead and Associates is recommended to provide planning services for the improvement of the South Boulevard/Archdale Drive intersection.

The intersection is experiencing traffic congestion in the evenings of 25 percent above design capacity and is ranked No. 77 of 194 high accident locations.

The engineering agreement will provide for planning phase, geotechnical/environmental testing, and surveying services.

Improvements: As part of the planning phase, the engineer will consider the following intersection improvements:

- adding a right and an additional left-turn lane to the west leg of Archdale Drive.
- adding an additional left-turn to the east leg of Archdale Drive.
- adding a right-turn lane to the north and south legs of South Boulevard.
- adding a right-turn lane on Archdale Drive at Old Pineville Road.

Design of the project will be based on the results of the planning and public involvement process.

Funding: TSM Intersection Improvements Capital Account.

Clearances: The contract has been reviewed by CDOT staff and the City Attorney and approved by Engineering.

B. Recommend approval of a contract for $153,950.00 for engineering services for the Providence/Sharon Amity Intersection Improvement Project.

Recommendation: Using the Council-approved consultant selection process, Hensley-Schmidt, Inc. is recommended to perform engineering services for the improvement of the Providence/Sharon Amity intersection.

The intersection is experiencing traffic congestion in the mornings of 25% over design capacity and 20% over design capacity in the evenings. The intersection is also ranked No. 154 of 194 high accident locations.

The engineering agreement will provide for planning phase, geotechnical testing, and surveying services.

Improvements: As part of the planning phase, the engineer will consider the following intersection improvements:

- adding a right-turn lane and an additional left-turn lane on the Sharon Amity and Sharon Lane legs of the intersection.
- adding a right-turn lane to the north leg of Providence Road.
- preliminary planning and survey services for the future proposed Sharon Amity median project.

Final design will be based on the results of the planning and public involvement process.

Funding: TSM Intersection Improvements Capital Account.

Clearances: The contract has been reviewed by CDOT staff and the City Attorney and approved by the Engineering Department.

C. Recommend continuation of the agreement between the City of Charlotte and the U.S. Geological Survey for the period from July 1, 1990 through June 30, 1991.

USGS Agreement — The City of Charlotte and Mecklenburg County have had an approved agreement with the U.S. Geological Survey since 1961. Under this agreement, local cooperative funds and direct expenditure items are matched by the U.S. Geological Survey.

The services involved include the following:

Services Provided by USGS

1. Stream flow measuring analysis to observe the effects of development on flood heights.
2. Detailed investigations to determine the effects of landfills on the quality of both surface and groundwaters.
3. Updating of floodway maps in the Charlotte-Mecklenburg area.

Funding — Engineering Department Operating Budget and Improvements to Existing Parks Capital Account.

Clearances — Engineering; the Budget and Evaluation Department concur with the request.

CHANGE ORDER

19. Recommend approval of Change Order No. 1 to the contract for AIP-12 Airfield Improvements for $136,256.60.

Contract: AIP-12 Airfield Improvments
Contractor: Blythe Industries, Inc.
Date of Award: September 25, 1989
Original Contract Amount: $4,298,771.50
Change Order No. 1: $136,256.60
New Contract Amount: $4,435,028.10

Change Order — This change order provides for an increase in the contract amount of materials such as crushed stone and asphalt necessary to complete the contracted work. The contract is bid on a unit price basis with estimated quantities. This change order adjusts the contract quantities after final measurements in the field.

Funding Airport Capital Improvement Fund.

Clearances The engineer, Espey, Huston, Associates and the project manager concur in this change order.

REHABILITATION LOAN

20. Recommend approval of a loan agreement with Johnny F. Holmes and wife, Christine, for $60,000 to purchase one of the Grier Heights Economic Foundation homes at 3515 Ellington Street.

Borrower	Property Address	Amount	Term	Rate	Type of Asst.
Johnny Holmes and wife, Christine	3515 Ellington	$60,000	25 Yrs.	3%	Loan

Complete background information is attached.

Funding Community Development Block Grant funds.

Clearances The loan application has been reviewed by the Community Development Department and all criteria to qualify for financial assistance have been met by the applicant in accordance with the requirements outlined in the Community Development Standard Rehabilitation Loan and Grant Program.

Attachment No. 9

HOUSING CODE ENFORCEMENT

Detailed information is attached. Funds are available and liens will be placed against the properties for the costs incurred.

21. A. Recommend adoption of an ordinance authorizing the use of In Rem Remedy to demolish and remove the dwelling located at 530 S. Bruns Avenue. (Seversville)

B. Recommend adoption of an ordinance authorizing the use of In Rem Remedy to demolish and remove the dwelling located at 526 S. Bruns Avenue. (Seversville)

C. Recommend adoption of an ordinance authorizing the use of In Rem Remedy to repair code violations at 617 Ideal Way. (Sedgefield)

D. Recommend adoption of an ordinance authorizing the use of In Rem Remedy to demolish and remove the dwelling located at 621 Belmont Avenue. (Optimist Park)

E. Recommend adoption of an ordinance authorizing the use of In Rem Remedy to demolish and remove the dwelling located at 1505 Allen Street, #1 & #2. (Belmont)

F. Recommend adoption of an ordinance authorizing the use of In Rem Remedy to demolish and remove the dwelling located at 1228 Seigle Avenue. (Belmont)

G. Recommend adoption of an ordinance authorizing the use of In Rem Remedy to demolish and remove the dwelling located at 2724 N. Davidson Street. (North Charlotte)

H. Recommend adoption of an ordinance authorizing the use of In Rem Remedy to demolish and remove the dwelling located at 3514 N. Davidson Street. (North Charlotte)

Attachment No. 10

MUNICIPAL AGREEMENTS

22. A. Recommend adoption of resolution authorizing two municipal agreements between the City of Charlotte and the North Carolina Department of Transportation (NCDOT) for improving CSX Transportation crossings with Kenstead Circle and Toddville Road through roadway widening, traffic signalization, and crossing protection device improvements.

Council Action

This action authorizes two municipal agreements with the NCDOT for improving CSX Transportation railroad crossings with 1) Kenstead Circle and 2) Toddville Road through roadway widening, traffic signalization, and crossing protection device improvements. The City will prepare roadway construction plans, relocate City owned utility lines, and install traffic signals and receive reimbursement for 90 percent of its costs. The NCDOT will acquire necessary right-of-way for the projects and construct the roadway improvements. The City's share of right-of-way and roadway construction costs will be 10 percent.

Kenstead Circle/ Toddville Road	The NCDOT proposes to improve CSX Transportation railroad grade crossings in the Mount Holly/ Rozzelles Ferry Road area. The crossings at Kenstead Circle and at Toddville Road are to be improved by widening these streets' nearby intersections with Mount Holly Road and Rozzelles Ferry Road, installing a traffic signal at each improved intersection, and coordinating the traffic signal operation with the railroad crossing protection devices. The improvements at both locations will allow traffic to clear the railroad crossing when a train approaches. As part of the overall improvements, the railroad crossings at Tom Sadler Road and Craig Street will be closed as neither crossing can be improved to prevent traffic from being trapped on the crossing when a train approaches. Improvements to the crossings is a significant safety issue since tanker trucks carrying gasoline and diesel fuel use all four crossings when traveling to and from fuel distribution farms located along CSX Transportation tracks. CDOT has previously met with business and residents in the area to explain the improvements. Approximately 200 attended the meeting. Public reaction to the plan to close two crossings was mixed. The improvements to and signalization of the intersections at the other two crossings were received favorably. CDOT believes that businesses and residents will have sufficient and much safer access to their properties as as result of the improvements. CDOT has recontacted key business and neighborhood leaders in the area to advise them of Council's pending action. A municipal agreement for the Toddville Road crossing improvements was approved by Council on June 12, 1989 providing for the NCDOT to design and construct the crossing improvements. An agreement for the Kenstead Circle crossing improvements was not necessary at the time because Mount Holly Road was on the State Highway System. Since Mount Holly Road is no longer State maintained and to expedite the two projects, the NCDOT has asked the City to design improvements for both crossings (Kenstead Circle and Toddville Road). The NCDOT has voided the previously approved agreement for the Toddville Road crossing.

Funding: The City's 10 percent share of railroad crossing arms is funded from the Safer Roads Demonstration Capital Account. Relocation of water and sewer lines is funded from the Water and Sewer Line Relocation for Street Improvements Capital Account.

Clearances: Concept plans and Municipal Agreements for the two projects have been reviewed and approved by the CDOT, the City Engineering Department, and the Charlotte-Mecklenburg Utility Department. The Agreements and Resolutions have been approved as to form by the City Attorney's office.

B. Recommend adoption of a resolution authorizing a municipal agreement between the City of Charlotte and the North Carolina Department of Transportation (NCDOT) for improving Quail Hollow Road (SR 3600) at its intersection with Gleneagles Road.

Council Action: Adoption of the resolution authorizes a municipal agreement with the NCDOT for improvements on Quail Hollow Road at its intersection with Gleneagles Road. The agreement provides that the City will reimburse the NCDOT, up to $63,000, for costs associated with the construction of improvements and purchase of right-of-way.

Background: The CDOT has identified the need to widen Quail Hollow Road for a left-turn only lane at Gleneagles Road. The improvement complements the NCDOT's current project to widen the nearby Quail Hollow Bridge over McMullen Creek to four lanes and the City's current project to realign Quail Hollow Road and Sharon Road at their intersection. As a result of all the improvements, Quail Hollow Road will have two continuous through lanes from Carmel Road to Sharon Road and in addition have a separate left-turn only lane at its intersection with Gleneagles Road.

The NCDOT has agreed to fund the improvements at the Quail Hollow/Gleneagles intersection, provided that the City contributes $63,000 from an NCNB Trust Fund established by a developer as a result of a rezoning in 1982. Some of the funds in that same account were used to widen portions of Quail Hollow Road to four lanes. The unspent balance can be applied to improvements at the intersection as specified in the developer's agreement.

Funding: Funds for this work are being held in a NCNB Trust Account established to pay for improvements as a result of an approved rezoning for residential development along Quail Hollow Road. The cost to the City for participating in the construction and purchase of right-of-way shall not exceed $63,000.00. The balance currently in the trust account is sufficient to cover the entire $63,000.00 estimate. The City will give NCDOT reimbursement in one lump sum upon completion of the work.

Clearances: The municipal agreement and associated plans for the widening of Quail Hollow Road have been reviewed and approved by the CDOT, the City Engineering Department, and the Charlotte-Mecklenburg Utility Department. The agreement and resolution have also been approved as to form by the City Attorney's Office.

SPEED LIMITS

23. Recommend adoption of an ordinance to lower the speed limit on ten streets in the Falconbridge neighborhood from 35 miles per hour to 25 miles per hour.

In accordance with Council's approved policy, ten streets in the Falconbridge neighborhood have had a petition validated and is determined by the engineering study to be appropriate for a 25 miles per hour speed limit. The streets are:

Blue Herron Drive
Blockade Court
Castlekeep Road
Flat Iron Road
Nightingale Lane
Osprey Drive
Silver Pheasant Drive
Timbercrest Circle
Willowick Court
Woodthorn Place

SALE OF SURPLUS PROPERTY

24. Recommend that City Council accept an offer from Alvin L. Hart to purchase City-owned property at 1721, 1725 & 1729 Statesville Road.

Surplus Property: On May 29, 1990, City Council declared the City-owned property located at 1721, 1725 & 1729 Statesville Avenue surplus and authorized Engineering Department/Real Estate Division to offer them for sale. These parcels, Tax Codes 075-106-07, 08 & 09 were purchased as part of the Statesville Avenue widening project. The property was appraised for $65,500.00 and an offer for that amount was received. In accordance with N.C.G.S. 160A-169, the property was advertised for upset bids on October 9, 12, and 13, 1990, and left open for ten days with no upset bid received.

Clearances: All City departments have been canvassed, and none expressed an interest in retaining these parcels for City use. The Charlotte Department of Transportation recommended that right-of-way be retained 50 feet from the centerline of Statesville Road. The Planning Commission has also reviewed and concurs with the Mandatory Referral.

A map and the Mandatory Referral report are attached.

Attachment No. 11

SURPLUS PROPERTY

25. Recommend the City owned property at East 20th Street and Parkwood Avenue shown as Area "F" on the attached map be declared surplus and advertised for sale.

Surplus Property: It is recommended that the parcel of land shown on the attached map as Area "F" and containing 30,407 square feet be declared surplus and advertised for sale. This parcel, part of 081-075-01, was purchased as part of the Parkwood Avenue Extension project.

Clearances All City departments have been canvassed, with none expressing an interest in retaining this parcel for City use. The Charlotte Department of Transportation has recommended that right-of-way be retained 50 feet from the centerline of Parkwood Avenue. The Planning Commission has also reviewed and concurs with the Mandatory Referral.

A map and Mandatory Referral report are attached.

Attachment No. 12

SPECIAL OFFICER PERMITS

26. Application For Special Officer Permits.

Recommend approval of application for Special Officer Permits to Andrew B. Berry and David G. Callicutt for use on the premises of Charlotte/Douglas International Airport.

CONDEMNATION SETTLEMENT

27. Recommend settlement of a condemnation case entitled City of Charlotte v. Trustees of Davidson College for an additional $32,100.

On May 5, 1989, the City filed a condemnation action against the trustees of Davidson College to acquire right-of-way for the Caldwell Street widening. The right-of-way that is the subject of the condemnation action totals 14,195.7 square feet. At the time of the filing of this action, the City deposited $215,000 as estimated just compensation for the taking. After considerable negotiations, the property owners have indicated a willingness to settle the matter for $247,100 or $32,100 above the City's initial deposit. Further background is provided in the attached memorandum from Anthony Fox, Assistant City Attorney.

Funding Caldwell Street Widening Capital Account.

Clearances City Real Estate Division, City Legal Department.

Attachment No. 13

PROPERTY TRANSACTIONS

28. Recommend approval of the following property transactions and adoption of the condemnation resolutions.

1. Project: Park/Johnston Road Widening Phase II, Segment II
   Owner(s): The Charlotte Mecklenburg Board of Education
   Property Address: South Mecklenburg High School, 8900 Park Road
   Property to be acquired: 4,600 sq.ft. (0.1056 ac.) plus 14,865 sq.ft. (0.3413 ac.) Temporary Construction Easement
   Improvements: Landscaping, painted rocks, sign, two driveway entrances
   Price: $13,900.00
   Remarks: Zoned as R12, used as public school.

2. Project: Wallace Neel Road Master Plan Land Acquisition
   Owner(s): Carry Dale and Rita Steele Simpson
   Property Address: 7501 Wallace Neel Road, Charlotte NC
   Property to be acquired: 0.31 Acres
   Improvements: 2 bedroom 1 bath, 700 sq. ft. brick ranch house
   Price: $42,500.00
   Remarks: Property purchased under Federal Guidelines 49 CFR Part 24 of the Uniform Acquisition & Relocation Act 1970. Tenants eligible for relocation benefits. Acquisition eligible for Federal Aviation Administration reimbursement.

3. Project: F.A.R. Part 150 Noise Compatibility Program - Residential Purchase
   Owner(s): Carry Dale and Rita Steele Simpson
   Property Address: 7513 Wallace Neel Road, Charlotte, NC
   Property to be acquired: 0.31 Acres
   Improvements: 2 bedroom, 1 bath, 700 sq. ft. brick ranch house.
   Price: $42,000.00
   Remarks: Property purchased under Federal Guidelines 49 CFR Part 24 of the Uniform Acquisition & Relocation Act 1970. Owners eligible for relocation benefits. Acquisition eligible for Federal Aviation Administration reimbursement.

4. Project: F.A.R. Part 150 Noise Compatibility Program - Residential Purchase
   Owner(s): William P. Canaday and wife Helen H. Canaday
   Property Address: 7432 Pine Oaks Drive, Charlotte North Carolina 28217
   Property to be acquired: 1.033 Acres
   Improvements: 4 bedroom brick ranch house, 1287 sq. ft.
   Price: $63,000.00
   Remarks: Property purchased under Federal Guidelines 49 CFR Part 24 of the Uniform Acquisition & Relocation Act 1970. Owners eligible for relocation benefits. Acquisition and relocation costs eligible for Federal Aviation Administration reimbursement.

5. Project: F.A.R. Part 150 Noise Compatibility Program - Residential Purchase
   Owner(s): John L. and Nancy Aldridge
   Property Address: 7017 Virginia Circle, Charlotte NC
   Property to be acquired: 0.37 Acres
   Improvements: 3 bedroom, 1.5 bath, 2148 sq. ft. split level house
   Price: $77,000.00
   Remarks: Property purchased under Federal Guidelines 49 CFR Part 24 of the Uniform Acquisition & Relocation Act 1970. Owners eligible for relocation benefits. Acquisition eligible for Federal Aviation Administration reimbursement.

CONDEMNATIONS

6. Project: Park Road/Johnston Road Widening, Phase II, Segment I
   Owner(s): Quail Hollow Presbyterian Church & other parties of interest
   Property address: 8801 Park Road (11.6800 ac.)
   Property to be condemned: Fee Acquisition-17,613 sq.ft. (0.4043 ac.) Permanent Down-Guy Easement - 80 sq.ft. (0.0018 ac.) Permanent Drainage Easement - 1,023 sq.ft. (0.0235 ac.)
   Improvements: Landscaping, lawn, entrance way, signage
   Price: $32,800.00

Reason for condemnation: After lengthy negotiations Church body refuses to sign agreement unless City provides or pays for new entrance way and driveway from Smithfield Church Road to church parking lot because median is being closed on Park Road. Proposed new entrance is outside project and present entrance will still be the same after construction is completed. Even if the City does build a new entrance, Church body wants 15% above appraised value of the taking plus another 45% above appraised value if City does not build new entrance, or nearly two-thirds again as much above the appraised value. Condemnation is recommended so that project will not be delayed.

7. Project: Shamrock Drive Widening
   Owner(s): East Towne Manor, & any other parties of interest
   Property address: 4.55 acres N. Sharon Amity Road
   Property to be condemned: 2,552 sq.ft. (0.0586 ac.) plus Temporary Construction Easement 3,188 sq.ft. (0.0732 ac.)
   Improvements: Trees
   Price: $5,300.00
   Reason for condemnation: Zoned R9MF-elderly care unit under construction. Owner made counter offer well above appraisal amount. Condemnation is requested in order to meet construction schedule.

8. Project: Park/Johnston Road Widening, Phase II, Segment I
   Owner(s): Quail Hollow Homeowners Association No. 4, Inc.
   Property address: Sharon Road West (4.9560 ac.)
   Property to be condemned: Fee Acquisition-3,547 sq.ft. (0.0814 ac.) Temporary Construction Easement-4,375 sq.ft. (0.1004 ac.)
   Improvements: Lawn, landscaping, entrance way
   Price: $4,000.00
   Reason for condemnation: After lengthy negotiations, unable to get Homeowners Association to agree to terms. Condemnation recommended so that project will not be delayed.

9. Project: Hebron Street Extension - Phase II
   Owner(s): Silver Mount Baptist Church & any other parties of interest
   Property address: 14 acres Arrowood Road
   Property to be condemned: 6,540.06 sq.ft. (0.150 ac.) in fee, 4,461.81 sq.ft. (0.102 ac.) Temporary Construction Easement, 2,310 sq.ft. (0.053 ac.) Permanent Utility Easement.
   Improvements: Planted area
   Price: $5,000.00

Reason for condemnation: Zoned R9-MF, used as church. Property owner retained attorney who requested that the City file condemnation for this acquisition.

13 November 1990

The Honorable Sue Myrick, Mayor
and
Members of the City Council

Dear Mayor and Council Members:

The Civil Service Review Board Committee was charged by Council to review the role of the Civil Service Board and its duties. This is shown as (Attachment 1). This review grew out of the concern of the Chairman of the Civil Service Board as to whether the Board was in compliance with its duties as outlined in the City Charter. The Council Operations Committee then reviewed the matter and appointed the Civil Service Review Committee to conduct the inquiry (Attachment 2).

Background

The current City Charter is over 60 years old and numerous administrative changes in the City's operation and organization have taken place since it was first written. The current Charter (Attachment 3) and revisions that the Committee proposes to make (Attachment 4) are enclosed for your comparison.

At the outset the Committee recognized that this review was a very sensitive issue for Police and Fire Department personnel, and any actions taken would directly effect their morale. Therefore, a thorough review was made of the current hiring, promotions, demotions and appeal procedures for personnel covered by this portion of the City Charter. In doing this, the comments concerns, and input of the Police, Fire, City Personnel, as well as the Civil Service Board, were heard and carefully considered, discussed, and evaluated to determine what changes if any were necessary in the Charter.

The Civil Service Board provides a very necessary and responsible role in the City's overall selection of qualified candidates for the Police and Fire Departments. The Board has done an excellent job carrying out these functions. The rank and file of the two departments want the Civil Service Board's protection and its appeal process, and do not want the Board abolished. These points were quite clear to the Review Committee at the outset of its discussions.

It is important to note that the proposed changes do not materially alter functions of the Board (except for promotions)

in providing its important citizens role in our City Government. Our meetings were open to the public and we heard from former members of the Civil Service Board and their concern about maintaining the Board's role. The present chairman was requested to keep the current Board informed of our actions so that in the event they had concerns about the changes, we would be informed of them.

Recommendations

The majority of the Committee supports the changes to the City Charter that are now before you, but 3 members do not favor changes regarding promotions as outlined in the attached minority report. These key changes and the paragraphs in the proposed Charter are:

Section 4.61 (2) was rewritten to incorporate City's Human Resources Department in the hiring process, which is the way the Board now works. It adds the authority for the Police and Fire Department Chiefs to hire their top 5 management team positions. The Police appointment of these positions was the genesis of the Board's concern about not carrying out their Charter responsibilities as they are to approve all hirings.

Paragraph two of this section authorizes the Chiefs to promote their personnel without Board approval, but they are to keep the Board advised of these promotions.

Paragraph three was rewritten as this has been basically a rubber stamp operation of the Board, which delayed the promotion process and was an unnecessary step, in the opinion of a majority of the Committee. The Board still has investigative authority if it questions individual promotions. The promotion procedure will now function more smoothly for all involved in the process and gives the authority to the Chiefs to promote their personnel, as is done in other city departments.

The last paragraph restricts hiring of applicants by the Board unless they are recommended by the Police or Fire Chiefs.

Section (5)(a) also adds authority for Police and Fire Chief to terminate an officer or employee without Board approval. The Appeal process is modified and clarified for personnel and establishes the City Clerk as focal point for appeals submitted to the Board.

Section (5)(e) was rewritten to process the Board's request for an investigation of the Police or Fire Departments through the City Manager, which is how it would actually work if necessary.

These changes have been reviewed and approved by the City Attorney and put into format for submission to the Legislature in the package to be submitted by the City.

It is highly important to note that Charlotte has an outstanding Police and Fire Department and we will continue to maintain that same standard of excellence with these changed procedures and the continued citizen input by the Board to the overall process.

We would welcome your comments and questions concerning these changes from the members of the Review Committee present.

Respectfully submitted,

Dick Primm

CIVIL SERVICE REVIEW BOARD - MINORITY REPORT

Three members of the Civil Service Review Board disagree strongly with the decision of the majority of the Review Board to remove the Civil Service Board from any participation in the promotion process of the Police and Fire departments other than to be notified of each promotion. This significant change in the role of the Civil Service Board is effectuated by the decision of the majority to delete Section 4.61(14) of the City Charter and to substitute Section 4.61(2) (second paragraph).

The justification of the majority for making this change is that the promotion process "has been basically a rubber-stamp operation of the Board, and delayed the promotion process and was an unnecessary step." (Letter of Chairman, page 2).

The information presented to the Review Board, including statements from several past and present members of the Civil Service Board, did indicate that in almost all cases the Civil Service Board, after considering all of the pertinent facts, approved the promotions recommended by the departments. However, the minority believes that this is strong evidence that the present system is working properly, and it not "basically a rubber stamp operation." Since the department making a recommendation for a promotion knows that it will be carefully reviewed by all members of the Civil Service Board, the minority feels that it is inherent that greater care will be exercised by the department in final decisions relating to promotions and in following proper procedures relating to promotions. More importantly, the minority believes that the promotion process is a sensitive area, particularly as to morale within the departments, and that the promotion process will be significantly enhanced by the input of the five "civilian" members of the Civil Service Board and by the fact that those neutral members will continually oversee the process and procedures to make sure they are proper.

The minority would emphasize that the promotion process and procedures currently being followed by the departments appear to be entirely proper in all respects. However, the minority is concerned about the possibility that there could be deviations from the current practice at some time in the future, which could be unnoticed and uncorrected if the review responsibilities of the Civil Service Board are removed by the deletion of Section 4.16(14) from the City Charter.

CHANGE ORDER FOR $112,853 00 TO CARLSON CORPORATION/SOUTHEAST CONTRACT FOR AIRPORT HANGAR CONSTRUCTION

[Motion was made by Councilmember Patterson seconded by Councilmember]
[Wheeler and carried unanimously to approve the subject change order]

* * * * * * *

CONSIDER DISPOSITION AND/OR STUDY OF THE CIVIL SERVICE BOARD AS FOLLOWS

a) Review the current Civil Service Board Charter
b) Exempt Division Commanders and Assistant Chiefs in the Fire and Police Department from Civil Service Board Review
c) Consider for appointment to the Police and Fire Departments only those aplicants recommended by the City

George Daly, 101 North McDowell Street, stated he came to speak in opposition to the issue with respect to the Civil Service Board, of which he is Chairman and will be for another two months The administration apparently wants to do two things They want to refer the matter to a study committee and they want some changes made while it is being studied The things they want Council to tell the Civil Service Board to change pending the study process are (1) Stop asking to review promotions of Commander and Assistant Chief (2) Stop hiring people that are not on the hiring list that come up before the Civil Service Board The fact of the matter is, however both of those things are clearly within their power as given to them by the City Charter Mr Daly stated he wrote a letter to the Council and explained what he thought the geniuses of the whole matter was but he wanted to speak first to the motion and just point out that it simply ask that they direct the Civil Service Board to disobey what seems to him to be the very clear command of the City Charter For that reason they oppose the part of the motion that they cease taking action pending a review He would also oppose Council approving the suggestion that the Civil Service Board be reviewed, because the only two reasons for reviewing the Civil Service Board, are the two reasons that they are following the City Charter That is they keep requesting that they be allowed to do their duty and pass on promotions to Commander and Assistant Chief and they insist on hiring people that have met all the qualifications and they feel should be hired despite some differences with the administration Also when this matter was heard by committee there was no opportunity given for the Civil Service Board to be present Everybody else got notice and an agenda Someone left a message on his answering machine after 5 00 on the night before the meeting He tried to get it postponed then and could not get it postponed He then stayed up until about midnight getting ready for the meeting At 8 00 the next morning Mr Pinnie called and said he was so sorry about it all could they just agree to postpone the meeting He told him that would be fine and went back to bed At 9 00 he called and said they were going to have the meeting anyway Mr Hicklin was there but he was not prepared to proceed

He stated the Civil Service Board has not had an opportunity to have their say to the committee and feel they have been gerrymandered out of it On the merits of the matter if you want to look at that they feel there is a need for a Civil Service Board Being a policeman and a fireman are very stressful occupations Those folks need someone independent of their supervisors to have a final say about discipline That is what the Civil Service Board is - we have a final say but we very rarely exercise it We have never turned down a promotion We know about all the promotions to Commander and Assistant Chief We would be delighted to approve them if we were submitted to us I am sure because they like all of those people and approve of them But it is our business and we should be allowed to do it On hiring we hire ninety-nine plus percent of the people and everybody we turn down they essentially say to us well we are glad you turned them down they met all the qualifications and we could not turn them down but we essentially do not want them So we are a rescue net for the rigidities of some of the qualifying policies On discipline we agree with the Police Chief and the Fire Chief at least half of the time Sometimes we are rougher on the policemen and sometimes we are rougher on the firemen than the chief would have been So we do not get a tremendous

number of appeals People are serious when they come to us because they know they run the risk of getting a larger sentence The Civil Service Board has done its job very well for about sixty years in this community and it is his view and the view of the Board, that it needs to be left alone to continue that work

Councilmember McCrory stated he was a member of the committee Some of the things Mr Daly said he agrees with and others he disagree with The way that he interpreted the committee was we agreed to form a committee to review the Civil Service Commission to just review it analyze it and reexamine the role it should play They did not say they were going to take away any authority or add any authority we said we were going to review it and basically come back with a recommendation on what responsibilities the Civil Service Board should take on in the future Now whether that remains the same as it is now or whether certain things are deleted as far as the responsibility, or even if things are added he does not know yet That is what the committee was formed for

Mr McCrory stated he does disagree with one aspect of the write-up and that is the last sentence He does not recall making this an option as far as the setting up of the committee, and that is where it says, and consider for appointment to the Police and Fire Departments only those applicants recommended by the City He does not recall that being a part of the motion but does remember it being discussed That may be a decision or recommendation made after the committee reviews this action They did decide that they would exempt the Division Commanders and Assistant Chiefs in the Fire and Police Departments during the meantime because of this question, and we have discussed on Council before about one or two unique positions In reading Mr Daly's comments it seems the major concern is regarding one case which revolved around nepotism This is something which the Personnel Department of the City needs to approach regarding the whole City and come up with a basic nepotism policy which everyone can agree with He does not think this really relates to "Civil Service Board" action

Mr McCrory stated he would recommend that the City come up with a formal nepotism policy that would cover and give more structure to decisions for the Civil Service Board in the future He suggested that we put a period after the word review and still form this committee to review discuss and debate the merits of the Civi Service Commission and fine tune it and maybe even improve it

He referred to the comment "just as the United States Military is subject to civilian control so should the Police Department be" he feels that is a little overboard in that debate He does not compare the military with the City Police Department and does not think we are going to be overrun by the City Police and we are under civilian control and that is our responsibility at this point in time He does agree with some of the comments and concerns on how the original proposal was written

[Motion was made by Councilmember McCrory seconded by Councilmember]
[Clodfelter to approve the recommendation to review the current Civil]
[Service Board Charter]

Mr McCrory stated he does not recall the wording "and consider" being part of the original motion and that is why he struck it but does think that is something they need to come back on as far as a committee recommendation

Mr Clodfelter stated he would like to split those two pieces of the recommendation and deal with the one that says "lets study" and then maybe we will want to have some discussion about the other piece of it

Councilmember Matthews stated that as a member of the committee he was there and the last item was part of the action considering only those applicants recommended by the City

Mr McCrory responded he must have misinterpreted it

Councilmember Vinroot stated that he agrees with Mr Clodfelter with regards to the committee idea He is not sure it is fair to prejudice the

committee by making decisions for them on B and C so he would at least stop short of the exempting and ruling out people right now He does not see how they can be but so concerned if the Council does not change anything and would set up a committee in terms of due process that they did not get to be heard on that He would be surprised if Mr Daly would have objected to the committee s review They probably just object to B and C of that which changes something in the interim On the subject itself it does take some justification It seems to him that it is an anachronism and a distinction without a difference that we do it for one part of our City s Government and not for the rest Maybe we ought to do it across the board or maybe we ought not to do it at all He does not really follow the American Military analogy

Councilmember Martin stated he would have to disagree at least partly with what Mr Vinroot said about if you do it for one do it for all of the City and Mr Daly kind of alluded to it The work of a Policeman and a Fireman what is normal for them in a workday is to deal with people who are in pain who are angry who are mad who are not acting in a rational behavior For example every time a Police Officer pulls that revolver out of his holster he knows that once he fires it he is going to be put on what they call desk review or something until they investigate it Yet we do not know how many times the hesitation he has in pulling that revolver might cost him his life He thinks Firemen and Policemen are certainly in a different kind of situation than the typical City employee This business of assigning the Division Commanders special assignments" were just a means of getting around the intent of what the Civil Service Board was supposed to do and those Councils and Civil Service Boards that have allowed that to happen in the past were in gross error What the Civil Service Board is saying is to cut out that foolishness and let us do what we are supposed to do That is what he hears them saying In the context of that he does not like this even being in the agenda item at all because we are being asked to make a decision on something that would violate what the specific charter says He stated he had talked to the City Attorney about that language, and he concurs basically with what Mr Martin is saying he thinks we need to delete that If we think strongly enough about that and he does feel like the Chiefs of the two departments should have the authority to pick their top men without the interference of the Civil Service Board That is good management But until we get the charter changed to do that he does not think they should be doing it and we should stop playing games with it The third point about the applications who come to work in these departments he is concerned about this nepotism problem too and thinks in the particular case involved that Mr Daly alluded to this young man was treated very shabbily and should have had an opportunity to work for the City

Councilmember Scarborough stated she was glad they were separating the motion because she has a problem with not giving both Chiefs the authority to appoint their people That seems to her to be something that we should not be doing She agrees with Mr Martin in reference to changing the charter before they change the direction She hopes they will never ever get rid of the Civil Service Board In talking to some of the Police officers and Firemen they feel that it is a very viable part for them They feel comfortable in having that type of recourse She will support keeping the Civil Service Board

Mr Matthews stated he did not recall if the structure of the study committee was in the Operations Committee information He would like to ask for some clarification or somebody to explain their justification for choosing these six positions as the review committee

Mr McCrory stated that was discussed in the meeting and we came up with that in his remembrance

Mr Matthews asked who suggested the structure of the study committee Was that staff s recommendation to the Operations Committee?

Wendell White City Manager stated the committee would look at it and then as always the Manager s Office and other staff members could make separate comments regarding this whole matter so he is not uncomfortable with the way the thing is structured when you understand it in that light

sm/ml

Mr Matthews asked how many is on the Civil Service Board? He stated he was certainly in favor of it but just had some question about whether the chickens ought to be analyzing the hen house

Mr White stated he would not be pained at all if the Council decides they want to do it another way or not do it The Manager s Office did not bring this to the Council, the Commission asked to speak to the Council Just to give you one question when something goes wrong in the Police or Fire Departments do you think to call the Chairman of the Commission or do you think to call City Manager The Police Chief or the Fire Chief That is the final issue as he see it

Mr Matthews asked if it bothered anyone else that the structure of the committee is to Civil Service?

Mr Vinroot responded that it did him It ought to be some civilians

Mr McCrory stated they did discuss that option of civilians and he thought they just kind of made the decision 2 2, and 2 figuring that the members of the Civil Service Commission are civilians That was the logic for not adding civilians He stated he was open to any changes in the operating committee s recommendation

Mr Matthews stated that it bothered him that they did not have some unattached analysis

Mr Vinroot made a suggestion to adopt the A portion with a committee that the City Council will name at their next meeting In the meantime they can give a little thought to who it ought to be and take care of it

Mayor Myrick stated the motion on the floor was to set up a committee

[Councilmember Vinroot made an amendment to the original motion and Mr]
[McCrory concurred to set up a committee which the City Council will]
[name at their next meeting]

[Motion was made by Councilmember Vinroot seconded by Councilmember]
[Patterson that they not take any action on B and C and let that come]
[out of whatever the Committee tells them]

Mr Matthews stated that part of the reason this was done this way is the Division Commanders and the Assistant Chiefs in the Police Department have been exempted perhaps by default those two positions in the Police Department but they have not done that in the Fire Department so we have been operating for some while with that kind of circumstance The motion which he made was that the Civil Service Board accept these provisions until the committee reported back It was not to deny the Civil Service Board that position Mr Hicklin indicated that the Civil Service Board s position was that they wanted just simply to clarify the issue on what was right and what was wrong and that this interim circumstance would be acceptable, at least from Mr Hicklin s point of view to the Civil Service Board because it is a temporary kind of thing

Mr Hicklin responded that basically that was it Unfortunately he has noticed that the Council does not always agree They did not agree His idea was that they try to get something and move on and get the thing straightened out He still says they are in favor right now and will pass on the Police Department promotions and that will bring everybody in compliance with the law

Mr Martin stated that he took strong issue with Mr Matthew s last point because we are simply reaffirming violating the Charter of the Civil Service Board He does not think they as responsible elected officials should do that even if it is for one day

Mr Clodfelter stated if Council is going to appoint these committee members could they get some nominations next time so that they would not be scrambling for those from the Fire Chief from the Police Chief from the Civil Service Board among others

sm/ml

The vote was taken on the substitute motion to approve the sale and was recorded as follows

YEAS Councilmembers Campbell, Clodfelter, Hammond, McCrory, Mangum, Matthews, Patterson, Vinroot and Wheeler
NAYS Councilmembers Martin and Scarborough.

Mr. Clodfelter he wanted to make sure the Council is all of a sense where they want a response from staff on the Spratt Street issue and whether the connection across the railroad track needs to be reexamined, to which the Mayor stated staff would do that.

* * * * * * *

NOMINATIONS FOR COMMITTEE TO REVIEW THE CIVIL SERVICE BOARD

The following nominations were made to form a committee of eight to review the Civil Service Board

1 Mike Spath, nominated by Councilmembers Clodfelter and Hammond.
2 Frances Pickney, nominated by Councilmember Clodfelter
3. J. Albert Hicklin, nominated by George Daly.
4. Regan Miller, nominated by George Daly.
5. Keith Shannon, nominated by George Daly
6. Roger Weaver, nominated by Fire Chief Luther Fincher.
7 Rick Regan, nominated by Fire Chief Luther Fincher
8. Jack Boger, nominated by Police Chief Sam Killman.
9 Bob Buening, nominated by Police Chief Sam Killman
10 Dick Prime, nominated by Councilmember Vinroot.

[Motion was made by Councilmember Campbell, seconded by Councilmember]
[Wheeler, and carried unanimously, to close the nominations]

* * * * * * *

REVISION OF USER FEE POLICY TO RECOVER 80% OF DIRECT COSTS FOR DEVELOPER RELATED USER FEES.

[Motion was made by Councilmember Vinroot, seconded by Councilmember]
[Patterson, to approve the subject revision.]

Councilmember Clodfelter stated he would vote against the motion and it is not because he opposes reducing it from 100% to 80%, but would prefer reducing it from 100% to 0%. He does not believes these fees are justified and has questions as to whether these fees are proper under State law

The vote was taken on the motion and carried as follows

YEAS Councilmembers Campbell, Hammond, McCrory, Mangum, Martin, Matthews, Patterson, Scarborough, Vinroot and Wheeler
NAY. Councilmember Clodfelter.

* * * * * * *

REINSTATE THE NO SMOKING TASK FORCE TO ENCOURAGE, BY PUBLICATION AND OTHER MEANS, RESTAURANTS TO VOLUNTARILY PROVIDE NON-SMOKING SECTIONS; ORDINANCE NO. 2887-X FOR $5,000 TO FUND A PROMOTIONAL CAMPAIGN.

[Motion was made by Councilmember Vinroot, seconded by Councilmember]
[Campbell, to adopt the subject ordinance]

Councilmember Mangum stated he questions whether or not it is good to be spending money on this type thing when it is a voluntary thing. He is a non-smoker and if he goes into a restaurant who do not have non-smoking sections he just does not go back He does not know why they need to spend money to promote this when you could easily just not patronize the restaurant.

Councilmember Campbell stated there was discussion in the committee about making a mandatory ordinance, but they stopped short of that because

SUBCHAPTER C. PERSONNEL ADMINISTRATION

Sec 4 41 Standards

The City Council shall establish by appropriate ordinances a system of personnel administration, not inconsistent with the provisions for Civil Service hereinafter set forth, governing the appointment promotion, transfer, lay off, removal, discipline and welfare of city employees Such ordinances shall be based upon the following general standards

(1) Employment shall be based on merit without regard to race creed color, sex, political affiliation age or physical defect or impairment of the applicant unless the defect or impairment prevents the applicant from performing with reasonable accommodation, an essential function of the employment sought

' Physical defect" or "impairment" shall be defined to mean any physical disability, infirmity malformation or disfigurement which is caused by bodily injury birth defect or illness including epilepsy

(2) Conditions of employment shall be maintained to promote efficiency and economy in the operation of the city government

(3) Position classification and compensation plans shall be established and revised from time to time to meet changing conditions

(4) Appointments and promotions shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence

(5) Tenure of employment shall be subject to satisfactory performance of work, personal conduct compatible with the trust inherent in public service, necessity for the performance of work, and availability of funds

(6) Such ordinances shall also prescribe the details of personnel organizations and procedures

(Sess Laws 1974, Ch 968, § 1, Sess Laws 1982, Ch 1135, § 1)

Sec 4 42 Employee benefits.

The City Council is hereby authorized to provide for employee benefits, and to appropriate funds therefor, in keeping with generally accepted personnel practices of public and private employers within North Carolina Such benefits may include, by way of illustration and not in limitation group insurance benefits in amounts based upon rate of pay or other reasonable classification, sick leave benefits leaves of absence with or without pay, awards for length of service and employee suggestion awards Premiums for group insurance benefits may be paid by the City of Charlotte, by the city and employee jointly, or by the employee The City Council is hereby further authorized and may in its discretion, appropriate funds to provide group insurance benefits for retired employees Premiums for group insurance benefits for retired employees may be paid by the City of Charlotte, by the City and the retired employees jointly, or by the retired employees (Sess Laws 1971, Ch 903 § 1(a) Sess Laws 1974, Ch 980, § 1)

SUBCHAPTER D. CIVIL SERVICE

Sec. 4.61. [Board.]

There is hereby continued a Civil Service Board for the City of Charlotte to consist of five (5) members, three (3) members to be appointed by the City Council and two (2) members to be appointed by the Mayor Each member shall serve a term of three (3) years In case of a vacancy on the Board the City Council or the Mayor, as the case may be, shall fill such vacancy for the unexpired term of said member A majority of said Board shall constitute a quorum Any member who fails to attend at least seventy five (75) per cent of the regular and special meetings and hearings held by the Board during any one year period shall be automatically removed from said Board Vacancies resulting from a member s failure to attend the required number of meetings or hearings shall be filled as provided herein

(1) The members of the Civil Service Board shall be electors of the City of Charlotte

the City Council and two (2) members to be appointed by the Mayor Each member shall serve a term of three (3) years In case of a vacancy on the Board, the City Council or the Mayor, as the case may be, shall fill such vacancy for the unexpired

and shall take an oath to faithfully perform their duties The members of said Board shall be subject to removal from office by a two-thirds vote of the City Council with or without cause

(2) The Board shall establish and fix requirements for applicants for employment in the Fire and Police Departments All applicants shall be subjected to examination by or at the direction of said Board The examination shall be competitive and free to all persons meeting the requirements of the Board, subject to reasonable limitations as to residence, age, health and moral character, provided

(a) That applicants for employment in the Fire Department shall be at least eighteen (18) years of age and shall not have attained their 30th birthday, and

(b) That applicants for employment in the Police Department shall be at least twenty (20) years of age

The City Council may by ordinance, at any time and from time to time, fix and establish such lesser maximum age limits for applicants as may be consistent with the needs of the respective departments The examination for applicants shall be practical in character and shall be limited to matters which fairly test the relative ability of the applicant to discharge the duties of the position applied for and shall include tests of physical qualifications and health, but no applicant shall be examined concerning his political or religious opinions or affiliations

(3) Notice of time and place of every examination shall be given by the Board for one week preceding such examination in a newspaper published in the city, and such notice shall be posted in a conspicuous place in the office of the Board, or its designee, for at least two (2) weeks preceding such examination

(4) The Board shall prepare and keep a register of persons passing the examination, graded according to the respective showings upon the examination, which register shall determine the appointments to be made in each of the departments under the eligibility rules and regulations established by the Board

(5) The terms "officer or employee or officer " as used in this Subchapter shall mean sworn officers with regard to the Police Department and shall mean uniformed personnel with regard to the Fire Department

(6) No officer or employee of the Fire and Police Departments shall take any part in any election or political function while in uniform or on duty other than that of exercising his right to vote Any officer or employee found by the Board to have violated this provision may be dismissed from service by the Board or the Board may adjudge other punishment

(7) (a) *Relieving a member from duty* The Chief of either the Fire or Police Department, or the officer in charge in the absence of the Chief, may relieve an officer or employee of the respective departments of all duties, and the Chief, or the officer in charge in the absence of the Chief, shall provide such officer or employee with a written complaint setting forth the department rules or regulations the officer or employee is charged with violating along with a statement of the basic facts supporting the charge and the Chief, or the officer in charge in the absence of the Chief, shall simultaneously cite such officer to the Board for an automatic hearing as set forth herein with a recommendation that such officer be dismissed from the department Any officer so relieved of duty shall not receive any pay or be assigned any duties until the Board has acted upon the charges at the conclusion of its hearing In the alternative, the Chief, or the officer in charge in the absence of the Chief, may cite such officer to the Board for an automatic hearing in accordance with the foregoing procedure,

but without relieving the officer from duty

(b) *Dismissal or suspension of officer* The Chief of either the Fire or Police Department, or the officer in charge in the absence of the Chief may suspend without pay for a period not exceeding thirty (30) days, any officer or employee of the respective departments In suspending such officer, the Chief, or the officer in charge in the absence of the Chief, will provide such officer with a written complaint setting forth the department rules or regulations the officer is charged with violating, along with a statement of the basic facts supporting the charge Any such officer so suspended may appeal to the Board by giving written notice of appeal to the Board with a copy to the Chief of such officer's department Such notice of appeal must be received by the Board within a period of fifteen (15) days from the date of the officer's suspension, whereupon a hearing before the Board on such appeal shall be conducted as provided in subparagraph (c) Any officer suspended without pay shall receive no pay for the period of suspension unless the officer is found by the Board not to have committed the offense, or unless the Board adjudges a different period of suspension without pay, in which case the officer shall receive no pay for such different period of suspension

(c) *Appeal hearings.* Upon receipt of a citation from either Chief or upon receipt of notice of appeal from any officer or employee of the Fire or Police Department, the Board shall hold a hearing not less than fifteen (15) days nor more than thirty (30) days from the date the notice of appeal, or the citation, is received by the Board, and shall promptly notify the officer of the hearing date In the event an officer desires a hearing at a date other than that set by the Board within the period set forth above, such officer may file a written request for a change of hearing date setting forth the reasons for such request and the Chairman of the Board is empowered to approve or disapprove such request provided, that such request must be received by the Board at least seven (7) days prior to the date set for the hearing For good cause, the Chairman of the Board may set a hearing date other than within the period set forth above, or may continue the hearing from time to time

In the conduct of its hearing, each member of the Board shall have the power to subpoena witnesses, administer oaths and compel the production of evidence If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board may apply to the General Court of Justice, Superior Court Division, for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all parties If any person while under oath at a hearing of the Board, willfully swears falsely such person shall be guilty of a misdemeanor Both the officer and the Police or Fire Department shall have the right to present relevant evidence to the Board at its hearing The officer must be furnished with a copy of the charges which have been brought against an officer and which will be heard by the Board The officer shall be required to answer questions from members of the Board or the Board's counsel, however, the officer may refuse to answer any question where the answer might incriminate the officer with respect to any criminal violation of state or federal laws The officer may be present at all evidentiary portions of the hearing, may retain counsel to represent the officer at the hearing, and may cross-examine those witnesses who testify against the officer The officer will be given the right to an open or closed hearing as he may elect After the evidentiary portion of the hearing is con

cluded, the Board will consider the evidence in closed session, and the Board will make findings of facts which will be provided to the officer together with a statement of the action taken by the Board on the basis of its findings of fact

(d) *General powers of the Board.*

1 If, at the completion of its hearing, the Board shall find that an officer has not committed the offense or offenses with which such officer has been charged, the Board may restore such officer to full duty with reimbursement of any pay lost during the period the officer was suspended or relieved from duty

2 If at the completion of its hearing, the Board shall find that an officer has committed the offense or offenses with which such officer has been charged, the Board may issue an order

a Dismissing such officer,

b Suspending such officer, without pay, for a period not exceeding 90 days, or

c Imposing such other lesser punishment as it deems just and proper

The Board may suspend its dismissal or suspension without pay, and place such officer on probation for a period not to exceed one year upon such reasonable conditions as the Board may deem appropriate The Board may order the department to furnish to the Board, during the period of probation, such information regarding the officer as the Board deems necessary

(e) *Appeal from action of Board.* Any officer may appeal from any order of the Board to the Superior Court of Mecklenburg County by giving notice of appeal, in writing, to the Superior Court within ten (10) days after the entry of the order Assignments of error must be filed with the Court and served upon the Board within thirty (30) days after the entry of the order The appeal to the Superior Court will be upon the record of the proceedings before the Board at its hearing

(f) *Incapability of performance* In those situations where the Chief of the Fire or Police Department determines that an officer of the respective department is permanently disabled the Chief may cite that officer to the Board with a statement of the facts relating to the inability of such officer to perform his duties, and the Board shall upon receipt of any such citation, hold a hearing as provided for herein, and the Board may dismiss such officer if it finds that such officer can no longer perform his duty Permanently disabled as used in this paragraph shall mean the continuing or enduring incapacity because of physical injury, sickness or mental illness as determined by competent medical authority to earn the wages which the officer was receiving at the time of the injury, sickness or determination of mental illness in the same or any other related employment

(g) *Power of the Board to require investigation.* The Board is hereby empowered to require the Chief of the Fire or Police Department to investigate any incident or circumstance involving officers of such departments which shall come to the Board s attention provided that a majority of the Board shall first determine that such an investigation is in the public's interest The respective Chief shall report the results of an investigation to the Board in writing within a time to be set by the Board

(8) The Board shall make an Annual Report of its actions for the preceding year and said Annual Report shall be kept in the files of the Board and a copy delivered to the City Council

(9) The City Clerk shall act as secretary to the Board and shall keep the minutes of its meetings and shall be custodian of all papers and records pertaining to the business

of said Board and shall perform such other duties as the Board may require

(10) The City Council shall provide suitable rooms for the Board and shall provide sufficient reasonable use of public buildings for meet ings and hearings of said Board as may be necessary

(11) The members of said Board shall serve with out compensation

(12) Nothing in this Subchapter shall be so con strued as to deprive the City Council of its control of the finances of said city

(13) The provisions of this Subchapter pertain ing to Civil Service coverage of officers and employees of the Fire and Police Depart ments shall not apply to the Chief of the Fire Department or the Chief of the Police Department and shall not apply to an offi cer of the Police or Fire Department until he or she has been an officer of the respec tive department for at least twelve (12) months During such twelve months pro bationary period, he or she shall be subject to discharge by the Chief of such depart ment under rules promulgated with respect thereto, such rules to be approved by the City Council

(14) The Chief of the Police Department and the Chief of the Fire Department shall have authority to make all promotions of offi cers of their respective departments, sub ject to majority approval of the Civil Ser vice Board Promotions are probationary for six (6) months from the date they be come effective Any demotions, except vol untary demotions, shall be made only after written charges are preferred and a hear ing held before the Civil Service Board Except as otherwise provided, demotions must be approved by a majority vote of the Board

(15) Notwithstanding any other provisions of this Subchapter, during any wartime emer gency and for six (6) months thereafter, officers of the Fire Department and Police Department may be employed on a tempo- rary basis and such temporarily employed officers may be discharged by the City Man ager without the preferment of charges

(16) The City Council may authorize the City Manager to appoint auxiliary officers of the Fire and Police Departments without pre vious examinations by the Civil Service Board who when called to duty by the Chief[s] of their respective departments shall have all the powers and duties of regular members of the Police and Fire Departments Such auxiliary officers of the said depart ments shall be subject to discharge by the City Manager with or without cause and without a hearing before the Civil Service Board

(Sess Laws 1969, Ch 333, § 1(b), Ord No 339 X, § 1, 1-4 72, Sess Laws 1971 Ch 49, § 1 Ord No 133 X, § 1 4 8 74 Sess Laws 1975, Ch 85, § 1, Sess Laws 1978, Ch 1161, § 1, Sess Laws 1979, Ch 449, § 1, Ord No 1013, § 1, 7 27-81 Sess Laws 1982, Ch 1136, § 1)

[The next page is 115]

SUBCHAPTER D.CIVIL SERVICE

Sec. 4.61 (Board.)

There is hereby continued a Civil Service Board for the City of Charlotte, to consist of five (5) members, three (3) members to be appointed by the City Council and two (2) members to be appointed by the Mayor. Each member shall serve a term of three (3) years. In case of a vacancy on the Board, the City Council or the Mayor, as the case may be, shall fill such vacancy for the unexpired term of said member. A majority of said Board shall constitute a quorum. Any member who fails to attend at least seventy-five per cent of the regular and special meetings and hearings held by the Board during any one-year period shall be automatically removed from said Board. Vacancies resulting from a member's failure to attend the required number of meetings or hearings shall be filled as provided herein.

(1) The members of the Civil Service Board shall be electors of the City of Charlotte and shall take an oath to faithfully perform their duties. The members of said Board shall be subject to removal from office by a two-thirds vote of the City Council, with or without cause.

(2) The Chief of the Police Department and the Chief of the Fire Department, in conjunction with the City's Human Resources Department, shall have the authority to employ personnel for entry-level Police Officer and Firefighter positions, subject to final approval by the Civil Service Board.

The Chief of the Police Department and the Chief of the Fire Department, in conjunction with the City's Human Resources Department, shall have the authority to promote personnel to the positions of Police Sergeant, Police Captain, Police Major, Firefighter-Engineer, Fire Captain and Battalion Fire Chief. The Chiefs of each department shall notify the Civil Service Board of each promotion.

The Civil Service Board shall not employ any applicant, officer or employee not recommended to the Board by the Police Chief or Fire Chief.

(3) The terms "officer or employee" or "officer" as used in this Subchapter shall mean sworn officers with regard to the Police Department and shall mean uniformed personnel with regard to the Fire Department who were approved for hire by the Civil Service Board.

(4) No officer or employee of the Fire and Police Departments shall take any part in any election or political function while in uniform or on duty other than that of exercising his right to vote. Any officer or employee found by the Board to have violated this provision may be dismissed from service by the Board, or the Board may adjudge other punishment.

(5)(a) The Chief of the Police Department, Chief of the Fire Department, or a designee of either Chief, shall have the authority to suspend, terminate, or demote an officer or employee. An officer or employee who has been suspended, terminated or demoted will be verbally informed of such action by the immediate supervisor

where practical, and shall also be informed in writing by the respective department. Such written notice shall include the departmental rules or regulations the officer or employee is charged with violating, along with a statement of the basic facts supporting the charge, information on the right to appeal such action and the procedures for filing an appeal. A suspension, termination, or demotion may be appealed by the officer or employee to the Civil Service Board. Such appeal shall be submitted to the City Clerk in writing within (15) calendar days from the date of such suspension, termination or demotion.

(b) Upon receipt of notice of appeal from any officer or employee of the Fire or Police Department, the Board shall hold a hearing not less than fifteen (15) days nor more than thirty (30) days from the date the notice of appeal, or the citation, is received by the Board and shall promptly notify the officer of the hearing date. In the event an officer desires a hearing at a date other than that set by the Board within the period set forth above, such officer may file a written request for a change of hearing date setting forth the reasons for such request, and the Chairman of the Board is empowered to approve or disapprove such request; provided, that such request must be received by the Board at least seven (7) days prior to the date set for the hearing. For good cause, the Chairman of the Board may set a hearing date other than within the period set forth above, or may continue the hearing from time to time.

In the conduct of its hearing, each member of the Board shall have the power to subpoena witnesses, administer oaths and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board may apply to the General Court of Justice, Superior Court Division, for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all parties. If any person, while under oath at a hearing of the Board, willfully swears falsely, such person shall be guilty of a misdemeanor. Both the officer and the Police or Fire Department shall have the right to present relevant evidence to the Board at its hearing. The officer must be furnished with a copy of the charges which have been brought against an officer and which will be heard by the Board. The officer shall be required to answer questions from members of the Board or the Board's counsel; however, the officer may refuse to answer any question where the answer might incriminate the officer with respect to any criminal violation of state or federal laws. The officer may be be present at all evidentiary portions of the hearing, may retain counsel to represent the officer at the hearing, and may cross examine those witnesses who testify against the officer. The officer will be given the right to an open or closed hearing as he may elect. After the evidentiary portion of the hearing is concluded, the Board will consider the evidence in closed session, and

the Board will make findings of facts which will be provided to the officer together with a statement of the action taken by the Board on the basis of its findings of fact.

(c) General Powers of the Board.

1. If, at the completion of its hearing, the Board shall find that an officer has not committed the offense or offenses with which such officer has been charged, the Board may restore such officer to full duty with reimbursement of any pay lost during the period the officer was suspended, terminated, or demoted.

2. If, at the completion of its hearing, the Board shall find that an officer has committed the offense or offenses with which such officer has been charged, the Board may issue an order:
   a. Dismissing such officer;
   b. Suspending such officer, without pay, for a period not exceeding 90 days; or
   c. Imposing such other lesser punishment as it deems just and proper.

   The Board may suspend its dismissal or suspension without pay, and place such officer on probation for a period not to exceed one year upon such reasonable conditions as the Board may deem appropriate. The Board may order the department to furnish to the Board, during the period of probation, such information regarding the officer as the Board deems necessary.

(d) Appeal from action of Board. Any officer may appeal from any order of the Board to the Superior Court of Mecklenburg County by giving notices of appeal, in writing, to the Superior Court within ten (10) days after the entry of the order. Assignments of error must be filed with the Court and served upon the Board within thirty (30) days after the entry of the order. The appeal to the Superior Court will be upon the record of the proceedings before the Board at its hearing.

(e) Power of the Board to require investigation. The Board is hereby empowered to require the City Manager to investigate any incident or circumstance involving officers of such departments which shall come to the Board's attention; provided, that a majority of the Board shall first determine that such an investigation is in the public's interest. The City Manager shall report the results of an investigation to the Board in writing within a time to be set by the Board.

(6) The Board shall make an Annual Report of its actions for the preceding year and said Annual Report shall be kept in the files of the Board and a copy delivered to the City Council.

(7) The City Clerk shall act as secretary to the Board and shall keep the minutes of its meetings and shall be custodian of all papers and records pertaining to the business of said Board and shall perform such other duties as the Board may require.

(8) The City Council shall provide suitable rooms for the Board and shall provide sufficient reasonable use of public

buildings for meetings and hearings of said Board as may be necessary.

(9) The members of said Board shall serve without compensation.

(10) Nothing in this Subchapter shall be so construed as to deprive the City Council of its control of the finances of said city.

(11) The provisions of this Subchapter pertaining to Civil Service coverage of officers and employees of the Fire and Police Departments shall not apply to the Chief of the Fire Department or the Chief of the Police Department, and shall not apply to an officer of the Police or Fire Department until he or she has been an officer of the respective department for at least twelve (12) months. During such twelve-months' probationary period, he or she shall be subject to discharge by the Chief of such department under rules promulgated with respect thereto, such rules to be approved by the City Council.

In regard to positions of Assistant Police Chief and Division Commander in the Police Department; Assistant Fire Chief and Division Chief in the Fire Department, the Chiefs of each respective department are authorized to take the following actions without the review and approval of the Civil Service Board:

(a) Promote officers or employees to these positions.

(b) Remove officers or employees from these positions and take disciplinary actions, excluding terminations of employment. Officers or employees removed from these positions shall have Civil Service status for the rank (position) held prior to promotion to one of the aforementioned positions.

(12) Notwithstanding any other provisions of this Subchapter, during any wartime emergency and for six (6) months thereafter, officers of the Fire Department and Police Department may be employed on a temporary basis and such temporarily employed officers may be discharged by the City Manager without the preferment of charges.

(13) The City Council may authorize the City Manager to appoint auxiliary officers of the Fire and Police Departments without previous examinations by the Civil Service Board, who, when called to duty by the Chief(s) of their respective departments, shall have all the powers and duties of regular members of the Police and Fire Departments. Such auxiliary officers of the said departments shall be subject to discharge by the City Manager, with or without cause, and without a hearing before the Civil Service Board.

(Sess.Laws 1969, Ch.333, s1(b);Ord.No.339-X,s 1,1-4-72;Sess.Laws1971,Ch 49,s1;Ord.No.133-Xs 1, 4-8-74;Sess.Laws1975,Ch.85,s1; Sess.Laws 1978, Ch.1161,s1Sess.Laws1979,Ch.449,s1;Ord-.No.1013,s 1,7-27-81,Sess.Laws 1982, Ch.1136,s1;Sess.Laws 1985, Ch.345,s1)

FINANCE AND LONG RANGE PLANNING COMMITTEE
November 7, 1989
EXECUTIVE SUMMARY

The City Council Finance and Long Range Funding Committee met at 5:00 p.m., on November 7, 1990, in Room 118 of the Charlotte-Mecklenburg Government Center, with Chairman Roy Matthews presiding. Committee members Stan Campbell, Lynn Wheeler and Ann Hammond were present. Committee member Pat McCrory was absent. Council member Tom Mangum was also in attendance.

Staff members in attendance were: Greg Gaskins-Finance Dept.; Butch Baker and Robin Pennington-Tax Administrator's Office; City Attorney Henry Underhill; Pam Syfert and Darlene Shrum-City Manager's Office

Also present were representatives of the Charlotte Chamber and the Arrowood Association

Business Privilege License Tax (BPLT) Penalty Considerations

Discussion: The Committee discussed the methods by which businesses were informed of the BPLT and their legal obligation to comply with the law. New businesses and newly annexed businesses were of particular interest. There was some evidence that part of this latter group might have legitimately missed notification. This was most likely in their first year in the City. Methods of improved notification were discussed.

The Committee emphasized finding a way to equitably provide some credit relief to businesses which might not have had notice of the BPLT. They were also concerned with some reduction of the level of future penalties. However, they felt some penalty was necessary and proper to encourage voluntary compliance with this tax. They also wanted a credit method that would be practical and not cost so much in administrative effort as to make it burdensome or harmful to the program. The Committee recognized that complete equity could not be accomplished, but that a reasonable program of relief was possible.

Action Taken: The Committee unanimously approved the following recommendations:

(1) Increase communication efforts to taxpayers through a program of mail and media to be developed by PS&I. Part of this program would specifically target annexed areas and new businesses. This program would be a supplement to communications efforts already being conducted by the County License Tax Division.

(2) Lower the penalty rate on all future violators by imposing a penalty of 2 1/2% per month for delinquent taxes incurred after July 1, 1991. (The current rate is 5% per month.)

(3) For those taxpayers who were assessed penalties on or after July 1, 1988, the Committee directed the City Attorney to draft legislation to allow a credit in the first feasible tax year (FY92 and FY93) to be calculated by computing the penalty as if it had accumulated at 2 1/2%. The credit would be calculated by deducting the new penalty amount from the penalty that was actually due and paid. However, the total credit would not exceed the tax due and payable in the year of the credit. This would allow a 100% credit for the one or two year violator but only a partial credit for the three year violator.

Meeting adjourned at 6:00 p.m.

EXHIBIT A

A. Current program using a $2,000 maximum taxpayer who hasn't paid for three years and using 5% rate of accrual.

TAX DUE	TAX AMOUNT	YEAR END PENALTY AMOUNT 1989	1990	1991	TOTAL PENALTY
July 1, 1988	$2,000	$1,200	$1,200	$1,200	
July 1, 1989	2,000		1,200	1,200	
July 1, 1990	2,000			1,200	
Total	$6,000	$1,200	$2,400	$3,600	$7,200

EXHIBIT B

I. $2,000 maximum taxpayer who hasn't paid for three years using 2 1/2% rate with penalties accruing for three years.

TAX DUE	TAX AMOUNT	YEAR END PENALTY AMOUNT 1989	1990	1991	TOTAL PENALTY	TOTAL POTENTIAL CREDIT
July 1, 1988	$2,000	$ 600	$ 600	$ 600		$ 600
July 1, 1989	2,000		600	600		1,200
July 1, 1990	2,000			600		1,800
Total	$6,000	$ 600	$1,200	$1,800	$3,600	$3,600

II Estimated revenue impact

FY 1991	($253,000)
FY1992	($207,000)
FY1993	-0-
Total	($460,000) x .55 = ($253,000) for 1991 credit

MEMORANDUM

November 19, 1990

TO: Mayor and City Council

Henry W. Underhill Jr.

FROM: Henry W. Underhill, Jr.
City Attorney

SUBJECT: Revised Suggestions for the City's 1991 Legislative Program

Listed below are the suggested items that are recommended by the City Manager for your consideration as the City's 1991 Legislative Program. Each item has been placed under one of four categories: (1) Administration; (2) Finance; (3) Housing; and (4) Crime and Drugs. Please observe that I have also indicated the source of each suggestion. This memorandum has been revised to reflect the actions you have taken on November 13 as well as the just completed Council Retreat (An asterisk indicates those items in which modifications have been made or items added)

ADMINISTRATION

1 Seek a local act that would temporarily remove the $50,000 limitation on the City Manager's approval and award of contracts in times of natural disaster

An act of this type would have permitted the City Manager to award contracts in excess of $50,000 for repairs and other needed services during emergency situations such as Hurricane Hugo without Council authorization (Budget and Evaluation Department)

2. Seek appropriate legislation that would permit the City to establish and effectively implement a storm water utility system.

You may recall that while there is legislation that permits a unit of local government to establish a storm water utility system, that legislation needs clarification with regard to the authority of cities and counties to collect utility charges and to place liens in the event of non payment of such charges. The 1990 General Assembly created a study commission to study the issues and to recommend legislation on the subject for consideration in the 1991 Session. At this time the study commission has not issued its report. (City Engineering Department)

*3. Consider seeking clarifying amendments to the City Charter with respect to the Auditorium-Coliseum-Convention Center Authority as follows:

(a) Clarify that the Performing Arts Center is not an "auditorium" within the meaning of the Charter and thus is not subject to the jurisdiction of the Authority.

(b) Clarify that the old Coliseum is no longer under the jurisdiction of the Authority.

(c) Amend § 5.22 of the Charter to emphasize that capital budget decisions with regard to Authority operating surpluses should be made as a part of the City's Capital Improvement Program and that otherwise such surpluses should be used for debt service. (See attached November 13 memo from Council member Clodfelter.)

FINANCE

*4 Seek an amendment to G.S § 20-97(b) to increase the existing $20 cap that the City is allowed to charge for an auto privilege tax to $35.

An increase in the fee would provide a potential new source of revenue for transit and transit-related activities. (Council Transportation Committee)

HOUSING

5. Seek an amendment to G.S § 160A-443 to authorize the City Manager to order the repair, closing or demolition of dwellings.

At the current time, Council approval is necessary for these actions Such legislation would expedite the housing code enforcement process by at least 30 days. This item was part of the City's 1990 Legislative Program, however the Mecklenburg Legislative Delegation declined to introduce the bill. (Community Development Department)

6. Seek an amendment to G.S. § 160A-445 to eliminate that a property owner be personally served with a Housing Code order if the owner had previously refused service by certified mail.

Presently, if a property owner whose property is the subject of a Housing Code enforcement action refuses to accept service of a Housing Code order sent to him by certified letter, the City must then serve him personally. This evasive action on the part of some property owners causes significant delays. Under this proposal, if the certified letter is refused, notice will be given by publication in a newspaper of general circulation and by posting the notice on the property in question. (Community Development Department)

CRIME AND DRUGS

7 Seek legislation that would allow the City to appropriate funds for the staffing and operations of the Criminal Justice System, particularly the District Attorney's office. (Mayor Myrick)

8 Seek legislation authorizing the imposition of an additional 1/4% sales tax for the purpose of investigation and prosecution of drug and drug-related offenses. (Mayor Myrick)

9 Amend the state statutes regarding resisting arrest to provide that a person does not have the legal right to physically resist a police officer even if the officer is making what later turns out to be an unlawful arrest (Police Department)

10. Seek a state law that would allow only one felony arrest during a five year period to be plea bargained down to a misdemeanor. (Police Department)

11 Seek a state law requiring a mandatory ten-year prison sentence for involving a minor in drug trafficking crimes. (Council member Martin and Police Department)

12. Seek a state law requiring a ten year to life sentence for carrying a gun during a drug trafficking crime. (Police Department)

13. Seek a state law establishing as a separate offense the carrying of a weapon while engaged in criminal activity, including toy guns. (Police Department) (See attached Retreat discussion memo with regard to Items 8 through 13.)*

*14. Explore the need for legislation that accomplishes the following:

(a) Seek a state law making possession of a handgun by a person under 21 years old a felony

(b) Seek a state law making transfer of a handgun to a person under 21 years old a felony.

(c) Seek a state law providing a mandatory waiting period prior to the purchase of a handgun.

(d) Seek a change in G.S. § 14-269 increasing the penalty for carrying a concealed weapon from a misdemeanor to a felony when the concealed weapon is a firearm.

(Attached Police Department response to Council member Vinroot's inquiry.)

15. Seek additional state funds to expand the Dispute Settlement Program of Community Relations Committee.

A copy of a memorandum from Jack Bullard providing additional information regarding this request is attached (Community Relations Department)

*16 Support state-wide legislation prohibiting topless entertainment where alcoholic beverages are sold (Council member Scarborough)

The Mayor's office will invite the District Atotrney, the Sheriff, and the County Police Chief to attend the November 26 Council meeting. Copies of this revised memorandum are being sent to Mecklenburg County, the Board of Education, the Charlotte Chamber of Commerce, and other groups that have expressed an interest in receiving the proposed package

If you have questions concerning any of these items, please contact me.

HWUjr/ef
Attachments

MEMORANDUM TO: Mayor and Council

FROM: Dan Clodfelter

DATE: November 13, 1990

RE: Potential Legislative Items

In connection with the legislative package for the 1991 General Assembly, I wonder if we might need to take a look at some possible clarifying amendments to the City Charter Chapter V, Part B dealing with the Auditorium-Coliseum-Convention Center Authority. In recent weeks two issues have come up - one involving the Performing Arts Center and one involving the Convention Center - in which potential legal issues under the Charter are involved.

I.

Section 5.21 of the Charter currently provides that "the control, management and operation of the property and improvements now or hereafter made or acquired by the City of Charlotte for auditorium, coliseum, civic center and baseball stadium purposes shall continue to be vested in the Authority...." There has recently been discussion about the need to coordinate management of the PAC and Ovens Auditorium to prevent conflict and competition. If the parties involved work out an agreement which affects the management and operation of Ovens, then that agreement could conceivably require an amendment to this Charter provision.

At the same time, I think we might want to be sure we are on firm ground under the Charter with respect to the authority of the PAC to operate the new performing arts center (which is, I would submit, an "auditorium" within the meaning of the Charter) and that we are on solid ground in re-leasing the Old Coliseum to a third party. (It is, after all, "property and improvements now or hereafter made or acquired for coliseum purposes.") I know the Authority has voluntarily divested itself of the management of the Old Coliseum, but I am concerned that if the Authority were to change its mind now or in the future and decide it wants to reclaim jurisdiction over the building, in order for example to bar its lease to a third party, then we might have some questions. As for the PAC, I am not certain how the facility ever got "out from under" the Authority in the first place.

Please understand that at this point I am not taking positions on where Ovens, the PAC or the Old Coliseum ought to be controlled - just that the Charter seems to be a little ambiguous for our current circumstances and may need some amendment.

II.

The second issue is an outgrowth of our discussion two years ago on the prospects of a seat tax to help pay the debt costs on our coliseum, auditorium, and convention center facilities, and our more recent discussions on the financing package for the proposed new convention center. Those of you on the previous Council will recall that some Council members expressed frustration that it was the City that had to shoulder the burden of worrying about debt service on the Coliseum and Convention Center, while it was the Authority which controlled the use of the operating surpluses from those facilities.

Currently, we are trying to be sure we put together a financing package for the new convention center that is sufficient to guarantee debt service coverage and cover operating costs. In our recent package, we all got copies of the Authority's pro formas showing substantial current fund balances and projected use of some of those fund balances into future years for capital improvements, expansions and upgrades. I admit to being a little troubled that these capital improvements were being handled outside the City's normal capital budget process and at a time when we were struggling to be sure we could finance debt service on the various facilities.

Section 5.22 of the Charter provides that the "net proceeds from the operation of the Authority shall be used to pay the interest and retirement on the bonded debt of the City of Charlotte incurred in connection with such auditorium-coliseum-convention center-baseball stadium and shall not be used for any other purpose until said bonds, principal and interest have been paid, except as may be otherwise approved by the City council for other uses of the Authority." I read this to mean that the fund balances should not be used for capital expansion and new facility upgrades (as opposed to, say, routine maintenance and repair) without the approval of the City Council. In other words, while we are working to make the financing package for the facilities work, Council should have control over whether the operating surpluses are spent on debt service or on new capital improvements.

I suspect, however, that in practice this may not be happening. Thus, I raise the question whether we may want to consider possible clarifying language to Section 5.22 to underscore and emphasize that capital budget decisions with respect to the operating surpluses should be made as part of the City's capital improvement program and that otherwise such surpluses should be used for debt service.

I do not at this point have any proposed bills in hand. I did want to surface the matter for discussion, however, since these questions seem to keep cropping up in our deliberations on a number of issues related to Ovens, the Old Coliseum, the PAC and the Convention Center. If Council believes we need to look further at any of these questions, we need to alert the Authority

and the delegation now in light of the approaching 1991 session and we need to begin some dialogue with the Authority and the delegation on the issues.

RETREAT DISCUSSION TOPICS

A. Amend the state statutes regarding resisting arrest to provide that a person does not have the legal right to physically resist a police officer even if the officer is making what later turns out to be an unlawful arrest.

1. Why did you ask for this change?

Section 14-223 of the North Carolina General Statutes makes it unlawful for a person to willfully resist, delay or obstruct an officer in the performance of his duties. However, under North Carolina law, a person has the right to resist an unlawful arrest using whatever degree of force (other than deadly force) that reasonably appears necessary to prevent the arrest.

An officer who is making what he believes is a lawful arrest, when met with resistance on the part of the arrestee, will increase the degree of force necessary in order to overcome the resistance and complete the arrest. A citizen who believes his arrest is unlawful may exercise the right to resist. Because this resistance is likely to result in an escalated use of force by the officer, serious injury often is the result - for both the officer and the arrestee. Arrests that result in injury-to-an-officer are frequently the source of worker's compensation claims and time lost from work by an officer. Moreover, arrestees who sustain injury or property damage are more likely to file claims or lawsuits against the City.

It is our belief that eliminating the right to resist arrest, even in those instances when the arrest is unlawful, will benefit officers in the performance of their duties as well as serving the interests of arrestees and the City. If the arrest was in fact unlawful, the arrestee has other more safe and effective avenues of redress than resisting the arrest.

2. Give actual number of cases the change would have impacted (6 to 12 month data).

From November 1, 1989 through October 31, 1990, there were 1685 arrests for resisting, delaying or obstructing an officer in the performance of his duties. Data is not available to show how many of original arrests which resulted in a resisting charge were unlawful.

3. What do you expect as a result of the change?

   a. A gradual decrease in the number of arrestees who resist arrest based on their belief that the arrest is unlawful and that they are permitted to resist the arrest.

   b. Safer working conditions for officers.

   c. A less fertile environment for the filing of claims and lawsuits by arrestees who incurred property damage or injury as a result of resisting arrest.

4. Does it have a cost?

   No. To the contrary, the change should result in fewer worker's compensation claims, days off due to injury and less liability exposure for claims and lawsuits.

5. Has the District Attorney or any other system participant commented on these proposed changes? What are the comments?

   No.

B. Seek a state law that would allow only one felony arrest during a five-year period to be plea bargained down to a misdemeanor.

1. Why did you ask for this change?

   Numerous felony charges are currently being reduced to misdemeanors in exchange for the defendant's guilty plea to a misdemeanor. This results over and over again in serious offenders not being tried or convicted for the felonies they commit. Many of the individuals who commit serious crimes in our community are repeat offenders. They are well aware of the likelihood that their actions will not result in serious consequences. Allowing only one misdemeanor plea to a felony charge in a five-year period should result in more cases of serious repeat offenders being handled as they should be - as felonies with appropriate penalties.

2. Give the actual number of cases the change would have impacted (6 to 12 month data).

   From January, 1990 through June, 1990, there were a total of 4840 felony cases submitted for prosecution in Mecklenburg County. Of these, 1589 were screened out of the prosecution process, leaving 3251. Out of 3251, 750 resulted in misdemeanor pleas.

3. What do you expect as a result of the change?

   a. An increased awareness among serious repeat offenders in the community that their conduct will result in serious consequences in the form of felony convictions and imprisonment.

   b. A decrease in the willingness of individuals to repeatedly commit serious felony offenses.

4. Does it have a cost?

   Yes. Reducing the number of misdemeanor pleas that are accepted will increase the number of felony cases that go to trial. Initially, this may require additional resources for the Court and the District Attorneys Office. However, this initial expense may eventually be balanced or outweighed by the decrease in the number of times a particular offender will be in the system.

5. Has the District Attorney or any other system participant commented on these proposed changes? What are the comments?

   No.

C. Seek a State law requiring a mandatory ten-year prison sentence for involving a minor in drug trafficking crimes.

1. Why did you ask for this change?

   Our community is facing very serious problems that are the result of drug related crimes. Officers are increasingly dealing with drug offenses that involve juveniles and minors. Involving young people in the drug trade will have the effect of perpetuating the problems associated with drug related crimes; if the individual is introduced to drug trafficking at an early age, he will simply have more time during which to continue the illegal enterprise. Seasoned drug dealers are well aware that using young people in the selling process makes good business sense because: (1) they are cheaply employed, and (2) the penalties for the juveniles and youthful offenders are less severe. A mandatory minimum sentence may serve to minimize this practice (See Note following number 5 below).

2. Give the actual number of cases the change would have impacted (6 to 12 month data).

   In 1989, there were 654 charges for drug trafficking. Through October of 1990, there have been 959 charges of drug trafficking. No data is available for how many of these

charges involved minors. However, our experience indicates that there is an increasing trend of involving young people in all phases of drug sales.

3. What do you expect as a result of the change?

   a. Fewer minors involved in drug trafficking offenses.

   b. Fewer individuals seeking to employ minors in the drug trade.

   c. A healthier environment in the community for minors.

4. Does it have a cost?

   Yes. Only those costs associated with charging and trying the defendant for this offense. However, this offense would typically be part of the defendant's trafficking case; an additional trial would not be necessary. (The costs of incarceration may also be relevant).

5. Has the District Attorney or any other system participant commented on these proposed changes? What are the comments?

   No.

   [Note: Effective October 1, 1990, a person 18-21 years old who hires a minor to manufacture, sell or deliver, or possess with intent to sell or deliver a controlled substance, shall be guilty of a felony one class more severe than the violation for which the child was hired.

   A person over 21 who hires a child to commit this offense shall be guilty of a felony two classes more severe than the felony for which the child was hired.

   Mistake of age is not a defense.

   Although these recent changes do not require a mandatory minimum sentence, they do address the same issue by imposing felony penalties upon one who hires the minor to engage in manufacturing, selling, delivering, or possessing with intent to sell and deliver a controlled substance.]

D. Seek a state law requiring a ten year to life sentence for carrying a gun during a drug trafficking crime.

   1. Why did you ask for this change?

Our experience indicates that in 75 percent or more of drug trafficking cases, the suspect is armed with a firearm or other dangerous weapon. This presents a serious threat to the safety of citizens and law enforcement officers. In my opinion, carrying a firearm during <u>any</u> forcible felony (not just drug related offenses - see E below) should serve to enhance the defendant's sentence. For example, carrying a firearm during a drug related offense, burglary, robbery, or assault could result in a five or ten year enhancement to the defendant's sentence.

2. Give actual number of cases the change would have impacted (6 to 12 month data).

The data for the actual number of drug trafficking offenses which involved a firearm is not available. However, Captain T. G. Barnes of the Vice and Narcotics Bureau estimates that a minimum of 75 percent of trafficking cases involve firearms.

3. What do you expect as a result of the change?

Stiffer penalties for individuals who commit drug trafficking and/or other forcible felonies while in possession of a firearm.

4. Does it have a cost?

No.

5. Has the District Attorney or any other system participant commented on these proposed changes? What are the comments?

No.

E. Seek a state law establishing as a separate offense the carrying of a weapon while engaged in criminal activity, including toy guns.

1. Why did you ask for this change?

The use of firearms and other deadly weapons in the commission of crimes is running rampant. Creating a separate offense for possessing a weapon during commission of a crime or, alternatively, enhancing the sentence for any crime committed while in the possession of a firearm or other deadly weapon would serve to punish these offenders appropriately and deter this type of conduct.

2. Give actual number of cases the change would have impacted (6 to 12 month data).

   Data is not available that would show the number of criminal offenses that were carried out while in possession of a weapon.

3. What do you expect as a result of the change?

   a. More severe penalties for individuals who commit crimes while in possession of dangerous weapons.

   b. A deterrent effect which may result in fewer crimes of this type being committed.

4. Does it have a cost?

   No.

5. Has the District Attorney or any other system participant commented on these proposed changes? What are the comments?

   No.

M E M O R A N D U M

RECEIVED
OCT 31 90
LEGAL DEPARTMENT

DATE: October 29, 1990

TO: Henry W. Underhill, Jr.
City Attorney

FROM: S. H. Killman
Chief of Police

SUBJECT: City Regulation of the Sale and/or Possession of Firearms

I am writing in response to your memorandum requesting the Department's position concerning additional legislation to deal with firearms. I am in agreement with Mr. Vinroot that the unlawful use of firearms has become a community-wide problem and not one that can be solved by simply enacting new laws. The apparent willingness of some individuals to engage in this sort of violence is merely symptomatic of more complex societal problems. Nevertheless, I believe that stricter regulations, as outlined below, may help us to deal with some of these problems in a more effective way.

1. <u>Prohibit Person Under 21 Years of Age From Possessing a Handgun</u>

Under North Carolina law (G.S. 14-402), it is unlawful for any person within the state to sell, give away, or transfer, or to purchase or receive any pistol unless a permit therefor has first been obtained by the purchaser or receiver from the sheriff of the county in which the purchaser or receiver resides. In order to obtain such a permit, the purchaser or receiver must be at least 21 years of age. (North Carolina law does not prohibit one who is 18 years or older from receiving a permit. However, federal law requires the purchaser of other than a shotgun or rifle be at least 21 years old. The sheriff, therefore, issues permits only to those who have reached 21 years of age).

Any person who has received a handgun within this state without obtaining the necessary permit is in violation of G.S. 14-402, which is a misdemeanor punishable by a maximum fine of $200.00 and/or six months imprisonment. However, if the person receives the handgun while he is outside the state, no permit is required. Thus, an underage person who receives a handgun in another state and brings it into North Carolina is not in violation of North Carolina law.

Although North Carolina law prohibits one under the age of 21 years from receiving a handgun without a permit (for in-state receipt), there is no state, federal or local law that prohibits possession of a handgun by a person under 21 years of age. In my opinion, possession of a handgun by a person under 21 years of age should constitute a felony. Likewise, transfer of a handgun to a person under 21 years of age should be punishable as a felony. In my opinion, these laws could serve to fill a gap in the existing law by making possession of a handgun by an underage person unlawful.

2. Registration/Waiting Period Prior to Purchase

Neither state nor federal law imposes a waiting period prior to the purchase of a handgun or other firearm. The permit application process required for handguns under G.S. 14-402 often results in a waiting period of up to two weeks because of the time required to process the application (which includes a criminal history check). However, no waiting period is mandated. In my opinion, a mandatory waiting period prior to the purchase of a handgun might be of some benefit in an attempt to reduce the number of violent incidents involving handguns.

3. Adults With Records of Misuse Prohibited From Purchase or Possession of Firearms.

Both state and federal law prohibit the possession of a firearm by a convicted felon when off his own premises.

4. Strong Penalties.

It goes without saying that any strengthening of the laws relating to firearms must be supported by strong penalties if they are to have any impact at all. In this regard, I also would like to suggest that consideration be given to legislation that would raise the penalty for carrying a concealed weapon under G.S. 14-269 from a misdemeanor to a felony when the weapon concealed is a firearm. Currently, a violation of this statute is punishable by a maximum fine of $500.00 and/or imprisonment for not more than six months, regardless of the type of weapon involved.

By correspondence dated September 21, 1990, I solicited the comments of Chief Orr, Sheriff Kidd and Mr. Peter Gilchrist concerning Mr. Vinroot's suggestions. I have received no response from Sheriff Kidd

and Chief Orr. Mr. Gilchrist replied: (1) that he was not sure he would endorse a law that would increase the penalty for carrying a concealed firearm because of the impact that could have on the caseload of his office; (2) that the handgun permit application process often results in a de facto waiting period much the same as a mandatory waiting period would; and (3) no response to the prohibition on possession of a handgun by a person under the age of 21 years. I will continue to seek a response from Chief Orr and Sheriff Kidd, and I will keep you advised if I receive a reply from them.

Please let me know if additional information would helpful.

cc: Stephanie H. Webster

SHK/jsk

MEMO

Date: September 13, 1990

From: Jack L. Bullard

To: Henry W. Underhill
City Attorney

Subject: City 1991 Legislative Program

SEP 17
LEGAL DEPARTMENT

Action Recommended

That City council request delegation to seek additional state funds to expand the Dispute Settlement Program of the Charlotte-Mecklenburg Community Relations Committee.

Background

The City and the State presently provide funds for the Dispute Settlement Program. During FY90, 1530 minor criminal charges were referred to the program by the District Attorney. Magistrates referred additional complaints that could have been a basis for issuing a criminal warrant. 561 of these cases were mediated. 495 were successfully resolved and charges were dropped.

This program is currently being expanded to include mediation of Landlord/Tenant disputes. Also, the Charlotte Police Department has begun recommending that some problems be resolved in this program as an alternative to seeking a warrant and court action.

The District Attorney, the Chief of County Police and the District Court bench are discussing the use of the program as an alternate to the courts for handling bad checks.

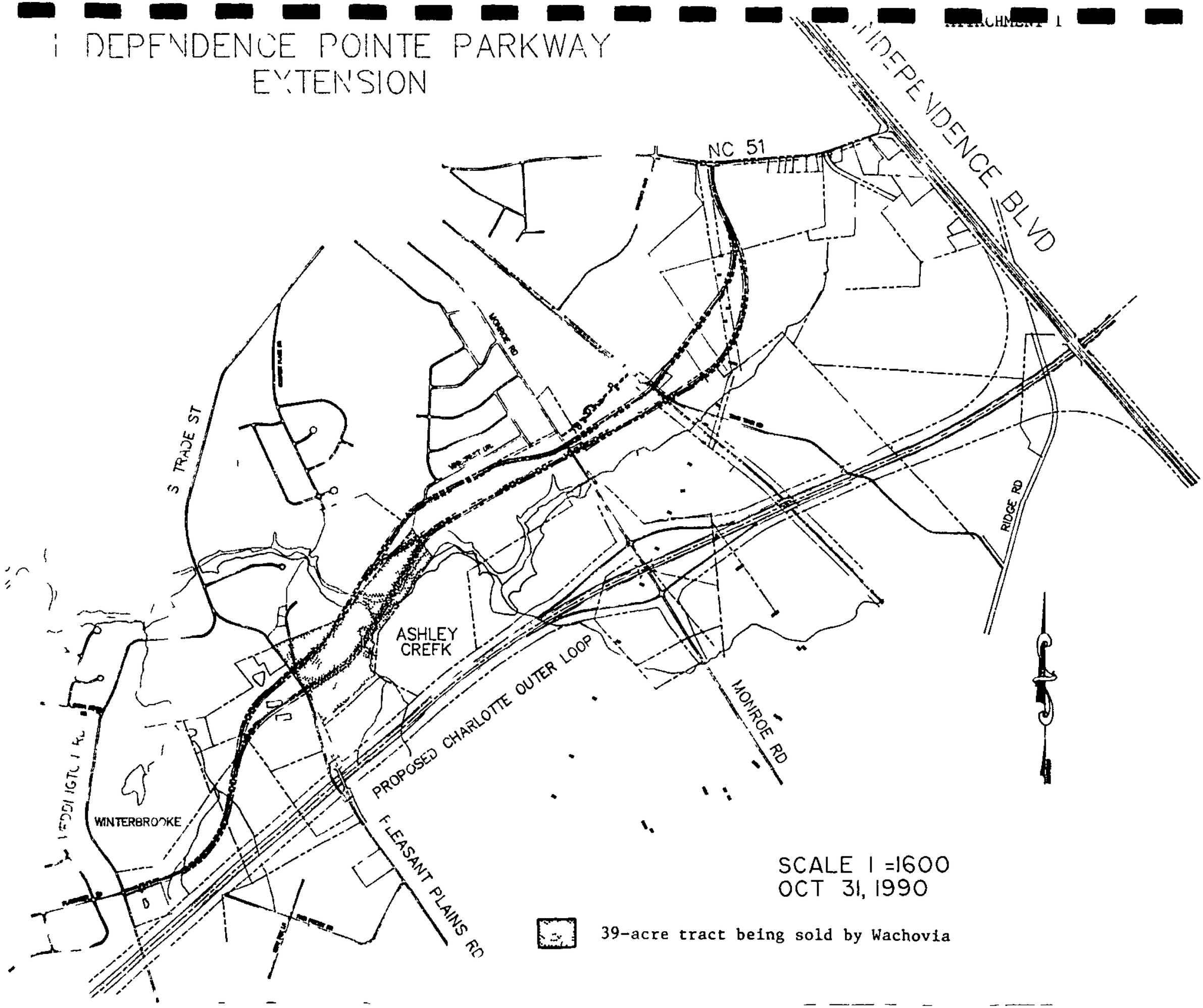
State funds are presently being provided to Dispute Settlement Programs across the state (including Charlotte-Mecklenburg). The amount provided Charlotte-Mecklenburg is not commensurate with our population or court load.

Proposal

It is reasonable to expect the state to assume a part of the costs of expanding the program as described above. This could be done by placing additional funds for Charlotte in the Budget of the Administrative Office of the Courts or by members introducing bills designating their "discretionary" funds. A proposed amount is being prepared for discussion with the Budget Office.

Doc:A7:attymemo.wri

INDEPENDENCE POINTE PARKWAY EXTENSION



ATTACHMENT 2

Town of Matthews
North Carolina
Office of the Mayor

J. Shawn Lemmond
Mayor

July 27, 1988

Mr. Bill Coxe
Mecklenburg County
Traffic Engineering

REF: EVALUATION OF INDEPENDENCE POINTE RD. EXTENSION

Dear Bill,

This is a formal request by the Matthews Town Board of Commissioners to ask for your review and evaluation of a road to extend Independence Pointe Blvd. from Hwy 51 to Weddington Road. This road concept has been tentatively called the "Independence Pointe Road Extension".

I have enclosed a map for your review and would appreciate your comments as soon as possible. Also, the Town would appreciate your consideration and suggestions as to alternate alignments.

Due to the extremely active development in this area it is our intention that this road be added to the Charlotte-Mecklenburg Thoroughfare Plan as soon as possible (MPO's September meeting). This is provide that your group, nor the City of Charlotte see any outstanding problem or detriment with this concept.

With this in mind, if you find this road as beneficial to future traffic patterns as the Town of Matthews believes it to be, then we will need your assistance in fast tracking this road through the TCC and on to the MPO.

I look forward to hearing from you and will be happy to meet with you at your convenience.

Sincerely,

J. Shawn Lemmond
Mayor,
Town of Matthews

Matthews Town Hall, PO Box 398, Matthews, NC 28106 (704) 847-4411

ATTACHMENT 3

Wachovia

Wachovia Bank & Trust Company, N.A.
P O Box 31809
Charlotte, NC 28231-1809

September 7, 1990

Mr. Troy Pollard, Chairman
Metropolitan Planning Organization
PO Box 23077
Mint Hill, NC 28212

RE: Eliminating a Route Which is a Part of Independence Pointe Extension, West of Monroe Road, from the Thoroughfare Plan

Dear Mr. Pollard:

Thank you for talking with me about the Independance Pointe Extension west of Monroe Road. As I had previously mentioned, Wachovia Trust Real Estate has a contract to sell about 39 acres at 1631 Pleasant Plains Road, Matthews, NC. This designated connector road is proposed to go through this property and will prevent the sale for residential development if it remains as is.

Since the Town of Matthews requested the road and now has requested this road be removed, I see no reason for this issue to remain in question. I have talked with Mr. Lee Myers and he is aware the Matthews Board of Commissioners voted unanimously to request the route be removed from the thoroughfare plan.

It is my understanding that you are scheduling the Independence Pointe Extension issue as one of the first items to be on the docket at the September 19, 1990, meeting of the MPO.

Thank you for your help in bringing this issue up and we would appreciate your support.

Sincerely,

Bill Selby

William E. Selby, Jr.
Trust Officer
Trust Real Estate

WES/nas
1B:1p2

cc: Tom Hartsell - Wachovia

Attachment 4

TOWN OF MATTHEWS

PO. Box 398
224 N Trade Street
Matthews, North Carolina 28106
704/847-4411

J Shawn Lemmond Mayor

BOARD OF COMMISSIONERS
Kathy Abernethy Mayor Pro-Tem
M David Bland
Bill Brawley
Ted F Kiker
R Lee Myers
Alex J Sabo

RECEIVED
NOV 6 1990
TRANSPORTATION PLANNING

RECEIVED
NOV 5 1990
TRANSPORTATION MANAGEMENT

November 1, 1990

Mr R N. Pressley, Jr , Director
Department of Transportation
City of Charlotte
600 E Fourth Street
Charlotte, North Carolina 28202-2858

Dear Bob

I am writing to follow-up on the discussion held at the October 17, 1990, meeting of the TCC concerning the request from the Town of Matthews to remove a portion of the proposed Independence Pointe Extension from the Charlotte-Mecklenburg Thoroughfare Plan In particular, the Town is requesting that the portion of this road between Weddington Road and Monroe Road be removed from the plan, leaving in place the segment between Monroe Road and Highway 51

T[illegible] result of [illegible] as you [illegible] member, [illegible] request from the Town of Matthews a listing of its reasons for requesting this deletion The following is a listing of those reasons, as expressed through a motion of the Town s Board of Commissioners

1 Traffic counts do not justify the need for this roadway segment
The following counts were [illegible]red at the time that Independence Pointe Extension [illegible] first considered for addition to the thoroughfare plan As these counts indicate, the segment between Monroe Road and Highway 51 is projected as having the highest usage The Town does not feel that the counts for the other two segments jusitify the resulting impacts

INDEPENDENCE POINTE EXTEN	WITH WEDDINGTON BELT INTERCHANGE	WITHOUT INTERCHANGE
Between NC 51 & Monroe Rd	1700	2300
Between Monroe Rd & Pleasant Plains Rd	1400	2100
Between Pleasant Plains Rd & Weddington Rd	500	1000

2 Results in a parallel thoroughfare with the outer belt
As the attached map indicates, the segment between Monroe Road and Weddington Road is a direct parallel [illegible] the close [illegible]

proximity of the outer belt, there would appear to be no rational for another thoroughfare at this location

3 Impact upon the Ashley Creek subdivision
The Ashley Creek subdivision (highlighted in yellow on the attached map) is located immediately adjacent to the southern alignment of the proposed road and very close to the northern alignment With the outer belt bordering this subdivision on the opposite side, this neighborhood would be most severely impacted by the addition of another thoroughfare in this area, being in essence hemmed in by major roadways on both sides

4 Proposed residential development in the path of the road
There are currently plans for a residential development on a tract of land (highlighted in blue on the attached map) which is in the direct path of either proposed alignment Given the preference of the Town for this land use, we would prefer to see this development proceed as planned and not be jeopardized by the proposed road

Should it be determined that any additional explanation or information is desired, please let me know, and we will be glad to provide it

Sincerely,

Barry L Webb
Town Manager

Attachment

MEMORANDUM

October 18, 1990

TO: Mayor and City Council

FROM: Henry W. Underhill, Jr.
City Attorney

SUBJECT: Summary of Proposed Open Meetings Ordinance

Attached to this memorandum is a proposed open meetings ordinance recommended for your approval by the Council Operations and Procedures Committee. To assist you in your review of the ordinance, please find below a section-by-section summary of its provisions.

Section 2-79: This section provides definitions of "another party," "City official" and "meeting." These terms are used frequently in the ordinance and are important in defining the scope and coverage of the ordinance.

Section 2-80: This section provides that in addition to those meetings required to be open to the public by the state open meetings law, the meetings described in (a) and (b) are also open to the public and any person is entitled to attend those meetings as well.

Section 2-81: This section sets forth the notice requirements for the meetings covered in Sec 2-80. The City official who participates in such meetings has the responsibility of notifying PS&I so that notice can be given as provided There is a specific exception for emergency meetings called because of unexpected circumstances that require immediate consideration. Three methods of giving notice are set forth depending on the type of meeting and the time for which it is scheduled.

Section 2-82: This section provides that if the purpose of the meeting is to discuss a subject for which a public body could hold an executive session, and if the City official or officials who plan to attend such a meeting conclude that because of this, the public should not be permitted to attend, no notice of such a meeting is required and the public is not allowed to attend.

Section 2-83: This section is the penalty section of the proposed ordinance. It provides that if the Council has reasonable cause to believe that a City official has knowingly violated the ordinance, it may schedule a hearing on the matter. The City official charged with the violation has certain due process rights as enumerated in the section. If the Council finds a violation has occurred, it may adopt

a resolution of censure and place it as a matter of record in the minutes of an official Council meeting. Additionally, the Council may, in its discretion, impose a fine of up to $200 for the violation.

Section 2-84: This section provides that minutes will be kept of all executive sessions of the entire City Council except executive sessions held to consider personnel matters. It further provides that those minutes will become available to the general public at such time as the Council determines that no legitimate reason exists for the proceedings to remain confidential.

Section 2-85: This section requires the City Council to review this ordinance within one year following its adoption.

The ordinance as written would become effective upon its adoption. As an alternative, the Council may wish to consider delaying the effective date of the ordinance in order to allow some time for those affected to become more familiar with its terms and its implementation. In this regard, the recently adopted Mecklenburg County policy on this same subject becomes effective December 1.

HWUjr/ef

ORDINANCE NO. _____ AMENDING CHAPTER 2

ORDINANCE AMENDING CHAPTER 2, OF THE CITY CODE OF THE CITY OF CHARLOTTE BY ESTABLISHING A NEW ARTICLE IV ENTITLED OPEN MEETINGS.

WHEREAS, the City Council believes and hereby finds that it is sound public policy that elected officials conduct the business of Charlotte city government openly and in a manner that provides an opportunity for the general public to be informed of and attend meetings of elected officials where the public's business is discussed; and

WHEREAS, the present open meetings law is contained in Article 33C of the North Carolina General Statutes; and

WHEREAS, the City Council now desires to enact this ordinance to include certain meetings not currently required to be open to the general public under the present open meetings law.

NOW, THEREFORE, BE IT ORDAINED THAT:

Section 1. Chapter 2 of the City Code is hereby amended by adding a new Article IV entitled Open Meetings to read as follows:

"Article IV. Open Meetings.

Section 2-79. Definitions

(a) "Another party" shall mean any person who is not either· an elected official; a City employee; or a consultant retained by the City; but only while acting in such stated capacity.

(b) "City official" shall mean the Mayor or any member of the City Council.

(c) "Meeting" means a meeting, assembly or gathering together at any time or place or the simultaneous communication by conference telephone or other electronic means for the purpose of discussing any public business within the jurisdiction, real or apparent, of the City Council. However, a social meeting or other informal assembly or gathering together of City officials does not constitute a meeting. In addition, meetings or gatherings of City officials that are called or held solely for the purpose of discussing or formulating party or campaign strategy and at which political party officers and officials are present shall also not constitute a meeting within the meaning of this ordinance.

(d) "Public body" shall have the same meaning as in the Open Meetings Law.

Section 2-80. In addition to those meetings required to be open to the public pursuant to Article 33C of the North Carolina General Statutes, the following meetings except as otherwise provided, shall also be open to the public, and any person is entitled to attend such meetings:

(a) Meetings of four or more elected officials (at least one of which must be a City official) of any combination of public bodies as that term is defined in G.S. § 143-318.10(b), and another party, and

(b) Meetings between the Charlotte Mayor or Mayor Pro-Tem with the Chairman or Vice Chairman of the Mecklenburg County Commission and another party.

Section 2-81. Except as otherwise provided, and whenever possible, reasonable advance notice shall be given of the meetings described in Section 2-80. The City official who participates in such meetings shall be responsible for notifying the Public Service & Information Department of the meeting in a timely manner so that notice can be given as provided in this section; provided, a failure to give advance notice of an emergency meeting called because of unexpected circumstances that require immediate consideration shall not constitute a violation of this ordinance. For purposes of this section, "reasonable advance notice" shall mean:

(a) Regular Meetings: Meetings which are held on a regular basis shall be included in the City's monthly meeting calendar.

(b) Special Meetings: Meetings not held on a regular basis but for which at least 48 hours written notice can be given. A special meeting notice form shall be completed by the responsible City official five working days before the meeting and forwarded to the Public Service & Information Department for distribution.

(c) Other Meetings: For meetings called on short notice that cannot comply with the provisions of (a) or (b) above, notice shall be given by FAX machine. Information concerning the meeting shall be provided by telephone to the Public Service & Information Department during regular business hours (Monday - Friday, 8 a.m. to 5 p.m.) by the responsible elected City official. In the event of FAX equipment failure or because of unusual emergency circumstances, telephone notification of the meeting will be given if possible.

Section 2-82. The meetings described in Section 2-80 shall not be required to be open to the public if the purpose of the meeting is to discuss a topic for which a public body could

hold an executive session in accordance with G.S. 143-318.11. If the City official or officials who plan to attend such a meeting conclude that the purpose of the meeting is to discuss a topic that is permitted to be discussed in executive session and that it is appropriate under the circumstances that the public be excluded from such meeting, no notice of the meeting shall be required and the public shall not be permitted to attend.

Section 2-83. If the City Council has reasonable cause to believe that a City official has knowingly violated this ordinance, the City Council may schedule a hearing. The City official who is charged with the violation shall have the right to present evidence, cross-examine witnesses, including the complaining party, and be represented by counsel at the hearing. If, upon the conclusion of the hearing, a majority of Council vote to find a violation has occurred, the Council may adopt a resolution of censure which shall be placed as a matter of record in the minutes of an official Council meeting. In addition, the City Council may, in its discretion, impose a fine of up to $200.00 upon any City official found in violation of this ordinance.

Section 2-84. Minutes shall be kept of executive sessions of the Charlotte City Council and shall become available to the general public at such time as the City Council determines that no legitimate reason exists for the executive session proceedings to remain confidential. Provided, however, this section shall not apply to executive sessions held to consider personnel matters pursuant to G.S. 143-318 11(a)(8).

Section 2-85. The City Council shall review this ordinance within one year following the date of its adoption."

Section 2 This ordinance shall become effective upon its adoption.

Approved as to form:

Henry W. Underhill Jr.
City Attorney

OPERATIONS AND PROCEDURES COMMITTEE
October 2, 1990
Executive Summary

The City Council Operations and Procedures Committee met on October 2, 1990, at 5:00 p.m., in room 270-271 of the Charlotte-Mecklenburg Government Center, with chairman Stan Campbell presiding. Committee members Ella Scarborough, Roy Matthews, Hoyle Martin and Pat McCrory were present.

Staff members in attendance were City Attorney Henry Underhill; Pam Syfert and Darlene Shrum-City Manager's Office.

Earl Gulledge and James Carter were present representing a citizens group seeking more open City of Charlotte government meetings.

Open Meetings

Discussion: Henry Underhill reviewed the proposed open meetings ordinance and clarified differences between the proposed City ordinance and the proposed Mecklenburg County policy. The County's version is not in the form of an ordinance, but is instead a policy and, therefore, does not provide for specific penalties for violation.

Concerns were expressed about Council members being invited to public forums or neighborhood meetings and each being unaware that other elected officials were also invited. Mr. Underhill indicated that while the presumption might be raised that it is an official meeting, the key could be to not to be drawn in to policy discussion, deliberation or debate.

There was discussion of the notification process. Mr. Underhill indicated that the burden of notification would be on the City Council when meetings were scheduled without City staff involvement. Otherwise, Public Service and Information would not be able notify the news media. The notification requirements of the proposed City ordinance are not as stringent as the State law, and a specific exception is provided for emergency meetings called because of unexpected circumstances.

The committee felt it would be beneficial to include definitions of "another party, officials, meeting, and public body" in the City's proposed ordinance.

Action Taken: The committee unanimously approved a motion to recommend that City Council adopt the open meetings ordinance proposed by the City Attorney, with definitions added for clarification. The committee recommended incorporating a discretionary fine of up to $200 upon any elected official found in violation of the ordinance.

Meeting adjourned at 6:10 p.m.

OPERATIONS AND PROCEDURES COMMITTEE
August 8, 1990
Executive Summary

The City Council Operations and Procedures Committee met on August 8, 1990, at 5:00 p.m., in room 270-271 of the Charlotte-Mecklenburg Government Center, with chairman Stan Campbell presiding. Committee members Ella Scarborough, Roy Matthews, Hoyle Martin and Pat McCrory were present. Council member Ann Hammond was also present.

Staff members in attendance were City Attorney Henry Underhill; Bill Guerrant-Public Service and Information; Pam Syfert and Darlene Shrum-City Manager's Office.

Sam Smith, Marvin Smith, Earl Gulledge and James Carter were present representing a citizens' group seeking more open Charlotte government meetings. Representatives of the local news media were also present.

Open Meetings

Discussion: At the citizen's hearing portion of City Council's May 29, 1990 meeting, Sam Smith, James Carter and Earl Gulledge presented a proposal to expand open meetings. Henry Underhill reviewed with the committee a report he prepared in response to the proposal. He covered the present open meetings law and the specific changes proposed by the citizens' group.

Mr. Underhill indicated that it is within the authority of the City Council to adopt an ordinance or policy such as the one proposed. He indicated that it would be the responsibility of the elected officials to determine if a meeting was applicable to the revised ordinance and also to provide notice of such a meeting.

Action Taken: The committee requested that Mr. Underhill draft a proposed ordinance and report back to them at their next meeting. The ordinance would classify the following as public meetings and would require that Council members provide "reasonable notice" to the news media (through Public Service and Information) prior to such meetings:

(1) Four or more members of a combination of elected officials meeting with an outside party (meetings with professional staff would be excluded)
(2) The Mayor or Mayor Pro Tem and County Commission Chairman or Vice Chairman meeting with an outside party

The committee also agreed to incorporate into the ordinance the recording of closed sessions and the eventual release of these records. A policy will be developed to deal with violations of the ordinance. The committee recommended that, if approved, the ordinance be reviewed after a year.

Meeting adjourned at 6:50 p.m.

CHART #1

TREE ORDINANCE STAFFING
USER FEES

ADDITIONAL STAFFING FOR TREE ORDINANCE ENFORCEMENT
USER FEE ALTERNATIVES
FY91

Additional Cost (FY91)*	Proposed Fee	Additional Revenue (FY91)	General Fund Contingency
$51,422	$175	$4,500	$46,922
	$200	$8,250	$42,172
	$225	$12,000	$39,422
	$250	$15,570	$35,852
	$290	$21,750	$29,672

* Costs include one full-time Urban Forrester position and a temporary student co-op position

USER FEES AND PERCENT COST RECOVERY

Annualized Costs*	Number of Plans**	User Fee	% Recovery
$145,339	400	$145 00	39 91%
		$175 00	48 16%
		$200 00	55 04%
		$225 00	61 92%
		$250 00	68 80%
		$290 00	79 81%

* Costs include those line items (approved costs) associated with providing plan review and inspection for building permits and grading permits These costs reflect the additional positions included in the November 26 Request for Council Action

** Estimated number of building and grading permits to be received and reviewed by the Tree Ordinance staff over the next 12 months

ADVISORY COMMITTEE ON CMUD POLICIES

* Crowder Falls, Managing Partner
  KPMG Peat Marwick
* Chairman of Advisory Committee on CMUD Policies

Sarah R. McAulay, Mayor
Town of Huntersville

Otis Crowder, President
Crowder Construction Company

Doug Boone, President
Crosland Land Company

Jim Ewers, Architect and President of
the Derita/Statesville Road Community Organization

E. Allen Brown, Jr., President
First Colony Corporation

Sam Smith, President
Trust Systems, Inc.

Beverly Earle, Staff Assistant
Bell South Services

Charles Baker, Executive VP
HDR Engineering

Wilfred Neal, Director
Asset Accounting
Duke Power

Gary Knox, Realtor
Knox Realty and President of North Mecklenburg
Chamber of Commerce

Issac Heard, Jr., Chairman
Community Facilities Committee

Richard L. Glassen, Member
Community Facilities Committee

RESPONSE TO REQUEST FOR PROPOSAL ("RFP")

RE: USE OF OLD CHARLOTTE COLISEUM

DATED APRIL 20, 1990

Submitted by

William G. Allen, Jr.

on

November 12, 1990

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November 12, 1990

Mr. Boyd F. Cauble
Executive Assistant to
City Manager
City of Charlotte
600 East Fourth Street
Charlotte, North Carolina 28202-2853

Re: Request for Proposal ("RFP") concerning use of Old Coliseum

Dear Mr. Cauble:

Enclosed herewith on behalf of William G. Allen, Jr. is a Response to the above Request for Proposal ("RFP"). I believe this Response addresses all the various issues outlined in the RFP which my client is in a position to respond.

Mr. Allen has great emotional attachment to the Old Coliseum resulting from his involvement with the Charlotte Checkers Ice Hockey team from 1956 through 1975. In addition to his efforts in obtaining the franchise for the Charlotte Ice Hockey Team, he has been working diligently and will continue to do so in making every effort to assist in opening the Old Coliseum.

My client believes that a reopening of the Old Coliseum would significantly improve and revitalize the Independence Boulevard corridor and restore the quality of life enjoyed previously in Charlotte.

Mr. Allen has received much interest from local and area organizations and promoters wishing to use the Old Coliseum. These interested parties are involved in many and varied sports activities, including high school and college basketball, tennis, soccer, youth hockey, wrestling, boxing, and figure skating. In addition, interest has been shown by various trade and consumer organizations. Educational institutions having indicated such interest include the University of North Carolina at Charlotte and Johnson C. Smith University. Therefore, ice hockey is only one of the many sports that would find a home in the Old Coliseum. Instead of such activities being in competition with the new coliseum, it is our sincere belief that both facilities would be benefited and further used.

I believe that the enclosed RFP adequately presents my client's bona fide interest in leasing the Old Coliseum and substantiates his ability to manage the property for the benefit of the City of Charlotte.

There are several reasons why my client desires to obtain a lease for the old Charlotte Coliseum at the outset. Within the next thirty days, my client will spend up to twenty thousand dollars and numerous hours performing a due diligence inspection of the Coliseum premises. Such inspection is necessary in order to fully examine the items raised in the Odell Report which stated that it will take approximately three million dollars to make the repairs outlined therein. It is also difficult to attract investors without these cost figures more closely identified and a lease firmly in place. Mr. Allen is currently working with several potential large investors; however, a portion of the necessary funds may be raised through a private offering, which in our experience will take six months or more. Finally, without a lease firmly in place, a franchise in the East Coast Hockey League will be forfeited. The granting of a lease now would enable the Charlotte Ice Hockey team to begin play in October of 1991. In order to obtain a lease, the Company would be willing to pay in advance the first year's minimum rent in the sum of twenty thousand dollars.

Mr. Allen is most interested in obtaining the approval of the City of Charlotte, at its November 26 meeting, for the lease of the Old Coliseum. With such approval, my client will immediately initiate the due diligence inspection referred to above. Once the lease is finalized, he and his management team will work diligently to make the Old Coliseum again the active and exciting facility for the City of Charlotte and the surrounding area.

ERVIN, KORNFELD, MacNEILL & WILSON

By: Stanley D. Kornfeld
Stanley D. Kornfeld

SDK:jo
Encl.

RESPONSE TO REQUEST FOR PROPOSAL ("RFP")
RE: USE OF OLD CHARLOTTE COLISEUM
DATED APRIL 20, 1990

1. Qualifications. William G. Allen, Jr. ("Bill Allen") has much familiarity and identification with the Old Coliseum. Bill Allen was either Co-owner, Stockholder, Officer and on the Board of Directors of the Charlotte Checkers Ice Hockey team from 1956-1975. During this time, all ice hockey games were played in the Old Coliseum. Bill Allen's duties with the Charlotte Checkers included accounting, budgeting, ticket sales and front office administration, as well as participating in the general management and executive decisions of the Hockey Franchise. Bill Allen and other persons described hereinafter (collectively referred to as the "Allen Group") intends to form either a partnership or corporation ("the Company") to lease the Old Coliseum from the City upon the terms set forth hereafter. The Company will employ an experienced arena manager for the Old Coliseum who has a successful track record. Such a manager would be responsible to a management team headed by Allen. The Allen Group is already interviewing applicants for such position. In addition, the Allen Group will be involved in the on-site marketing and in the management of the facility. Bill Allen will be actively involved in the management and operation of the Charlotte Ice Hockey team, which will be the anchor tenant for the Old Coliseum. Other members of the Allen Group are as follows:

(a) William Garith Allen ("Gary Allen"). For the past twenty years, Gary Allen has been actively involved in residential real estate acquisition and development. Most noteable of various residential subdivisions established by

him was the Providence Country Club located on Providence Road in Mecklenburg County, North Carolina. Gary Allen has raised over twenty-one million dollars ($21,000,000.00) in equity capital for eight additional residential projects in the last twenty-four months.

(b) Randolph M. Allen ("Randy Allen"). Randy Allen holds an unlimited North Carolina General Contractors license and is the President of Mark One Construction, Inc. and Kendrick Corporation.

(c) Howard M. Nifong, Jr. ("Howard Nifong"). Howard Nifong, in addition to being a certified public accountant, is the Vice President of Sunbelt Resources, Inc., a company actively engaged in raising equity capital for various business enterprises.

2. Parking. D.L. Phillips Investment Builders, Inc. ("Phillips") has provided overflow parking in the Charlotte Merchandise Mart parking area for the Old Coliseum and Ovens Auditorium for thirty years. Phillips has agreed to enter into a similar arrangement with the Company, and his letter of intent is attached hereto. The Company also intends to meet with Phillips and representatives of the Auditorium-Coliseum-Convention Center Authority ("the Authority") to develop a parking plan which will satisfy patron needs while minimizing the effect on the surrounding area. Bill Allen is confident, based on his experience, that parking will be provided with a minimum of inconvenience to the patrons of all three facilities.

3. Renovations. The Detailed Building Evaluation Original Charlotte Coliseum, revised February 20, 1990, by Odell Associates ("the Odell Report"), has been reviewed carefully and discussed with the Odell staff. The Company plans to spend approximately three million dollars in making the short-term repairs as outlined in the Odell Report. In addition, the Company proposes to

spend another two million dollars in long-term improvements over the term of the lease (see line 3 of the attached Pro Forma). The Company proposes to raise the necessary funds from loans and/or equity financing in order to make the repairs. In addition, the Company intends to explore the feasibility of installing a permanent ice-making plant. Aesthetic improvements will be made to the Old Coliseum including outside landscaping. The Company's representatives have not had an opportunity to make an intensive on-site inspection of the facility but are prepared to do so if the City selects the undersigned as the preferred respondent. Arrangements are being made with professionals to verify the line item costs and the scheduling as generally outlined in the Odell Report. The Company will need full assistance of the City in having all the necessary governmental inspections made expeditiously.

4. Scheduling of Events. Representatives of the Company, Phillips and the Authority would meet to discuss initially, and as often as necessary thereafter, a plan for scheduling to minimize potential conflicts. The Company is committed as a responsible member of the community and will consult with the Authority and Phillips regarding event scheduling as well as other pertinent neighborhood concerns.

5. Indemnification. To the extent permitted by law, the Company will indemnify and hold harmless the City of Charlotte and its respective agents, officers, employees and directors from and against any and all liability, loss, damages, interests, judgments and liens arising from the future operation of the Old Coliseum. This will be accomplished by providing customary insurance coverages to fully protect the City in this regard.

6. Lease. The Company proposes to lease the Old Coliseum under a triple net lease agreement containing the following major provisions:

(a) Term. An initial term of thirty years with the Company having the right to renew for two additional ten year terms.

(b) Rent. The Company would pay the greater of Twenty Thousand Dollars ($20,000) or twenty percent (20%) of the net income of the facility as annual rent. The minimum rent would be payable in advance each year and the balance would be payable within ninety (90) days after the fiscal year end.

(c) Improvements. The Company would agree to make the improvements referred to in Paragraph 3 of this response. The Company would have the right to make additional improvements with the consent of the City.

(d) Maintenance. The Company would have full responsibility for the maintenance of the facility.

(e) First Year's Rental Deposit. Upon execution of the lease the Company would pay in advance the first year's minimum rent in the sum of Twenty Thousand Dollars ($20,000). In the event that the cost of short-term improvements substantially exceed Three Million Dollars ($3,000,000) and the Company determines that such cost of improvements is not feasible, then the Company would have the right during the first year only at its option to terminate the lease and receive a pro-rata refund of the first year's rent. Furthermore, if during the first twelve months of the lease the Company is unsuccessful in raising the necessary funds to make such short-term renovations as is necessary to open the Old Coliseum, then it shall have the right during the first year only to terminate the lease, except that in such event the City shall retain the entire first year's rent.

7. Operating Pro Forma. Attached to this RFP is an operating pro forma which has been prepared by Bill Allen based upon his experience in marketing and promotions, together with information obtained from his having conferred

with other arena management people within the Southeastern United States. Allen believes this pro forma to be a conservative and realistic outline of the first two decades of operations within the Old Coliseum.

Please advise us if we may provide any additional information. If we are selected as the preferred respondent, we are prepared to enter into detailed negotiations immediately.

William G. Allen, Jr.

PRO FORMA LINE ITEM CONTENTS

Line 1. EVENTS. We are projecting that the building will be used for 131 events during the first twelve-month period beginning with its reopening. I have identified these events on Schedule 1. There is some interest in indoor soccer for the building. Soccer would need another 20 dates that are not included in the present 131 list of events shown in this proposal. Additionally, we are projecting very conservatively in adding only ten events per year thereafter with a maximum of about five days a week of 260 events by the year 2011. Based on the interest shown recently and by making ice available for professional ice hockey, youth ice hockey, ice skating, etc., I think we will be on a six- or seven-day schedule well within the 1990's.

Line 2. ATTENDANCE. With information from other arenas plus my knowledge and experience together with that of other promoters, we are projecting 5,763 to be our average attendance. This is less than 60% of the building's capacity. As an example, we have reasons to be expecting over four thousand season ticket patrons for our ice hockey games which will virtually assure us, at least the first year, of over eight thousand in average attendance per game. With a competitive team, I think I can average 6,000 per game indefinitely. Also, it has been my experience that many of the other events draw eight to ten thousand people while some events will drop below five thousand in attendance.

Line 3. RENTAL INCOME. Lines 3-8 are all explained in detail on Schedule 1. Again, this information was gathered in the same fashion as referred to above in Lines 1 and 2 (Attendance). Concession and novelties income is based on attendance. Parking is based on 3/4 of the approximate 1,000 spaces in the lot behind the Coliseum. In that Ovens will not be open every night, I think this is a fair assumption. The nights that both buildings are in use, Ovens may use the majority of the spaces in this lot. Also, I am projecting $2.00 per parking space which I am sure will be moving up soon.

Line 10. OTHER INCOME. This income (Line 11) is, again, based on what can be done with advertising and especially with the presence of sporting events such as hockey and soccer. The interest figure (line 12) is based on cash reserves held in Certificates of Deposit including advance sale ticket funds held on most all events.

Line 14. ADJUSTED GROSS INCOME. Line 14 is adjusted gross income.

Line 15. INDIRECT EXPENSES. Schedules 2 and 3 give these operating costs in detail. Again, these costs are based on much research.

Line 18. TOTAL INDIRECT EXPENSE. Line 18 is total indirect expense.

Line 19. OPERATING INCOME. Line 19 reflects the operating income before depreciation, interest expense, building rental, renovating funds and reserve for long-term improvements.

Line 20. OTHER EXPENSES.

Line 21. ANNUAL DEPRECIATION. Reflected in the amount of 125 thousand dollars represents 2.5 million of the original upfitting costs, to be written off over a twenty-year period. There will be some increases in depreciation over the years as additional reserve funds are expended in the area of leasehold improvements (continuous upfitting).

Line 22. INTEREST EXPENSE. This is the projected interest carrying cost on the 3 million dollar upfitting fund based on a ten-year amortization plan. In certain forms of equity capital these figures may be in the form of dividends. However, interest is most common. We are projecting three-year interest only with a ten-year amortization. See line 29 below.

Line 23. NET INCOME. Line 23 is the net income before building rental.

Line 24. BUILDING RENTAL. Twenty percent of Line 23. We are projecting the City will receive approximately $4,000,000 in rent during the first twenty years of this lease or an average of $192,000.00 per year. See proforma.

Line 25. NET PROFIT. Pre-tax.

Line 26. ADJUSTMENTS TO CASH FLOW.

Line 27. NET PROFIT. Line 27 is the net profit as shown in line 25 above.

Line 28. DEPRECIATION. Line 28 is depreciation as shown in line 21 above.

Line 29. PRINCIPAL PAYMENTS. Line 29 reflects proposed principal payments on upfitting fund.

Line 30. RESERVE. Line 30 is a reserve proposed to be established for a long-term improvement program. We will be setting aside in reserve over 2 million dollars in addition to the original 3 million dollars to keep this building in the best appearance and operating condition during the term of this lease.

Line 31. NET CASH FLOW.

Line 32. CUMULATIVE CASH FLOW.

CHARLOTTE COLISEUM
20 YEAR PROJECTION
October 22 1990

Pro Forma

(in thousands)

LINE	DESCRIPTION	Ref	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	TOTALS 20 YEAR	TOTALS 1 YEAR AVG
1	Number of Events		131	141	151	161	171	181	191	201	211	221	225	225	225	225	225	225	225	225	225	225	4 010	201
2	Attendance		755	813	871	929	987	1 045	1 103	1 161	1,219	1,277	1 297	1 297	1 297	1 297	1 297	1 297	1 297	1,297	1 297	1 297	23 130	1 157
3	Rental Income from Events	Sch 1	791	850	914	983	1,056	1 136	1,221	1 312	1 411	1,517	1 577	1 640	1 706	1 774	1 845	1 919	1 996	2 075	2 075	2 159	29 957	1 498
4	Ancillary Income																							
5	Concessions	Sch 1	526	565	608	653	702	755	812	873	938	1 008	1 049	1 091	1 134	1 180	1 227	1 276	1 327	1,380	1 435	1 493	20 033	1 002
6	Novelties	Sch 1	179	192	207	222	239	257	276	297	319	343	60	360	360	360	360	360	360	360	360	360	6 132	307
7	Parking	Sch 1	210	220	240	260	280	300	320	340	360	380	399	399	399	399	399	399	399	399	399	399	6 890	345
8	*Total Ancillary Income*		905	978	1 055	1 136	1,222	1 312	1 408	1,510	1 617	1 732	1 808	1 850	1 893	1 939	1 986	2 035	2 086	2 139	2 194	2,252	33 056	1 654
9	Total Event Income		1 696	1 828	1 969	2 118	2,278	2 448	2 629	2,822	3 028	3,248	3 385	3 490	3 599	3 713	3 831	3 954	4 082	4,215	4,269	4 411	63 013	3 151
10	Other Income																							
11	Advertising		150	158	165	174	182	191	201	211	222	233	244	244	244	244	244	244	244	244	244	244	4 327	216
12	Interest		10	30	30	30	30	50	60	100	100	100	100	100	100	100	100	100	100	100	100	100	1 540	77
13	Total Other Income		160	188	195	204	212	241	261	311	322	333	344	344	344	344	344	344	344	344	344	344	5 867	293
14	Adjusted Gross Income		1,856	2,016	2 164	2,322	2 490	2 689	2,890	3 133	3 350	3,581	3 729	3 834	3 943	4 057	4 175	4 298	4 426	4,559	4 613	4 755	68 880	3 444
15	Indirect Expenses																							
16	Salaries & Benefits	Sch. 2	683	710	739	768	799	831	864	899	935	972	1 001	1 031	1 062	1 094	1 127	1 161	1 196	1,231	1,268	1,306	19 679	984
17	Other Expenses	Sch 3	875	910	946	984	1,024	1,065	1 107	1 151	1 197	1,245	1 283	1 321	1 361	1 402	1 444	1 487	1,532	1,578	1 625	1 674	25,211	1,261
18	Total Indirect Expenses		1,558	1 620	1,685	1 753	1,823	1,896	1,971	2 050	2 132	2,218	2,284	2 353	2 423	2 496	2 571	2 648	2 727	2 809	2 893	2 980	44 890	2 245
19	Operating Income/(Loss)		298	395	479	570	608	794	918	1 083	1,217	1 363	1 445	1 481	1 520	1,561	1 604	1 650	1 698	1 750	1 720	1 775	23 990	1,200
20	Other Expense																							
21	Depreciation		125	125	125	125	125	125	125	125	125	125	125	125	125	125	125	125	125	125	125	125	2,500	125
22	Interest		250	300	300	300	280	258	234	207	178	146	110	71	28	0	0	0	0	0	0	0	2,662	133
23	Net Income/(Loss) before Bldg Rent		77	30	54	145	263	411	559	751	914	1 092	1 210	1 285	1,367	1 436	1 479	1 525	1 573	1 625	1,595	1 650	18 828	941
24	Building Rent		20	20	20	29	53	82	112	150	183	218	242	257	273	287	296	305	315	325	319	330	3 836	192
25	Net Profit Pre Tax		97	50	34	116	210	329	447	601	731	874	968	1 028	1 094	1 149	1 183	1,220	1,258	1,300	1,276	1 320	14 992	749
26	ADJUST TO CASH FLOW																							
27	Net Income/(Loss)		97	50	34	116	210	329	447	601	731	874	968	1 028	1 094	1 149	1 183	1,220	1,258	1,300	1,276	1,320	14 992	750
28	Depreciation		125	125	125	125	125	125	125	125	125	125	125	125	125	125	125	125	125	125	125	125	2,500	125
29	Principal reduction of loan		0	0	0	200	220	242	266	293	322	354	390	-429	284	0	0	0	0	0	0	0	3 000	150
30	Reserve for Long Term Impr				50	50	50	100	200	200	200	200	200	200-	200	200	200	200-	200	200	200	200	3 050	153
31	NET CASH FLOW		28	75	109	9	65	112	106	233	334	445	503	524	735	1 074	1 108	1 145	1 183	1 225	1,201	1 245	11 442	572
32	CUMULATIVE CASH FLOW		28	103	212	203	268	379	486	718	1 053	1 498	2 002	2 526	3 261	4 335	5 444	6,589	7 772	8 997	10 198	11 442	67 514	3 376

CHARLOTTE COLISEUM
20 YEAR PROJECTION
October 22 1990

SCHEDULE 1

TYPES OF EVENTS	# OF PERFORMANCES	AVERAGE ATTENDANCE	TOTAL ATTENDANCE	AVG TICKET PRICE	GROSS TICKET SALES	ADMISSION TAX	NET TICKET SALES	RENTAL INCOME	CONCESSIONS	NOVELTIES	PARKING	TOTAL WITHOUT ADMISSION
SPORTING EVENTS												
East Coast Hockey League	32	7 0	224	6 50	1 45o	73	1 383	166	131	26	86	409
NHL Preseason	1	7 0	7	12 00	84	4	80	10	8	1	5	24
Motorsports	5	11 0	55	10 00	550	28	522	63	50	10	32	155
Wrestling	10	10 0	100	11 00	1 100	57	1 043	125	99	19	65	308
Boxing/Karate	4	2 5	10	12 50	125	6	119	14	11	2	7	34
College Basketball	24	4 5	108	7 00	756	40	716	86	68	13	44	211
High School Basketball	5	4 0	20	5 00	100	5	95	11	9	2	6	28
Miscellaneous	4	6 0	24	6 00	144	7	137	16	12	3	8	39
Total	85		548		4 315	220	4 095	491	388	76	253	1 208
CONCERTS												
Small Concerts	18	55 0	98	18 00	1 755	110	1 645	198	90	97	59	444
MISCELLANEOUS												
Misc Family Shows	12	5 0	60	10 00	600	30	570	68	34	6	36	144
Trade Shows	9	1 2	11		0	0	0	18	3	0	6	27
Consumer Shows	4	2 0	8		0	0	0	8	2	0	5	15
Community	4	7 5	30		0	0	0	8	9	0	18	35
Total	29		109		600	30	570	102	48	6	65	221
GRAND TOTAL	131		755		6 670	360	6 310	791	526	179	377	1 873

CHARLOTTE COLISEUM
Schedule of Salaries & Benefits
October 22 1990

SCHEDULE 2

(In Thousands)

	Number of Employees	Annual Salary	Total
General Manager	1	60	60
Executive Secretary	1	20	20
Receptionist/Secretary	1	16	16
Finance Director	1	30	30
Bookkeeper & P/R Clerk	1	24	24
Marketing Director	1	35	35
Secretary	1	16	16
Operations Director	1	30	30
Asst Operations Manager	1	24	24
Secretary	1	16	16
Trades	4	18	72
Laborers	8	16	128
Box Office Manager	1	28	28
Ticket Seller	3	16	48
Total	26		547
Employee Benefits (25%)			136
Total Salaries & Benefits			683

CHARLOTTE COLISEUM
Schedule of Indirect Expenses
October 22, 1990

SCHEDULE 3

(In Thousands)

Advertising	8
Cleaning	60
Data Processing	5
Dues & Subscriptions	2
Insurance	225
Management Fee	150
Professional Fees	12
Printing & Stationery	7
Postage Freight	10
Equipment Rental	15
Repairs & Maintenance	30
Service Agreements	5
Security	20
Supplies	
Office	9
Operations	23
Telephone	25
Travel & Entertainment	25
Uniforms	4
Utilities	200
Landscape	15
Exterminator/Trash Removal	25
Total	875

D.L. PHILLIPS COMPANY

2121 EAST INDEPENDENCE BLVD
CHARLOTTE N C 28205

November 8, 1990

OFFICE
CHARLOTTE N C
PHONES 336-2837
336-0379

Mr. Boyd F. Cauble
Executive Assistant to the
City Manager
Office of the City Manager
600 East Fourth Street
Charlotte, North Carolina 28202-2840

Re: D. L. Phillips Investment Builders -- Old Coliseum

Dear Boyd:

This will confirm that D. L. Phillips Investment Builders, Inc. has not yet been able to secure the outside financing which we feel will be required in order to renovate the Old Coliseum and put it in first-class operating condition. While we are continuing to pursue a number of possibilities in connection with such financing, we are aware of the time constraints faced by Bill Allen and understand that he wishes to make a proposal for the opening and operation of the Old Coliseum. If he is able to prepare and present a proposal to the City Council which it finds acceptable before any of our own efforts are successful, we have no objection whatsoever to the City proceeding with Bill. As you know, all along it has been our primary objective to have the Old Coliseum reopen not only for the benefit to the citizens of our community but especially for the benefit of surrounding businesses in the area which have been so severely impacted by the closing of this facility.

Further, this will confirm that if the City enters into an arrangement for reopening of the Old Coliseum with Bill Allen, we will continue to make available the Merchandise Mart parking lot under substantially the same arrangements we had with the City when it operated the Old Coliseum. Our only requirement in connection with the parking would be that we would be able to collect for parking at a market rate.

We appreciate very much the cooperation and support which you, others on the City staff and the City Council have displayed for the reopening of the Old Coliseum.

Very truly yours,
D. L. PHILLIPS INVESTMENT BUILDERS, INC.

Tom P. Phillips
President

cc: William G. Allen, Jr.

Holmes Loan

On July 11, 1988, City Council approved a loan agreement with the Grier Heights Economic Foundation, a non-profit organization, to acquire four parcels of City-owned land and to relocate six houses onto the property. The parcels were subsequently divided into seven lots.

There have been three phases to this project. Phase I included the purchase of the land and the relocation of the six houses. Phase II included the rehabilitation of the houses by the Foundation plus landscaping and driveways. Phase III is the sale of the rehabilitated houses by the Foundation to individual homebuyers. Proceeds from the sale of each of the houses will be used to repay the Grier Heights Economic Foundation's loans to the City. A total of $256,218 has been loaned to the Foundation under Phase I and Phase II.

To date three of the houses have been sold and applications are being taken on the two remaining houses. Johnny Holmes and wife, Christine, who were recommended by the Grier Heights Economic Foundation, have made an application to purchase 3515 Ellington Street. The loan amount to purchase the house and land is $60,000. This structure is located in Census Tract 23. The appraised value of this structure after rehabilitation is $60,000.

Under the Standard Rehabilitation Program approved by the City Council on October 12, 1987, and modified by Memorandum on June 23, 1989, a homeowner is to pay no more than 30% of their gross monthly income less federal taxes toward housing expense. Housing expense is defined as principal and interest payment, real estate taxes and insurance. Based on this 30% rule, Mr. and Mrs. Holmes would qualify for a 3% interest loan of $60,000 to be repaid in monthly installments.

An analysis of Mr. and Mrs. Holmes' income and projected housing expense is listed below. Their household income is 53% of the median income for a family of five.

Gross Monthly Income	$1,814.67
Less: Federal Taxes	192.84
	$1,621.83
	x 30%
	$ 486.55
Less: Taxes	66.75
Insurance	16.67
Available for Principal & Interest	$ 403.13

Based on a term of 25 years at 3% interest, Mr. and Mrs. Holmes' principal and interest payment would be $284.40 which is within the $403.13 maximum. With the taxes of $66.75 and insurance of $16.67 added to the $214.40, their projected monthly housing expense would be $367.82. Mr. and Mrs. Holmes are currently paying monthly rent of $375.00. They have rented the same apartment for one and one-half years and have a good payment history. A lien in the amount of $60,000 will be placed on the property. This will regenerate our loan funds for future needs of lowerincome families.

The breakdown of total costs involved in this purchase is:

Sales Price	$60,000.00
Attorney Fees/Closing Costs	+ 1,200.00
	$61,200.00
Closing costs to be paid by owner	- 1,200.00
Total amount of loan	$60,000.00

HOUSING CODE ENFORCEMENT

A. Recommend adoption of an ordinance authorizing the use of In Rem Remedy to demolish and remove the dwelling located at 530 S. Bruns Avenue (Seversville).

PROPERTY OWNER: Samuel L. Council
PROPERTY ADDRESS: 530 S. Bruns Avenue; Census Tract #41; Council District #2; Neighborhood: Seversville

BACKGROUND:

Date of Inspection: 2/7/89
Reason For Inspection: Concentrated Code Enforcement (Field Observation)
Owner(s) Notified of Hearing: 2/9/89
Hearing Held: 3/7/89
Owner(s) Ordered to Demolish Dwelling by: 4/30/89

A title search had been received in January, 1989 on the adjoining property, 526 S. Bruns Avenue, and it was determined that the report was the same as on this property. The title search revealed parties in interest to the property. The *Complaint & Notice of Hearing* and the *Findings of Fact and* Order were advertised in the Mecklenburg Times because all parties in interest could not be served by certified mail.

Council action has been delayed on this case because the Community Development Department planned to acquire and rehabilitate this structure to provide housing for low and moderate income persons. It has since been determined that it is not feasible to acquire and rehabilitate this structure.

Estimated Value of Dwelling: $15,450
Estimated Repair (Which is More than 65% of Estimated Value): $14,700

The repairs include: installing a new heating system; making major repairs to the interior and exterior of the structure; removing a dilapidated outbuilding and fence. The dwelling is occupied and the tenants have been placed on the relocation workload.

The owner was notified of a Civil Penalty on May 3, 1989. The total penalty as of November 26, 1990 amounts to $1950. The owner has also been notified of this November 26, 1990 Council action.

B. Recommend adoption of an ordinance authorizing the use of In Rem Remedy to demolish and remove the dwelling located at 526 S. Bruns Avenue. (Seversville)

PROPERTY OWNER: Samuel L. Council
PROPERTY ADDRESS: 526 S. Bruns Avenue; Census Tract #41; Council District #2; Neighborhood: Seversville

BACKGROUND:

Date of Inspection: 11/17/87
Reason For Inspection: Concentrated Code Enforcement (Field Observation)

Owner(s) Notifed of Hearing: 1/6/88 - 9/8/88 (mail returned unclaimed)

A title search was ordered and received in January, 1989. The title search revealed parties in interest to the property. The Complaint & Notice of Hearing and the Findings of Fact and Order were advertised in the Mecklenburg Times because all parties in interest could not be served by certified mail.

Owner(s) Notified of Hearing: 2/2/89
Hearing Held: 2/22/89
Owner(s) Ordered to Demolish Dwelling by: 4/6/89

Council action has been delayed on this case because Community Development Department planned to acquire and rehabilitate this structure to provide housing for low and moderate income persons. It has since been determined that it is not feasible to acquire and rehabilitate this structure.

C. Recommend adoption of an ordinance authorizing the use of In Rem Remedy to repair code violations at 617 Ideal Way (Sedgefield)

PROPERTY OWNER: John Anthony Hart
PROPERTY ADDRESS: 617 Ideal Way; Census Tract #34; Council District #6; Neighborhood: Sedgefield

BACKGROUND:
Date of Inspection: 10/18/89
Reason For Inspection: Complaint
Owner(s) Notified of Hearing: 11/22/89 (mail returned unclaimed)

Owner(s) Notified of Hearing: 1/2/90
Hearing Held: 1/18/90
Owner(s) Ordered to Repair Dwelling by: 2/21/90

A title search was ordered and received in July, 1990. The title search revealed parties in interest to the property. A Complaint & Notice of Hearing was issued to parties in interest.

Parties In Interest Notified of Hearing: 7/25/90
Hearing Held: 8/8/90

A Findings of Fact and Order is not required to be issued to parties in interest.

Estimated Value of Dwelling: $30,920
Estimated Repair (Which is Less than 65% of Estimated Value): $3350

The repairs include: minor repairs to the interior and exterior of the dwelling. The dwelling is occupied.

The owner was notified of a Civil Penalty on March 1, 1990. The total penalty as of November 26, 1990 amounts to $2870. The owner has also been notified of this November 26, 1990 Council action.

Estimated Value of Dwelling: $9120
Estimated Repair (Which is More than 65% of Estimated Value): $9830

The repairs include: major repairs on interior and exterior of dwelling; installing new windows and doors throughout including screens; installing new central heating system. The dwelling is unoccupied.

The owner was notified of a Civil Penalty on April 7, 1989. The total penalty as of November 26, 1990 amounts to $3190. The owner has also been notified of this November 26, 1990 Council action.

D. Recommend adoption of an ordinance authorizing the use of In Rem Remedy to demolish and remove the dwelling located at 621 Belmont Avenue. (Optimist Park)

PROPERTY OWNER: Kenny Drew Fuller & Richard J. Rawlings
PROPERTY ADDRESS: 621 Belmont Avenue; Census Tract #7;
Council District #1; Neighborhood: Optimist Park

BACKGROUND:

Date of Inspection: 10/30/89
Reason For Inspection: Field Observation
Owner(s) Notified of Hearing: 12/89 - 6/90 (mail returned unclaimed)

The Complaint & Notice and Findings of Fact and Order were advertised in the Mecklenburg Times.

Owner(s) Notified of Hearing: 8/7/90
Hearing Held: 8/17/90
Owner(s) Ordered to Demolish Dwelling by: 9/10/90

A title search was ordered and received in September, 1990. The title search revealed parties of interest to the property.

Parties in Interest Notified of Hearing: 10/8/90
Hearing Held: 10/19/90

A Findings of Fact and Order is not required to be issued to parties in interest.

Estimated Value of Dwelling: $16,510
Estimated Repair (Which is More than 65% of Estimated Value): $12,290

The repairs include: major structural, mechanical, electrical and plumbing repairs. The dwelling is unoccupied.

The owner was notified of a Civil Penalty on October 17, 1990. The total penalty as of November 26, 1990 amounts to $840. The owner has also been notified of this November 26, 1990 Council action.

E. Recommend adoption of an ordinance authorizing the use of In Rem Remedy to demolish and remove the dwelling located at 1505 Allen Street, #1 & #2. (Belmont)

PROPERTY OWNER: L. K. Farrar and wife, Marguerite S.
PROPERTY ADDRESS: 1505 Allen Street, #1 & #2; Census Tract #8; Council District #1; Neighborhood: Belmont

BACKGROUND:

Date of Inspection: 12/5/88 (Exterior)
Reason for Inspection: Concentrated Code Enforcement (Field Observation)
Owner(s) Notified of Hearing: 12/20/88
Hearing Held: 1/13/89
Owner(s) Ordered to Repair Dwelling By: 2/13/89

The owner did not make any repairs or respond to the code enforcement order. A title search was ordered and received in March, 1990 and there were no parties in interest to the property. A new inspection was made to the entire structure to identify all code violations.

Date of New Inspection: 6/28/90
Owner(s) Notified of Hearing: 6/29/90
Hearing Held: 7/9/90
Owner(s) Ordered to Demolish Dwelling by: 8/29/90 (mail refused)

The Findings of Fact and Order was advertised in the Mecklenburg Times.

Owner(s) Ordered to Demolish Dwelling by: 10/8/90

Estimated Value of Dwelling: $7060
Estimated Repair (Which is More than 65% of Estimated Value): $6810

The repairs include: major structural, electrical, mechanical and plumbing repairs. The dwelling is occupied and the tenants have been placed on the relocation workload.

The owner was notified of a Civil Penalty on March 3, 1989. The total penalty as of November 26, 1990 amounts to $5680. The owner has also been notified of this November 26, 1990 Council action.

F. Recommend adoption of an ordinance authorizing the use of In Rem Remedy to demolish and remove the dwelling located at 1228 Seigle Avenue. (Belmont)

PROPERTY OWNER: L. K. Farrar and wife, Marguerite S.
PROPERTY ADDRESS: 1228 Seigle Avenue; Census Tract #8; Council District #1; Neighborhood: Belmont

BACKGROUND:

Date of Inspection: 3/14/89
Reason For Inspection: Concentrated Code Enforcement (Field Observation)
Owner(s) Notified of Hearing: 3/20/89
Hearing Held: 4/5/89
Owner(s) Ordered to Repair Dwelling By: 5/5/89

The owner did not make any repairs or respond to the code enforcement order. A title search was ordered and received in February, 1990. The title search revealed no parties in interest to the property. A new inspection was made to the entire structure to identify all code violations.

Date of New Inspection: 2/14/90
Owner(s) Notified of Hearing: 2/15/90
Hearing Held: 3/12/90
Owner(s) Ordered to Repair Dwelling by: 3/28/90

The Order to Repair was incorrectly issued and should have been an Order to Demolish. Therefore, a new Order was issued.

Owner(s) Ordered to Demolish Dwelling By: 8/31/90 (mail returned unclaimed)

The Findings of Fact and Order was advertised in the Mecklenburg Times.

Owner(s) Ordered to Demolish Dwelling by: 10/8/90

Estimated Value of Dwelling: $2190
Estimated Repair (Which is More than 65% of Estimated Value): $3470

The repairs include: major structural, electrical, mechanical and plumbing repairs. The dwelling is unoccupied.

The owner should have been notified of the civil penalty in May, 1989 but it was discovered that the notice of civil penalty was not mailed to the owner at that time. Therefore, the owner was notified of the Civil Penalty on October 18, 1990. The total penalty as of November 26, 1990 amounts to $3,505. The owner has also been notified of this November 26, 1990 Council action.

G. Recommend adoption of an ordinance authorizing the use of In Rem Remedy to demolish and remove the dwelling located at 2724 N. Davidson Street. (North Charlotte)

PROPERTY OWNER: Samuel L. Council
PROPERTY ADDRESS: 2724 N. Davidson Street; Census Tract #14; Council District #1; Neighborhood: North Charlotte

BACKGROUND:

Date of Inspection: 6/2/89
Reason For Inspection: Concentrated Code Enforcement (Field Observation)
Owner(s) Notified of Hearing: 6/21/89
Hearing Held: 6/31/89
Owner(s) Ordered to Repair Dwelling By: 7/14/89

The owner did not make any repairs or respond to the code enforcement order. A title search ordered and received in October, 1989. The title search revealed a party in interest to the property.

Dwelling was heavily damaged by fire in January, 1990.

Owner(s) Ordered to Demolish Dwelling by: 9/10/90

Estimated Value of Dwelling: $18,720
Estimated Repair (Which is More than 65% of Estimated Value): $25,000

The repairs include: major structural, electrical, mechanical and plumbing repairs. The dwelling is unoccupied.

The owner was notified of a Civil Penalty on August 21, 1989. The total penalty as of November 26, 1990 amounts to $4450. The owner has also been notified of this November 26, 1990 Council action.

H. Recommend adoption of an ordinance authorizing the use of In Rem Remedy to demolish and remove the dwelling located at 3514 N. Davidson Street. (North Charlotte)

PROPERTY OWNER: Edward R. Robinson
PROPERTY ADDRESS: 3514 N. Davidson Street; Census Tract #14; Council District #1; Neighborhood: North Charlotte

BACKGROUND:

Date of Inspection: 6/1/89
Reason for Inspection: Concentrated Code Enforcement (Field Observation)
Owner(s) Notified of Hearing: 6/19/89
Hearing Held: 7/19/89
Owner(s) Ordered to Repair Dwelling by: 8/19/89
Dwelling Destroyed by Fire: 9/27/89
Owner(s) Ordered to Demolish Dwelling by: 1/8/90

The demolition of the dwelling began; however, it was not completed because the debris was not removed.

A title search was ordered and received in June, 1990. The title search revealed that the property had been sold. The Complaint and Notice and Findings of Fact and Order were advertised in the Mecklenburg Times.

Owner(s) Notified of Hearing: 10/26/90
Hearing Held: 11/5/90
Owner(s) Ordered to Demolish Dwelling by: 11/23/90

Estimated Value of Dwelling: $0
Estimated Repair (Which is More than 65% of Estimated Value): $138,000

The repairs include: The repairs would include total rebuilding from the foundation up. The dwelling is unoccupied.

The owner will be notified of the Civil Penalty after November 23, 1990 if the demolition order is not complied with. The total penalty as of November 26, 1990 will amount to $120. The owner has also been notified of this November 26, 1990 Council action.

Mandatory Referral Report No. 88-36

Charlotte-Mecklenburg Planning Commission

Sale of Vacant Land

December 1988

Project Proposal and Location

This project consist of the sale of three parcels of land totaling approximately 25,504 square feet. These properties are located along Statesville Avenue just north of Oaklawn Avenue.

Project Justification

These properties are currently vacant. Adjacent properties fronting Statesville Avenue are also vacant. These properties are currently zoned B-1. The City has no planned use for these properties and therefore they should be returned to private ownership.

Project Impact

There are no impacts expected.

Relationship to Other Public and Private Projects

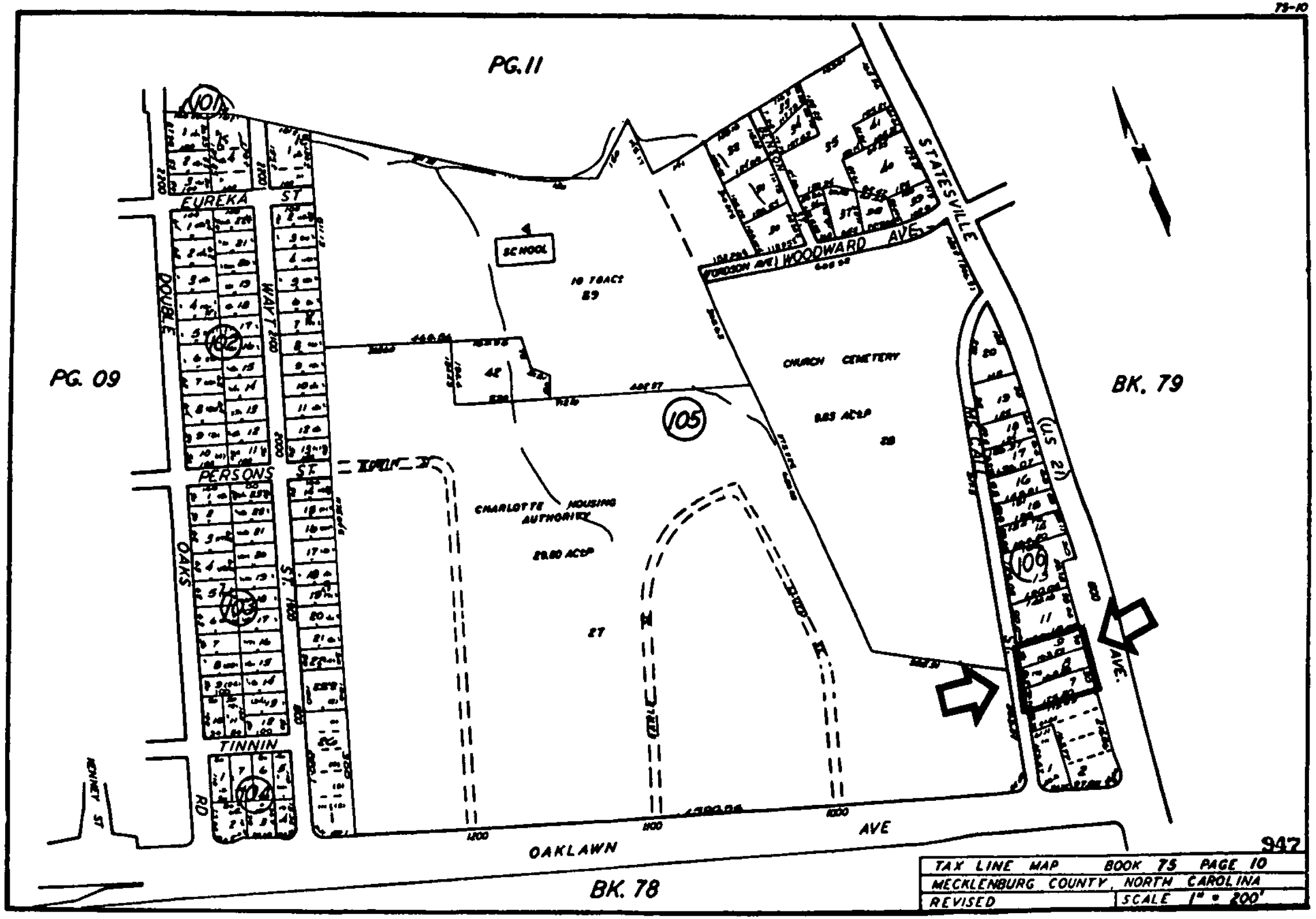
None exist.

Project Cost

The total cost of the proposed sale is $1,250; $150.00 for advertising, $300.00 for appraisal, $300.00 for legal fees, and $500.00 for administrative cost.

Staff Recommendation

Approval.


PG. 11
PG. 09
BK. 79
BK. 78
EUREKA ST
DOUBLE OAKS
WAVERLY
PERSONS ST
TINNIN RD
KINNEY ST
SCHOOL
10 TRACT
89
42
CHARLOTTE HOUSING AUTHORITY
20.80 ACRS
27
CHURCH CEMETERY
9.85 ACRS
28
WOODWARD AVE
STATESVILLE AVE.
(U.S. 21)
OAKLAWN AVE
101
102
103
104
105
106
947
TAX LINE MAP BOOK 75 PAGE 10
MECKLENBURG COUNTY, NORTH CAROLINA
REVISED
SCALE 1" = 200'

MANDATORY REFERRAL REPORT NO. 90-45
CHARLOTTE-MECKLENBURG PLANNING COMMISSION
SALE OF VACANT PROPERTY
SEPTEMBER, 1990

PROJECT PROPOSAL AND LOCATION

This project consists of the sale of .698 acres of City owned property bounded by Parkwood Avenue, North Brevard Street, and East Twentieth Street. The property is currently vacant and is zoned R-6MF. The Optimist Park Special Project Plan recommends this area remain zoned multi-family.

The Lions Services, Inc. has contacted the City about purchasing the subject property. Lions is a non-profit organization for the blind and is interested in expanding their offices, possibly onto this property.

PROJECT JUSTIFICATION

This property was originally acquired by the City of Charlotte for the Parkwood Avenue Extension Project. The subject portion proposed for sale is that area not needed for right-of-way for Parkwood Avenue.

PROJECT IMPACT

No impacts are expected.

RELATIONSHIP TO OTHER PUBLIC AND PRIVATE PROJECTS

The property proposed for sale is left over from the purchase of a larger property for the Parkwood Avenue Extension Project.

In addition to the sale of the subject property, East Twentieth Street is also being abandoned by the City.

PROJECT COST

The costs associated with the sale of this property are as follows: Appraisal, $600.00; Legal, $700.00; Administrative, $700.00; Advertising, $150.00 for a total cost of $2,150.00.

STAFF RECOMMENDATION

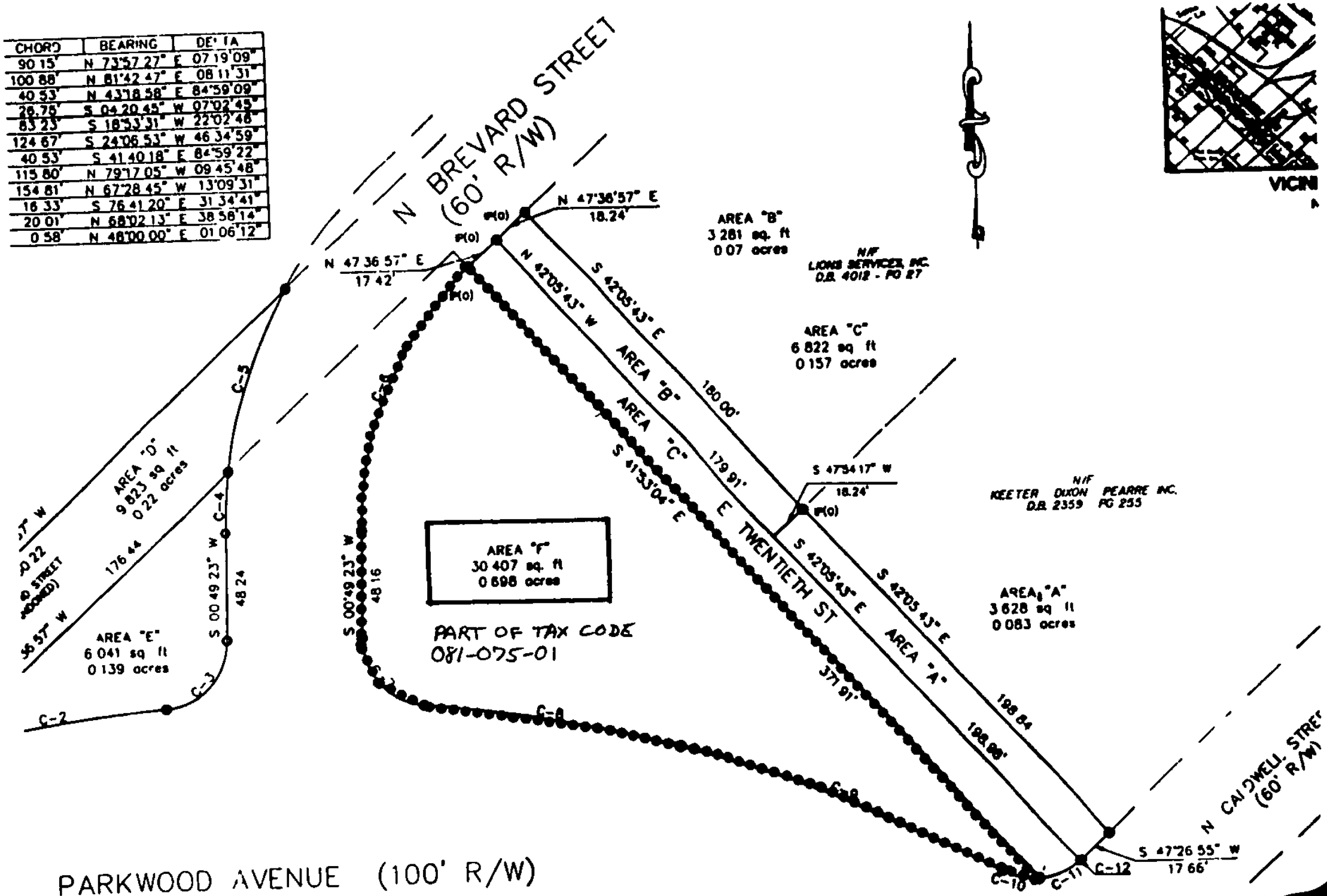
The Planning Commission staff recommends approval of the sale of this property.

Should Lions Services, Inc. purchase this parcel, an expansion of their existing facilities may require a conditional rezoning petition. If such a rezoning petition were necessary, staff could then work with Lions Services, Inc. to ensure proper design and adequate landscaping in their site plan that would also accomplish an attractive streetscape along Parkwood Avenue.

PLANNING COMMITTEE RECOMMENDATION

Planning Committee approved staff recommendations.

CHORD	BEARING	DELTA
90 15'	N 73°57 27" E	07 19'09"
100 88'	N 81°42 47" E	08 11'31"
40 53'	N 43°18 58" E	84°59'09"
28.75'	S 04 20 45" W	07°02'45"
83 23'	S 18°53'31" W	22°02'48"
124 67'	S 24°06 53" W	46 34'59"
40 53'	S 41 40 18" E	84°59'22"
115 80'	N 79°17 05" W	09 45'48"
154 81'	N 67°28 45" W	13°09'31"
16 33'	S 76 41 20" E	31 34'41"
20 01'	N 68°02 13" E	38 58'14"
0 58'	N 48°00 00" E	01 06'12"



CHARLOTTE

Request for Council Action

To the City Council from the City Manager

Action Requested: Recommend settlement of a condemnation case entitled City of Charlotte v Trustees of Davidson College for an additional $32,100.

Responsible Department: City Attorney's Office

This request should be organized according to the following categories: Background, Explanation of Request, Source of Funding, Clearances, Bibliography

BACKGROUND On May 5, 1989, the City filed a condemnation action against the Trustees of Davidson College to acquire right-of-way for the Caldwell Street Widening The right-of-way that is the subject of the condemnation action totals 14,195 7 square feet At the time of the filing of this action, the City deposited $215,000 as estimated just compensation for the taking After considerable negotiations, the property owners have indicated a willingness to settle the matter for $247,100 or $32,100 above the City's initial deposit Further background is provided in the attached memorandum from Anthony Fox, Assistant City Attorney

EXPLANATION OF REQUEST It is requested that the City Council authorize settlement of this condemnation action by approving an additional $32,100

SOURCE OF FUNDING· Sufficient funds are available in the Caldwell Street Widening Project account

CLEARANCES City Real Estate Division, City Legal Department

BIBLIOGRAPHY The case file is available in the Office of the City Attorney

MEMORANDUM

TO: Henry W. Underhill, Jr.
City Attorney

FROM: Anthony Fox
Assistant City Attorney

DATE: November 2, 1990

RE: Proposed Settlement
City of Charlotte v. Trustees of Davidson College
89-CVS-5439

On May 5, 1989, the City of Charlotte filed an action against the trustees of Davidson College to acquire right-of-way for the Caldwell Street widening consisting of 5,367.8 square feet of road right-of-way, 8,827.9 square feet of temporary construction easement for a total of 14,195.7 square feet. The total land area of the tract is 32,554.3 square feet or 0.75 acres. The City deposited $215,000.00 as just compensation for the taking. As a basis for settlement, the property owners counter-offered with $268,678.00 or $53,678.00 above the City's appraisal. The City's appraisal was performed by Mr. Stuart Elliott and the date of the appraisal is August 12, 1987 which is 10 months prior to the date of the taking. At this point, the City's appraisal has not been updated. An update would cost the City an additional $1,500.00.

I have discussed this matter with H. Landis Wade, Jr., attorney for the Trustees of Davidson College. He indicated that the defendant had the property appraised by Mr. Thomas B. Harris, Jr. of T.B. Harris, Jr. & Associates. I am told that Mr. Harris has performed various appraisals for the City and is on the City's approved list. Mr. Wade furnished the City with a copy of Mr. Harris' appraisal in an attempt to settle this matter. Mr. Harris appraised the property at $247,100.00 or $32,100.00 above the City's initial deposit.

Mr. Harris assigns a square footage value of the property at $45.00 per square foot as opposed to the City's appraised value of $37.50. The Harris appraisal reflects his opinion of value as to the date of the taking whereas the City's appraisal occurred some ten months prior to the date of the taking. Mr. Harris' appraisal is not totally out of line with the City's appraisal. Mr. Elliott analyzed some nine land sales ranging in value from $13.15 to $45.60.

Upon receipt of the Harris appraisal, the City Real Estate Department had the appraisals reviewed by an independent appraiser, Mr. Ray E. Crawford. A copy of Mr. Crawford's review is attached. Based upon his review, he recommends that the

report submitted by Mr. Harris best represents a supportable value of land acquired by the City. He points out that the total difference between the two reports is only 15 percent and that the two reports were prepared 21 months apart. He further indicates that this represents about 8.1/2 percent per year and that this is not an unreasonable difference considering the ongoing uptown activity of commerce and the potential NFL stadium.

Based on the above, I recommend the settlement of this action for $247,100.00 which would require an additional deposit of $32,100.00. I am persuaded in my opinion by the independent opinion of Mr. Ray Crawford, the belief that an update of the City's appraisal would result in a substantially higher deposit, the reasonableness of the Harris appraisal and the loss of several parking spaces on the site as a result of the taking.

Should you have any questions, I will be more than happy to discuss them with you.

AF/dm
Attachment

Recommend Approval

Henry W. Underhill Jr.

Henry W Underhill Jr

CITY OF CHARLOTTE
APPRAISAL REVIEW SUMMARY

Project: Caldwell Street Widening Project No. N/A
PROPERTY OWNER(S) Davidson College Trustees Parcel No. 1,2
Type of Acquisition (Full or Partial) Partial
Zoning Before Uptown Mixed Use Development (UMUD)

****

Appraiser Stuart W. Elliott	Appraiser T. B. Harris, Jr.
Date of Valuation August 12, 1987	Date of Valuation May 5, 1989
Highest and Best Use Estimate:	Highest and Best Use Estimate:
Before Assemblage	Before Assemblage
After Assemblage	After Assemblage
Before Value $1,220,000	Before Value $1,465,000
After Value $1,005,000	After Value $1,217,900
Difference $ 215,000	Difference $ 247,100
Does Report Meet Factual Data Requirements (yes or No) Yes	Does Report Meet Factual Data Requirements (Yes or No) Yes
Are the Value Conclusions Reasonable (Yes or No) Yes,but	Are the Value Conclusions Reasonable (Yes or No) Yes
Remarks: See Comments below	Remarks: See Comments below

****

Review Comments: (With your comments, provide an allocation for each item, the total of which will equal your recommended "Just Compensation".)

The subject property contains a total net land area of 32,554 square feet and is located at the northwest quadrant of East Trade Street and South Caldwell Street. The property is presently used as a parking lot. The acquisition consists of 5,368 square feet of permanent right of way and 8,828 square feet of construction easement. Improvements shown on the appraisal summary sheet consist of parking spaces. The land presently has 104 asphalt paved parking places and an additional 6 unpaved spaces for a total of 110. According to the report of Mr. Harris, the original lot contained 125 spaces.

Mr. Elliott appraised the before land at $37.50 per square foot compared to Mr. Harris at $45.00 per square foot. Please note the date of the appraisals represent a 21 month difference. This basically accounts for the divergence.

Mr. Elliott analyzed nine land sales ranging in square foot values from $13.15 to $45.60. The sales occurred on S. Church St., S. Tryon St. and E. Trade Street. The arithmetic mean is $34.29 and the median is $40.69. (See back of this sheet for more comments and allocation)

Recommendation of Review Appraiser $247,100 SIGNED 10-17-90 DATE

(Use back of this sheet for additional comments as is necessary)

CITY OF CHARLOTTE
Appraisal Review Check Sheet

Project Caldwell Street Widening Appraiser T. B. Harris, Jr.
Project No. N/A Type Narrative
Parcel No. 1, 2 Checked by REC Date 10-17-90

Owner(s) Davidson College Trustee Reviewed by REC Date 10-17-90

1. Summary Sheet	X	15. Zoning	X
2. Certificate	X	16. Highest & Best Use	X
3. Inspection of Property	X	17. Effects of Taking	X
4. Description of Land	X	18. Mkt. Data Approach After	X
5. Descriptions of Imprvmts	N/A	19. Cost Approach After	N/A
6. Zoning	X	20. Income Approach After	N/A
7. Highest & Best Use	X	21. Correlation	X
8. History of Property	Yes	22. Addenda Paragraph	X
9. Mkt. Approach Before	X	23. Allocation	X
10. Cost Approach Before	N/A	24. Photographs of Subject	X
11. Income Approach Before	N/A	25. Sketch of Subject Property	X
12. Correlation	X	26. Floor Plans	N/A
13. Description of Taking		27. Comparable Sales	X
Land	X	28. Photographs of Sales	NO
Improvements	X		
		29. Sales Location Map	NO
14. Description of Remainder		30. Partial Taking Of Building	
Land	X	Affidavit	N/A
Improvements	NO	31. Table Of Contents	Yes

COMMENTS

The subject appraisal represents s reasonable conclusion of the subject property value as of May 5, 1989. Please refer to the appraisal summary sheet and review for more detail information.

CITY OF CHARLOTTE
Appraisal Review Check Sheet

Project Caldwell Street Widening Appraiser Stuart Elliott
Project No. N/A Type Narrative
Parcel No. 1, 2 Checked by REC Date 10-17-90

Owner(s) Davidson College Trustee Reviewed by REC Date 10-17-90

1. Summary Sheet	X	15. Zoning	X
2. Certificate	X	16. Highest & Best Use	X
3. Inspection of Property	X	17. Effects of Taking	X
4. Description of Land	X	18. Mkt. Data Approach After	X
5. Descriptions of Imprvmts	N/A	19. Cost Approach After	N/A
6. Zoning	X	20. Income Approach After	N/A
7. Highest & Best Use	X	21. Correlation	X
8. History of Property	Yes	22. Addenda Paragraph	X
9. Mkt. Approach Before	X	23. Allocation	X
10. Cost Approach Before	N/A	24. Photographs of Subject	X
11. Income Approach Before	N/A	25. Sketch of Subject Property	X
12. Correlation	X	26. Floor Plans	N/A
13. Description of Taking		27. Comparable Sales	X
Land	X	28. Photographs of Sales	NO
Improvements	X	29. Sales Location Map	NO
14. Description of Remainder		30. Partial Taking Of Building Affidavit	N/A
Land	X	31. Table Of Contents	NO
Improvements	NO		

COMMENTS

Comments on page 22 and 23, as covered under the Review summary relate to another property. No sales location map although the sketch on the sale sheet gives a good location map for the individual sales. No photos of the sales provided. Little justification for the $15,000 rent loss during the time of the construction easement. Overall, the report is considered to represent the value of the property at the time of appraisal of August 12, 1987.

CITY OF CHARLOTTE

REVIEW CERTIFICATION

I CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF:

That I understand that this estimate of value is to be used in connection with the acquisition of private property for public use under the laws of eminent domain of the state of North Carolina.

The facts and data reported by the review appraiser and used in the review process are true and correct.

The analyses, opinions, and conclusions in this review report are limited only by the assumptions and limiting conditions stated in this review report, and are my personal, unbiased professional analyses, opinions and conclusions.

I have no present or prospective interest in the property that is the subject of this report and I have no personal interest or bias with respect to the parties involved.

My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in, or the use of, this review report.

My analyses, opinions, and conclusions were developed and this review report was prepared in conformity with the Uniform Standards of Professional Appraisal Practice.

I did personally inspect the subject property, and the comparable sales, of the report under review.

That my estimate of the value of all items which are compensable under state law but not eligible for Federal reimbursement is:
$ N/A.

No one provided significant professional assistance to the person signing this review report.

That in my opinion the difference, if any, in fair market value of the entire tract before the taking and the fair market value of the remaining property immediately after the taking for the subject parcel is:
$ $247,100.00.

Reviewing Appraiser
Ray E. Crawford, MAI, SRWA

October 17, 1990
Date of Certification