# AGENDA

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| Meeting Type: | BUSINESS |
| Date: | 02/13/1995 |
| | |

City of Charlotte, City Clerk's Office

CHARLOTTE

| Mayor Richard Vinroot | Mayor Pro Tem Patrick McCrory |
|---|---|
| Charles Baker | Hoyle H Martin |
| Stan Campbell | Don D Reid |
| Patrick D Cannon | Ella Butler Scarborough |
| Mike Jackson | Sara Spencer |
| Nasty Rashad Majeed | Lynn M Wheeler |

# *Council Agenda*

## CITY COUNCIL MEETING
**Monday, February 13, 1995**

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**5:00 p.m.** — **Conference Center**

- **Proposed Sewer Agreement with Cabarrus County**
- **Our Region Tomorrow - Centralina Council of Governments**

**6:30 p.m.** — **Meeting Chamber**

- **Invocation**
- **Pledge of Allegiance**
- **Citizens Hearing**

**7:00 p.m.** — **Formal Business Meeting**

# CITY COUNCIL AGENDA
## Monday, February 13, 1995
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Item Number

## MINUTES

1 Approve Minutes of. January 9 Workshop and January 23 Zoning Meeting

## CONSENT ITEMS

2 Consent agenda items 15 through 27 may be considered in one motion except those items removed by a Councilmember. Items are removed by notifying the City Clerk before the meeting

Staff Resource. Vi Alexander

## PUBLIC HEARING

3. Community Development FY96 Consolidated Plan

Action· Conduct a public hearing to receive comments on the development of the FY96 Consolidated Plan that will determine how Federal funds will be used to address Charlotte's community development, housing and non-housing needs.

Staff Resource. Gene Shipman

Focus Area· City Within A City

Explanation of Request

- The purpose of this public hearing is to obtain citizen comment on Charlotte's community development, housing and non-housing needs (e g economic development, education, and other eligible activities) in order to develop a Community Development Consolidated Plan No action is required (or allowed) on this date

- The Department of Housing and Urban Development (HUD) previously required the submission of a Comprehensive Housing Affordability Strategy (CHAS) which defined entitlement cities' one year and five year housing strategies Also, HUD required the submission of applications for federal funding throughout the budget year, i e , Community Development Block Grant (CDBG), HOME Investment Partnerships (HOME) and Emergency Shelter Grant (ESG)

- Current legislation now requires entitlement cities to submit a Consolidated Plan that replaces the current planning document known as the CHAS Also, all the individual applications for federal funding will be included in the Consolidated Plan

- The Consolidated Plan requires at least one public hearing be held prior to completion of the document.

- HUD's proposed allotments for the City's FY96 programs are

| | |
|---|---|
| CDBG | $4,772,000 |
| HOME | 1,820,000 |
| ESG | 175,000 |
| | $6,767,000 |

- A notice of this public hearing was published in the Charlotte Observer on February 2 and 12, 1995 and the Charlotte Post on February 2 and 10, 1995

- A second public hearing will be conducted by Neighborhood Development staff on April 6, 1995 to obtain citizen comment on the proposed Consolidated Plan

- City Council will be requested to approve the Consolidated Plan at its April 24, 1995 meeting in order to submit the Consolidated Plan to HUD by May 15, 1995 A schedule for the Consolidated Plan is provided in the attachment

**Attachment 1**
Consolidated Plan Schedule
Background

## POLICY

**4. City Manager's Report**

**5. Economic Development Committee Recommendation for Zoning Ordinance Text Amendment**

**Action:** **Approve Economic Development Committee recommendation to amend the Zoning Ordinance text to reduce the shrubbery screening height for parking lots from six feet to four feet**

**Committee Chair.** Lynn Wheeler

**Staff Resource** Walter Fields

**Focus Area·** Community Safety

**Policy** To strengthen partnerships between residents, business owners, and the police to reduce crime and increase the perception of public safety

**Explanation of Request·**

- A review of sites by Charlotte-Mecklenburg Police and Planning Staff indicates that the requirements of the zoning regulations could be providing "cover" for robberies
- As a result a joint recommendation was made that the height of shrubs for screening along a public street be lowered from 6 feet to 4 feet
- This recommendation was unanimously endorsed by the Economic Development Committee on January 18
- If City Council approves the recommended text amendment it will be included in the next group of text amendments to the City Zoning regulations The text amendment process takes approximately four months

**Background:**

- In October concern was raised that the tree ordinance requirements were providing "cover" for robberies of restaurants The Zoning Ordinance, not the tree ordinance, addresses shrubbery screening for parking lots

**6 Economic Development Committee Recommendation on Mayor's Planting Initiative**

| | |
|---|---|
| **Action.** | **Approve Economic Development Committee recommendation to implement Mayor's proposal for a public/private planting program** |
| **Committee Chair.** | Lynn Wheeler |
| **Staff Resource.** | John Lojko |
| **Focus Area** | Economic Development |
| **Policy** | Invest in partnerships to promote economic development |
| **Explanation of Request:** | The Economic Development Committee and the Chamber of Commerce proposes a public/private partnership for wildflower/landscaping program along I-277 and I-77 in the Uptown area If City Council concurs with the Economic Development Committee recommendation, staff will work with the Charlotte Chamber to develop details of the program and to implement |
| **Funding** | None required |

**Background:**

- In July 1994, the Mayor asked the Economic Development Committee to explore an idea to have private companies install and maintain landscaping (flowers, trees, shrubs) along highways Staff has developed a program that would have companies "adopt" locations
- The Charlotte Chamber has agreed to

cosponsor and market the program Initial efforts will be along I-277 and I-77 as the main gateways in the Uptown area. The initial planning is to incorporate these plantings in conjunction with the proposed NCDOT landscaping The program could be expanded if successful

- On January 18, 1995, the Economic Development Committee unanimously endorsed the proposed program

**Attachment 2**
Report to Economic Development Committee

7. **Transportation Committee Recommendation on Uptown Circuit**

**Action:**

**A** **Adopt the recommendation of the Transportation Committee that the City contribute up to $50,000 to ensure the Uptown Circuit, a shuttle service using electric buses, can operate for a one-year demonstration period, and**

**B** **Adopt a budget ordinance appropriating $50,000 from the Transportation Fund fund balance for the service**

**Committee Chair** Stan Campbell

**Staff Resource** Bob Pressley and Mary Clayton

**Focus Area.** Transportation

**Policy**

- The Uptown Circuit is an action step under the Transportation Focus Area goal of providing transportation options for uptown employees and visitors

Item Number

**Explanation of Request**

- To provide up to $50,000 to the Charlotte Uptown Development Corporation (CUDC) as a member of a public/private partnership for operation of an electric bus shuttle service in Uptown Charlotte for a year

- The Transportation Committee recommends use of Transportation Funds only if these revenues are needed to make sure that the route operates for an entire year (through January 1996)

- The Committee has requested that the Auditorium-Coliseum-Convention Center Authority and the Charlotte Convention and Visitors Bureau (CCVB) increase their commitments this year to reduce or eliminate the need for Transportation funds

**Public/Private Partnership**

- Duke Power purchased 2 electric bus prototypes at $250,000 a piece and is leasing them to CUDC for 2 years for $1 per year CUDC is leasing an additional 2 prototypes using financing arranged by First Union

- Funds for projected first-year operating expenses of $180,000 will come from

| | |
|---|---|
| CUDC | $50,000 |
| Convention Center Authority | 30,000 |
| CCVB | 30,000 |
| Charlotte Chamber | 10,000 |
| Public Library | 5,000 |
| Discovery Place | 5,000 |
| **Charlotte Transportation Fund (if necessary)** | **50,000** |
| **Total** | **$180,000** |

- No fare will be charged

- CUDC will contract with Transit Management of Charlotte (Charlotte Transit) for route operation

**Funding:** Transportation Fund fund balance

**Background:**

- Barton-Aschman Associates identified need for Uptown circulator in 1989 Central Area Transportation Plan.
- CUDC has worked on shuttle concept for 3 years, lack of funding has prevented earlier implementation
- The Transit Advisory Committee ranked City participation in the Uptown Circuit as top priority among 13 transit service adjustments proposed for FY96-97
- CCVB and the Convention Center Authority are responding to a Transportation Committee request to describe how they will provide transportation services for visitors to the new Convention Center
- The Uptown Transportation Council has adopted the following ridership objectives to evaluate Uptown Circuit performance

| Evaluation Period | Passengers/day |
|---|---|
| 3 months | 600 |
| 6 months | 800 |
| 12 months | 1000 |

- Attached is a map of the 3 routes showing hours of operation

**Attachment 3**
Uptown Circuit Routes and Operating Hours

8. **Transportation Committee Recommendation on Commuter Bus Service Between Rock Hill and Charlotte**

**Action:**

A. Adopt the recommendation of the Transportation Committee for the City to contribute up to $35,000 for funding a third year of commuter bus service between Charlotte and Rock Hill; and

B. Adopt a budget ordinance appropriating $35,000 from the Transportation Fund fund balance for the service

**Committee Chair** Stan Campbell

**Staff Resource** Bob Pressley and Mary Clayton

**Council Focus Area.** Transportation

**Policy** The Charlotte-Rock Hill CommuteRide service is an action step under the Transportation Focus Area goal of providing innovative regional transit services

**Explanation of Request** To provide up to $35,000 to the Charlotte Uptown Development Corporation (CUDC) for a third year of operating peak-hour bus service between Charlotte and Rock Hill as recommended by the Transportation Committee

- Funds for projected operating expenses of $170,000 (for the March 1, 1995 to February 28, 1996 period) will come from

| | |
|---|---|
| Passenger Fares | $69,500 |
| SC Department of Transportation (SCDOT) | 43,000 |
| Uptown Charlotte businesses | 15,000 |
| City of Rock Hill | 7,500 |
| **Charlotte Transportation Fund** | **35,000** |
| **Total . . .** | **$170,000** |

- The one-way fare will be increased from $1 50 to $2.00 on March 1, 1995. Annual passenger revenue should increase by $20,000, from $50,000 to $70,000

- Gray Line of Charlotte would continue route operation under a contract with CUDC

**Funding.** Transportation Fund fund balance

**Background.**

- For the past two years, the City has contributed $15,000 annually toward operation of Charlotte-Rock Hill CommuteRide Other funding partners contributed the following each year

| | |
|---|---|
| Uptown Charlotte businesses | $50,000 |
| SCDOT . . | 40,000 |
| NC Department of Transportation (NCDOT) | 40,000 |
| City of Rock Hill | 7,500 |

- NCDOT will not contribute toward a third year's operation because the agency funded the service as a traffic control measure associated with I-77 widening This State roadway project is now complete

- Uptown businesses are reducing their contributions because they provided their funds only for start up of Rock Hill bus service, not for sustaining the routes long term Uptown businesses are more interested in contributing funds to begin a commuter bus route from another 20 mile ring city

- The "Committee of 100" rated regional bus services as top priority among transit services to be operated in the Charlotte metropolitan area

- In its review of Charlotte's public transit services, Barton-Aschman Associates recommended continuation of the Rock Hill route

- The Transit Advisory Committee ranked City participation in the Rock Hill route #4 of 13 transit service adjustments proposed for FY96-97

- Average daily ridership has grown to 165-170 passengers (28 passengers per trip) Attached are graphs showing average and peak weekday ridership for each month of operation

**Attachment 4**
Rock Hill Monthly Ridership

**9 Public Safety Committee Recommendation Concerning Child Protection Ordinance**

| | |
|---|---|
| **Action:** | **Approve the report of the Public Safety Committee to not adopt a Child Protection Ordinance for the City of Charlotte.** |
| **Committee Chairman** | Pat McCrory |
| **Staff Resource** | Dennis Nowicki |
| **Focus Area:** | Community Safety |
| **Policy** | Goal Three of the Community Safety Plan is to decrease the rate of crime committed by youth in our community Exploration of a teen curfew is one of the enforcement strategies specified under the goal |

**Child Protection Ordinance:**

Charlotte's proposed ordinance has been modeled after the Dallas, Texas ordinance which has successfully passed challenges to its constitutionality by the Fifth Circuit Federal Court of Appeals The specific components of Charlotte's proposed ordinance are as follows

- Applies to juveniles age fifteen and under
- Establishes restricted hours of 11·00 p m. to 6 00 a m from Sunday through Thursday and the hours of midnight to 6 00 a m on Friday and Saturday
- Establishes five separate offenses
  - juveniles being present or remaining in a public place during the restricted hours of the ordinance
  - parents or guardians of a juvenile to knowingly permit or, by insufficient control, allow the juvenile to violate the ordinance
  - business owners or their employees to knowingly allow a juvenile to remain on the business premises during the restricted hours
  - any person 16 years of age or older to aid a juvenile 15 years of age or younger to violate the ordinance
  - parents or guardians to refuse to take custody of a juvenile for whom they are responsible during the restricted hours
- Establishes 12 exceptions to the ordinance which are detailed in the attachment

- Establishes a two year sunset provision making the ordinance null and void on June 30, 1997 unless a review establishes that the ordinance is effective and that there is a continued need for it as an enforcement tool Council action would be required to extend the ordinance

**Enforcement of the Ordinance**

An officer encountering a juvenile fifteen years of age or younger in a public place during the restricted hours of the ordinance would first determine if the juvenile's presence is lawful under any of the exceptions allowed under the ordinance If none of the exceptions are met, the officer would transport the juvenile to his home and talk to his parent or guardian If a responsible adult cannot be located to assume responsibility for the juvenile, then the officer will take him to The Relatives, a youth shelter A counselor at The Relatives will continue to try to locate a parent or guardian If the parent or guardian cannot be located overnight, custody of the juvenile will be given to the Department of Social Services for appropriate investigation

**Penalties of the Ordinance.**

Juveniles fifteen years of age or younger violating the provisions of the ordinance may be charged on a juvenile arrest report for referral to juvenile court Any juvenile who violates a provision of the ordinance is subject to being adjudicated delinquent

Violations by a parent or guardian, business owner, or person 16 years of age or older is a misdemeanor subject to a fine not to exceed $100 and imprisonment in the discretion of the court

**Evaluation of the Ordinance:**

The Police Department will develop and implement reporting procedures and evaluation criteria that will enable Council to determine if the ordinance is serving its intended purpose and whether there is a significant impact on City and County resources Reports will be provided to Council at six month intervals

**Current Law.** Presently North Carolina law permits a police officer to take a juvenile into temporary custody only if.

- The juvenile has committed a crime and a warrantless arrest is permissible under State law,
- Probable cause exists to believe the juvenile is undisciplined;
- There is probable cause to believe the juvenile is abused, neglected, or dependent and that the juvenile would be injured or could not be taken into custody if it were first necessary to obtain a court order, or
- The juvenile is an escapee from a State training school or approved detention facility.

The law currently does not permit the officer to take temporary custody of a juvenile who, by his presence on the street is in a position to become the victim or perpetrator of a crime There is also no provision to hold parents accountable for the presence of their minor child in a public place

**Committee Discussion** The Public Safety Committee met on January 30, 1995 and considered the motion to recommend the adoption of the Child Protection Ordinance The motion was defeated by a vote of 3 members against and 2 members in favor

The Public Safety Committee discussed the following issues concerning the adoption of the ordinance

- Whether the ordinance represents an unnecessary intrusion by government into the lives of parents or whether it encourages parents to take the responsibility necessary to protect their children

- The possible infringement upon the Constitutional rights of both the parents and the juvenile even though the proposed ordinance is patterned after the Dallas, Texas ordinance which has withstood constitutional challenge

- Consistent enforcement of the ordinance by police officers

- The unavailability of information regarding the resource implications for the Police Department, The Relatives, the Department of Social Services and other components of the criminal justice system

- The length of the sunset provision

- The limitations on the effectiveness of the ordinance if the Mecklenburg County Commission does not pass a similar ordinance for County-wide enforcement

- The possibility for reducing the crimes committed by juveniles by early intervention in their lives prior to their becoming involved in serious criminal activity

- The need for children in the community to be protected

**Attachment 5**

Key Provisions of the Child Protection Ordinance
Resource Implications of the Child Protection Ordinance
Juvenile Arrests and Victimization
Child Protection Ordinance
Police Department Rationale

**10 Charlotte Coliseum Alternatives Process**

**Action:** **Establish a process for Council review of the future ownership/operation of the Charlotte Coliseum.**

**Staff Resource.** Del Borgsdorf

**Explanation of Request** The Council has several options for a process regarding the sale of the Coliseum

A 1992 Privatization Task Force Process
The threshold question is should the City sell the Coliseum or keep it in public ownership? This question was referred to the original Privatization Task Force chaired by Stan Vaughn in 1992 The Committee analyzed the reasons for selling the facility and for retaining the building and recommended a process for Council consideration (see attachment)

B Privatization/Competition Advisory Committee Review
Utilize existing Council Asset Management Guidelines which require substantial information to be submitted for review and consideration including

- financial statements and audits
- outstanding debt
- appraisal
- capital projects planned
- public costs
- organization and management
- private contracts
- current public purpose

See attachment for complete list

Request the Privatization/Competition Advisory Committee to review and report to the Council on the above information

C Council Committee Review
Utilize a Council Committee to review the information, decide the question of public ownership and direct the City Manager accordingly

**Public Policy Issues:**

1 1996-97 Budget - As a component of the budget process the Manager is meeting with all twenty-eight external financial partners Discussions with the Authority will focus on fund balances, operating surplus, capital improvements, maintenance, debt service and other issues Recommendations will be prepared for Council discussion and consideration during the budget process (see attachment)

2 Hornet negotiations - The Authority is currently negotiating various options for extending or modifying the Hornets' lease which expires in 1997 These negotiations will be impacted by Council decisions relating to budget issues (see #1 above) or potential sale of the building (see #3) The Authority, through its Managing Director is the agency which has signed the current lease and has the authority to negotiate changes

3 Building Sale or Lease - The Council on behalf of the City is the building owner, consequently, any consideration of sale or lease of the entire building is subject to Council approval Council is constrained by legal issues surrounding the tax-exempt General Obligation debt issued to finance the building These constraints eliminate the lease option and prevent sale of the building until September 1997

**Background.**

- The Charlotte Hornets, in correspondence from President Spencer Stolpen to Mayor Vinroot dated January 10, 1995, suggested that they would like to review three options regarding their use of the Charlotte Coliseum

  - Lease the entire building on an annual basis for the sum equal to what the Coliseum is currently reporting as a profit

  - Purchase the building for the cost of building a new Coliseum less the cost to retrofit the current building Estimated purchase price $60-65 million

  - Build a new Uptown coliseum without public funds

- The Coliseum was constructed pursuant to a voter-approved General Obligation Bond Issue of $53,500,000 in 1986 87. It is operated, maintained and improved by the Council-appointed Coliseum-Convention Center-Auditorium Authority

- Building History & Financing Issues
  Total outstanding debt $36,787,000. Bond Counsel review indicates the building cannot be sold within the first 5 years after refinancing (September 1992) This effectively limits sale to September 1997 Similarly, leasing cannot occur until the debt is paid off - currently scheduled for July 1, 2004

- Hornets Franchise/Lease
  Negotiated in 1988 and renegotiated in 1992, expires in 1997 Provides $8,000/game to the Authority, plus 100% of concession and parking revenues Sky box and advertising revenues are shared This relationship is fair based upon a review, conducted by the Authority, of comparable NBA-Authority relationships around the country

**Attachment 6**

## BUSINESS

**11. Bethlehem Center's Project Head Start Program**

**Action:** Approve participation in the development of Bethlehem Center's Project Head Start facility by

A Authorizing the City Manager to enter into a tri-party agreement between the City, Bethlehem Center and Crosland Contractors for the construction of the classroom facility;

B. Adopting a budget ordinance for a maximum $143,371 CDBG public service grant to Bethlehem Center to close the gap between the project costs and the funds available, and

C. Adopting a budget ordinance for a $764,129 construction loan to Crosland Contractors for the construction of the facility

**Staff Resource:** Gene Shipman

**Focus Area** City Within A City

**Policy:**

- Target City resources to fragile neighborhoods, i e create neighborhood anchors
- Assist persons to develop their human potential by increasing educational, training and employment opportunities (97% of the children in the Head Start Program are from the CWAC Area )
- Improve conditions in distressed neighborhoods and business areas

Item Number

**Explanation of Request:**

- The total cost of the development is $866,629 Bethlehem Center has been awarded State and Federal funds totaling $685,758 and has raised $37,500 in private donations from local banks for a total of $723,258 which will be used to purchase land and construct the facility (A chart showing the project costs and the funding sources is provided in the attachment )

- A gap of $143,371 exists between the total project cost and the funds Bethlehem Center has available Bethlehem Center is requesting the City provide funds for the existing financing gap Staff recommends that a grant from the CDBG public service fund be used

- Bethlehem Center, through its fundraising, expects additional donations which will come to the City to write down the amount of the gap

- Public funds which Bethlehem Center received from the N.C Dept of Human Resources and the U.S Dept of Human Services prohibit it from being involved in the construction of the facility and only allow for the acquisition of a completed structure

- Therefore, a third party is needed to build the facility, and Crosland Contractors has been identified to construct the facility as a turnkey project for Bethlehem Center

- Interim financing is needed during construction Council is requested to approve a $764,129 construction loan to Crosland Contractors Once the facility is completed, Bethlehem Center will purchase the building from the City

- Funds for the construction loan will be from the City's Municipal Debt Service fund balance and will be at 0% interest The cost to the City to make the construction loan is $11,476 The construction period is 7 months (beginning in February and ending in August ) If the construction loan was borrowed on the private market, it would add approximately $22,000 to the project

- Bethlehem Center's Project Head Start Program now has 624 children in the program With construction of this facility, 130 additional children will be able to attend the program.

**Funding**

$764,129 for the construction loan from the City's Municipal Debt Service fund balance. Loan will be repaid by Bethlehem Center

Maximum of $143,371 from the CDBG public service budget for the gap financing

**Attachment 7**
Project Costs and Funding Sources
Rendering of Facility
Floor Plan
Site Plan
Operating and Administrative Costs
Overview of Head Start Program and Staffing
Cost to City for Construction Loan

12. **Convention Center Budget Ordinance and Change Orders**

**Action:**

A. **Adopt a budget ordinance appropriating $3,000,000 from the Convention Center interest earnings and refinancing savings to cover costs associated with closing out the project and settling contractor claims,**

B **Approve Change Order #2 for $320,000 to the Fire Protection contract with Worsham Sprinkler Company to settle a final claim, and**

C. **Approve Change Order #9 for $1,950,000 to the Finishes contract with Cecil Malone to settle a final claim**

**Staff Resource:** David Garner

**Explanation of Request.**

A. Use of Interest Earnings and Refinancing Savings

This additional appropriation is needed to cover the claims in part B and C of this action as well as other claims we expect to settle in the next few months It is our intention that these additional funds will be sufficient to completely close out the project

We expect to recover a substantial portion of these additional funds in upcoming legal actions

Due to refinancing savings and interest earnings on unused capital during construction, our original financing package approved by Council still contains $5 1 million We expect after the project is closed out and all the legal actions are settled, there will be several million dollars left in this account

The project has had to fund costs associated with the default of the curtainwall contractor and cover other unforeseen costs such as hazardous waste disposal and structural modifications In December 1994, Council authorized an additional $2,000,000 to cover the expenses incurred due to the termination of the curtainwall contractor

In addition to these unexpected costs, we have settled claims totalling nearly $1,900,000 Included in this action are two more claims which together total $2,270,818. Other claims will be submitted for Council approval after negotiations are complete

To date, the project has received claims totalling nearly $13 million Overall, we estimate that the project will pay less than $6 3 million in settled claims

We have settled all the claims we can with the available budget

B. Worsham Sprinkler Change Order #2 - Claim Settlement

Change Order #2 for $320,000 is the result of negotiations to settle a final claim for additional compensation originally submitted by Worsham in November 1994, in the amount of $584,448

Worsham has had their schedule for installing the building's sprinkler system compressed because some work by others was not ready as originally scheduled Their schedule was further compressed due to the numerous design changes that have occurred during construction

In order to meet our original completion date, Worsham has had to bring in substantially more manpower which has required additional supervision, tools and equipment to support

After extensive negotiations, Fluor Daniel and The FWA Group recommend that the City accept this final settlement offer of $320,000
Upon approval of this Change Order, Worsham's contract sum will increase from $1,331,789 to $1,651,789

C. Cecil Malone Change Order #9 - Claim Settlement

Change Order #9 for $1,950,000 is the result of negotiations to settle Cecil Malone's final claim for additional compensation originally submitted on November 3, 1994, in the amount of $4,410,139 36

The finishes contractor depends on all the other contractors' work being substantially completed before they can begin their work Because of delays caused by the building not being dried in and the fact that some of the contractors' work was behind schedule, Cecil Malone was not able to start their work within the original schedule

Because meeting the December 23rd substantial completion date was absolutely critical, Cecil Malone had to significantly increase their manpower in addition to working a night shift and extended hours

The increase in Cecil Malone's manpower required additional supervision, tools and equipment. This settlement also includes a portion of Cecil Malone's labor costs for the additional crews required to complete the project as well as some overtime expenses

After extensive negotiations, Fluor Daniel and The FWA Group agree that this final settlement offer of $1,950,000 should be accepted

Fluor Daniel will look for recovery of any of the amounts included in this claim that were the result of the performance of any of the other contractors

Upon approval of this Change Order, Cecil Malone's contract sum will increase from $11,369,511 to $13,319,511

**Funding:**

Funds for part A are available from unappropriated Convention Center refinancing savings and from interest income Funding for parts B and C of this action is dependent on approval of part A

**Background.**

In November 1993, Council approved the use of $3,660,000 from refinancing savings to be added to the Convention Center project contingency

In May 1994, Council approved the use of $600,000 from refinancing savings for streetscape improvements around the Convention Center

**Attachment 8**
Background on previous Change Orders with Worsham Sprinkler and Cecil Malone

**13 Transfer of Cable Television Franchise Agreements**

**Action:** First reading and approval of ordinances to transfer the City's cable television franchise agreements with (1) Time Warner Entertainment Company, L P (Cablevision) and (2) Vision Cable of North Carolina (Newhouse) to Time Warner Entertainment-Advance/Newhouse Partnership.

**Staff Resource:** Doris Boris

**Policy** City Ordinance, Section 6-58, "Transfer of ownership or control" of the City's Cable Communications Regulatory Ordinance and the Federal Cable Act of 1992, Section 617 provisions require City approval of the sale, transfer, lease, assignment or disposition of any franchise

**Explanation of Request** In accordance with federal law and City regulations, City Council is requested to approve the transfer of the two existing franchise agreements to the new partnership

This item requires reading and approval at two meetings of City Council, therefore, it will also appear on the February 27 Consent Agenda

**Background:**

- The parent companies of Cablevision and Vision Cable established a nationwide partnership called Time Warner Entertainment-Advance/Newhouse and have requested a transfer of their respective City franchise agreements to this new partnership

- The transfer will have no impact on cable subscribers or rates Current local cable management will be retained Rates are controlled under federal guidelines

- The terms of the partnership are as follows

  - Time Warner Cable will manage the day-to-day operations of the joint venture

  - The partnership is required to sign an agreement to preserve all previous obligations, responsibilities and provisions of both existing franchise agreements

  - Vision Cable's parent company will contribute 1 4 million customers and Time Warner will contribute 2 8 million customers to the new partnership

  - The partnership will be one-third owned by Advance/Newhouse and two-thirds owned by Time Warner Cable

  - The partnership will improve the economic and growth prospects for the existing cable business, as well as position the partnership for competition, emerging opportunities in interactive services, and development of new technologies

- City staff conducted a thorough review of the transfer request according to City Code and FCC requirements Staff has negotiated transfer agreements and recommends the transfer of the franchises be approved The attached staff report provides the details of this review

- If Council does not take action on this transfer by March 16, 1995, the City will lose the opportunity to impose the terms of the Transfer Agreements negotiated with the new partnership Federal law allows the transfer request to be automatically approved, if no action is taken within 120 days of the request

- Mecklenburg County's Board of Commissioners will be asked to approve a similar transfer request for its franchise agreement with Vision Cable

**Attachment 9**
Ordinance authorizing transfer of TWE-Cablevision franchise
Ordinance authorizing transfer of Vision Cable franchise
Staff Report

**14** **Purchase of The Heathers Water System**

| | |
|---|---|
| **Action.** | **Approve contract with Mid South Water Systems, Incorporated for the purchase of the water system serving The Heathers Subdivision Purchase price is $280,400.** |
| **Staff Resource** | Doug Bean |
| **Policy** | The Street Extension Program provides for the extension of water mains to residential properties |
| **Explanation of Request:** | • CMUD has received requests for water service in The Heathers Subdivision The Heathers is located on Phillips Road within the Town of Matthews and is currently served by Mid South |

- As an alternative to installing new water mains that would parallel a portion of the existing Mid South system, CMUD recommends the purchase of the Mid South system

- The advantages to the City's purchase of the Mid South system in The Heathers are

  - Avoiding disruption to the community by eliminating the need to install a parallel water system

  - CMUD would acquire 283 new customers

  - No cost to the 283 Mid South customers to become CMUD customers

  - Mid South system cannot provide fire protection Upon acquisition of the system, Matthews has approved the allocation of $152,000 of Matthews Water Bond Money to finance the installation of fire hydrants in The Heathers Subdivision

- The Town of Matthews supports this proposal

- The N C Utilities Commission traditionally supports the transfer of private utilities to a municipal system Their approval will be requested after City Council approval of this contract

## Introduction to CONSENT I and II

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

Consent I consists of routine items that have been approved in the budget, are low bid, and have met MWBE criteria

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

Minority and Women Business Development Program (MWBE) Abbreviations

BBE - African American
ABE - Asian American
NBE - Native American
HBE - Hispanic
WBE - Non-Minority Women

## CONSENT I

15 Various Bids

A. General Aviation Area Utility Extensions Aviation

Recommendation: The Aviation Director recommends the low bid of $105,235 by Dakota Contracting Co of Charlotte, N C be accepted

| MWBE Status | Amount | % of Project | Project Goals |
|---|---|---|---|
| NBE | $105,235 | 100% | 20% |

Compliance. Yes

Item Number

B. **Plaza Add-A-Lane** — **Engineering and Property Management**

**Recommendation:** The City Engineer recommends the low bid of $126,765 45 by Blythe Development Company of Charlotte, N C be accepted

| MWBE Status· | Amount | % of Project | Project Goals |
|---|---|---|---|
| BBE | $4,830 | 4% | 4% |
| WBE | $3,622 | 3% | 3% |

**Compliance:** Yes.

C **Storm Water Maintenance FY95-B** — **Engineering and Property Management**

**Recommendation:** The City Engineer recommends the low bid of $244,475 00 by Lord Industries, Inc of Huntersville N C be accepted

| MWBE Status. | Amount | % of Project | Project Goals |
|---|---|---|---|
| BBE | $14,642 | 6% | 6% |
| WBE | $229,833 | 94% | 6% |

Compliance Yes

**16.** **Speed Limit Change**

Action· Adopt an ordinance to lower the speed limit on Cottonwood Street (Coulwood Ridge) from 35 MPH to 25 MPH

17 Resolution of Intent to Abandon an Alleyway between Yadkin and Matheson Avenues and Set Public Hearing

Action:

A. Adopt the Resolution of Intent to abandon an Alleyway between Yadkin and Matheson Avenues; and

B. Set a Public Hearing on March 27, 1995

Attachment 10

18. In Rem Remedy - 1320 Fairmont Street

Action:

Adopt an Ordinance authorizing the use of In Rem Remedy to demolish and remove the dwelling at 1320 Fairmont Street (McCrorey Heights Neighborhood) which is located in the City Within a City boundaries

Attachment 11
Background
Analysis
Picture
Map

19. Special Officer Permit

Action:

Approve an application for Special Officer Permit for Calvin R Daniels for use on the premises of the Aviation Department as an Airport Safety Officer I

Item Number

20. Refund of Certain Taxes

Action

Recommend adoption of a resolution authorizing the refund of certain taxes assessed through clerical or assessor error in the amount of $2,590.75.

Attachment 12

## CONSENT II

**21 Coliseum Center Tract III - Amendment #1**

**Action:** Approve Amendment #1 to the agreement with RUST Environment & Infrastructure, formerly SEC Donohue, for $133,946 to provide engineering services for a ground water cleanup system This amendment increases the contract amount to $180,706.

**Explanation of Request** This amendment provides funds to implement a ground water cleanup system at the Tract III site

The implementation will include the following

- installation of new monitoring wells,
- completion of the design for the cleanup system,
- preparation of equipment and construction specifications,
- installation of the cleanup system, and
- preparation of an operations manual

**Background** On May 13, 1988, the City purchased the land from NCDOT After the purchase, the City discovered the land was contaminated by petroleum products which leaked from underground storage tanks

On December 11, 1992, the City Engineer approved the original agreement with SEC Donohue for $46,760 to determine the nature and extent of the contamination and to begin design of a remediation system at the Coliseum Center Tract III

Most of these costs are reimbursable under the State Trust Fund Reimbursement Program

There will be a future contract for the maintenance and monitoring of the cleanup system

**Attachment 13**
Map

22 **Storm Water Watershed Modeling: Irwin Creek Major System - Amendment #1**

**Action·** **Approve Amendment #1 to the Engineering Agreement with CH2M Hill for $256,725, bringing the total contract amount to $675,265**

**Policy.** The policy statements recommended by the Storm Water Task Force and adopted by City Council include "Initiate storm water master planning "

**Explanation of Request** The amendment provides for the transfer of stream and creek data from maps to computer watershed models citywide, using an automated methodology developed as part of the current work by CH2M Hill on the Irwin Creek watershed Use of this method citywide rather than manual methods will result in a cost avoidance of over $750,000

**Background.** In May 1994, City Council approved agreements with CH2M Hill and three other engineering firms to prepare computer models of the storm water infrastructure

- These computer watershed models will be the basis of future storm water infrastructure priorities and provide the ability to determine the optimum solution to flooding and drainage problems

- In order to complete this part of the work as efficiently as possible, CH2M Hill developed an automated method of transferring the required data from paper maps to the computer database

- This amendment will provide for using this automated methodology to transfer the stream and creek data to the computer for the remaining watersheds in the City, to be used by all four consultants as they continue with additional watershed models

- If the stream and creek data were processed manually for the remainder of the City, the cost for that portion of the modeling work, based on the experience of the other three firms, would likely exceed $1,000,000 Therefore, completing the process with the automated methodology through this amendment represents an avoided cost of more than $750,000

**23. Temp World Temporary Service Contract Extension**

**Action.** **Approve a one year extension of the Temp World Temporary Service Contract for personnel services at the Airport**

**Explanation of Request** Temp World has provided temporary personnel services in a satisfactory manner for the past five years The recommended one year extension is based on contract terms and conditions as bid five years ago The cost of these personnel services is $7 73 per hour The annual cost of these services is estimated at $575,000

**Background:**

- February 12, 1990 - City Council awarded a three year contract, with three one year extensions, to Temp World, the low bidder, for personnel services including parking lot cashiers, ground transportation agents, information service agents, and license plate inventory employees The contract provides these services seven days a week, 24 hours a day
- January 11, 1993 - City Council approved the first one year extension of the contract
- February 28, 1994 - City Council approved the second one year extension of the contract

**24. Ballantyne East Planned Unit Development Sewer Contract**

**Action·** **Approve sewer contract with Crescent Resources, Incorporated for the design and construction of a sewer trunk to serve Ballantyne East Planned Unit Development (PUD)**

**Policy.** CMUD Extension Policy 5-Year Reimbursement Program

**Explanation of Request** This is a 5-year reimbursable contract with Crescent Resources, Incorporated for the design and construction of approximately 3,900 linear feet of 15-inch sanitary sewer trunk to serve Ballantyne East P.U.D The estimated cost of this project is $250,000.

**Background:** The 5-year reimbursement program allows applicants to accelerate projects which are included in the Capital Improvement Program The applicant has deposited 10% of the estimated project cost with the remaining 90% to be deposited prior to construction

**25. Sugar Creek WWTP, Electrical Contract #4, Change Order #2**

**Action:** **Approve Change Order #2 to the Sugar Creek Wastewater Treatment Plant Contract #4 - Electrical with Energy Erectors, Ltd. for $738,037**

**Explanation of Request·**

- This change order will provide improvements to the plant electrical system that can be made during the present construction This work will allow for more efficient distribution of power at the plant and it will accommodate future upgrades/expansions

- In 1992, the electrical design began for this project At that time, many plant processes were being upgraded and expanded to meet new discharge permit processes In 1994, CMUD staff requested a new evaluation from Gannett Fleming, the plan design engineers The evaluation revealed

  - That the City should seek a change in the volt power delivered to the plant site by Duke Power from 2300 volt power to 4160 volt power

- Duke Power reviewed the power requirements and concluded that they should be providing 4160 volt power to the plant

- 4160 volt power is the "standard" or "common" voltage consistent with Duke Power's service to similar facilities

- The 4160 volt system is a grounded power system that provides both improved safety and reliability over the 2300 volt system It reduces the likelihood of voltage problems within the treatment plant that can damage large motors, major equipment and create a safety hazard

- The higher volt system is more efficient because there is less voltage drop in the system Therefore, power costs will be lower

**Background:** This change order increases Energy Erectors contract from $3,011,295 to $3,749,332

The original contract with Energy Erectors for $3,011,295 was approved by Council on July 26, 1993

Change Order #1 was approved by the CMUD Director with no change to the contract amount

**26 Six Mile Creek Sewer Facilities, Amendment #1**

**Action:** **Approve Amendment #1 to the Professional Services Contract with Camp Dresser & McKee (CDM) for design and construction management services for the Six Mile Creek Sewer Facilities - $1,083,982.**

**Explanation of Request:** This amendment will increase the professional services contract for the Six Mile Creek Sanitary Sewer Facilities from $1,139,559 to $2,223,541 It will pay for design services not included in the original contract, and for construction phase services for the four construction contracts included in this project

Additional design services include

- Unanticipated archaeological and rare species surveys,
- Wetlands replication design,
- A complete rework of previous population and flow projections for the basin, and

- Surveys for a substantial increase in the number of property maps required due to subdivision of several properties during the design process

Construction phase services include contract preparation and bidding, shop drawing review and related engineering, and resident inspection

**Background:** On July 26, 1992, Council approved the professional services contract with CDM for basic design services for the Six Mile Creek Sanitary Sewer Project - $1,139,559

The total construction cost estimate for the project is $13,400,000 The total engineering cost of $2,223,541 (16 6 percent of estimated construction cost) is within the guidelines for a project of this complexity as established by the American Society of Civil Engineers Manual for Procurement of Consulting Engineering Services

27 **Property Transactions**

**Approve property acquisitions #A-D and condemnation #E**

For Aviation property transactions A-C, the purchase price was determined by an independent appraiser and was reviewed by a second appraiser Each appraisal takes into consideration the specific quality and size of the house The tax value is determined on a more generic basis and will be higher or lower for houses with certain attributes Residential property is acquired per Federal Guidelines 49 CFR Part 24 of the Uniform Acquisition and Relocation Act of 1970 The owners are eligible for relocation benefits Acquisition and relocation costs are eligible for Federal Aviation Administration reimbursement

**Acquisitions:**

A. **Project: F.A.R. Part 150 Land Acquisition**
Owner(s): William B Fuller
Property Address 2508 Danforth Lane
Property to be acquired 217 acres
Improvements 3 Bedroom, 2 Bath ranch
Tax Value. $58,050
Purchase Price $61,500

B **Project: F.A.R. Part 150 Land Acquisition**
Owner(s) Mr and Mrs James Stewart
Property Address. 3106 Verns Avenue
Property to be acquired 64 acres
Improvements 3 Bedroom, 1 5 Bath, Ranch
Tax Value. $71,250
Purchase Price $80,000

C. **Project: F.A.R. Part 150 Land Acquisition**
Owner(s) Malcolm and Betty Blankenship
Property Address 4600 Beam Road
Property to be acquired: 2 279 acres
Improvements. 3 Bedroom, 2 Bath, Ranch
Tax Value $67,190
Purchase Price· $224,750
Remarks: Although this property is zoned for office use, the tax value is based on residential use Office zoning has a fair market value substantially higher than residential

D. **Project: Carmel Road Widening, Parcel No 82**
Owner(s) Gray Foxes Development, LLC
Property Address 5100 Carmel Road
Property to be acquired 2,295 74 sq ft (0 0527 AC ) of fee simple acquisition plus Temporary Construction Easement of 827 59 sq ft (0 0190 AC )
Improvements Landscaping, trees, brick wall, iron gates and lights
Tax Value. $1,027,160
Purchase Price $41,300

**Remarks** This road widening project requires fee simple and temporary easement acquisition causing a loss of landscaping, brick wall with iron gates in addition to moving the road closer to front of property

**Condemnation** E. **Project** **Carmel Road Widening, Parcel No 115**
**Owner(s)** James P DeMare & wf , Antionette M DeMare and any other parties of interest
**Property Address** 7600 Red Oak Lane
**Property to be acquired** 8,183 06 sq ft (0 18785 AC )
**Improvements** Driveway, landscaping, trees and shrubs
**Tax Value** $258,080
**Purchase Price** $29,300
**Remarks**· This project causes loss of land along two sides of the property on Carmel Road and Red Oak Lane One driveway has been eliminated making it more difficult to access the garage The owners have provided a counteroffer of $75,000 without appraisal justification They were aware of the impending Carmel Road Widening Project prior to the purchase of this property and subsequent construction of their home The City's offer based upon appraisal considers the impacts this project places upon the property