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The City Council of the City of Charlotte, North Carolina, met in regular session on Monday, September 13, 1976, at 3:00 o'clock p. m., in the Council Chamber, City Hall, with Mayor John M. Belk presiding, and Councilmembers Betty Chafin, Louis M. Davis, Harvey B. Gantt, Pat Locke, James B. Whittington, Neil C. Williams and Joe D. Withrow present.

ABSENT: None.

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INVOCATION.

The invocation was given by Reverend Lionel Morgan, Associate Minister of Grace Presbyterian Church.

MINUTES APPROVED.

Upon motion of Councilwoman Locke, seconded by Councilman Withrow, and unanimously carried, the minutes of the last meeting on Monday, August 23, 1976 were approved as submitted.

GRANT WHITNEY, CHAIRMAN OF THE CHARLOTTE-MECKLENBURG BICENTENNIAL COMMITTEE PRESENTED AWARD FROM THE U. S. CONFERENCE OF MAYORS.

Mayor Belk recognized Mr. Grant Whitney, Chairman of the Charlotte-Mecklenburg Bicentennial Committee, and presented him with an award from the President of the U. S. Conference of Mayors in recognition of his leadership in the City of Charlotte's observance of the Bicentennial.

HEARING ON \$16.5 MILLION BOND ISSUE FOR WATER AND SEWER PROJECTS: ORDERS AUTHORIZING \$11,675,000 SANITARY SEWER BONDS, \$4,825,000 WATER BONDS, AND RESOLUTION CALLING A SPECIAL BOND REFERENDUM ON NOVEMBER 2, 1976, ADOPTED.

The public hearing was held on the subject bond issue for \$4,825,000 water bonds, and \$11,675,000 sanitary sewer bonds.

Mr. Sadler Barnhardt, 1100 Hawthorne Lane, representing Barnhardt Manufacturing Company, stated as a large water user they have followed very closely developments over the years in the water and sewer rates and the expansion of the water system. It is his understanding the Community Facilities Commission endorses the issuance of the bonds on two conditions: (1) That water and sewer rates not be increased because of the debt service on these bonds; and (2) Any deficiency in revenue produced by the new facilities be supplemented by general revenues.

Mr. Barnhardt stated it is their earnest hope Council will accept these restrictions as set out by the Community Facilities Commission, and will make them part and parcel of the bond proposal.

Mr. M. H. Ward, 1738 Brandon Road, stated he worked for three years with the citizens of Charlotte-Mecklenburg towards developing goals for the improvement of the quality of life for our community.

Mr. Ward spoke in behalf of the bond issue as proposed, stating he does not see this bond issue as causing unplanned growth; he sees it as responding to growth that is already there. There are people, industries and businesses already in the areas the bonds are proposed to serve. The Charlotte-Mecklenburg Utility Department is a city/county joint operation and it is their responsibility to serve the people whether they are in the city or in the county, and many of them are already on water and sewer service. What Council is undertaking here is proper planning to provide

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the services which by law Council is required to do for the citizens of this community, and in so doing they are protecting the health of the other citizens who are protecting the health of the other citizens who are not in the same situation. He would like to see the elimination of septic tanks throughout this county at some future date. He stated he supports the bond issue as the most feasible, economic way to finance this activity. He considers this as a response of Council's responsibility as the governing body of this City.

Motion was made by Councilman Williams, seconded by Councilman Davis and unanimously carried, to include the resolution of the Community Facilities Commission in the minutes of the meeting.

The resolution is as follows:

The Community Facilities Committee has considered the proposed bond issue for water and sewer bonds in the amount of \$16.5 million, the proceeds of which will be used to provide water and sewer services in the areas currently under consideration for annexation. The Committee feels that the annexation will create a shortfall in revenues to the Charlotte Mecklenburg Utilities Department. We are unable to make an estimate of the revenue loss or the time span it will cover from the information we have received. With the provision that this shortfall is paid for out of general fund revenues, for as long as the shortfall exists, the Committee favors issuance of the bonds.

The Committee favors annexation as sound planning for the City and County, but recognizes that the costs of providing water and sewer services to the annexed areas impacts the revenue structure of CMUD. In order to preserve the enterprise system of the CMUD, the Committee feels strongly that general revenues should be used to finance the deficit created by annexation until the deficit is eliminated through the larger customer base.

The Committee further feels that waiver of tapping privilege fees is quite costly to the City. We feel that consideration should be given to charging privilege fees in newly annexed areas in such a manner as to repay new debt incurred and to reduce any revenue shortfall. The waiver of these privilege fees in the current annexation is costing the City over seven million dollars in capital expenditures which would otherwise be borne by the residents of the newly annexed areas. We recommend that the existing moratorium on privilege fees should not be extended beyond May 1978 and that an in-depth study of this matter be undertaken.

Thereupon, upon motion of Councilman Whittington, seconded by Councilman Withrow, and carried, the order introduced and passed on first reading on August 23, 1976, entitled: "ORDER AUTHORIZING \$11,675,000 SANITARY SEWER BONDS" was read a second time and placed upon its adoption. The vote upon the adoption of said order was:

AYES: Councilmembers Chafin, Davis, Gantt, Locke, Whittington, Williams and Withrow.

NOES: None.

The Mayor then announced the order entitled: "ORDER AUTHORIZING \$11,675,000 SANITARY SEWER BONDS" had been adopted.

Thereupon, upon motion of Councilmember Whittington, seconded by Councilmember Withrow, and carried, the order introduced and passed on first reading on August 23, 1976, entitled: "ORDER AUTHORIZING \$4,825,000 WATER BONDS" was read a second time and placed upon its adoption. The vote upon the adoption of said order was:

AYES: Councilmembers Chafin, Davis, Gantt, Locke, Whittington, Williams and Withrow.

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The Mayor then announced the order entitled: "ORDER AUTHORIZING \$4,825,000 WATER BONDS" has been adopted.

The Clerk was thereupon directed to publish said orders in The Charlotte Observer once, and to publish at the foot of each said order the appended note as required by The Local Government Bond Act, as amended.

Thereupon, Councilmember Locke introduced a resolution entitled: "RESOLUTION CALLING A SPECIAL BOND REFERENDUM".

Thereupon, upon motion of Councilwoman Locke, seconded by Councilman Whittington, the resolution entitled: "RESOLUTION CALLING A SPECIAL BOND REFERENDUM" was passed by the following vote:

AYES: Councilmembers Chafin, Davis, Gantt, Locke, Whittington, Williams and Withrow.
NOES: None.

The resolution is recorded in full in Resolutions Book 12, beginning at Page 33.

MOTION TO ADOPT RESOLUTION CLOSING A PORTION OF SARDIS ROAD AT PROVIDENCE ROAD, FAILED FOR LACK OF FOUR AFFIRMATIVE VOTES.

The public hearing was held on petition to close a portion of Sardis Road at Providence Road in the City of Charlotte.

Mr. Corbett, Director of Traffic Engineering, illustrated with two maps the intersection in question. He stated that Carmel Road which is now a part of the Fairview Road Extension project has been brought into Providence Road and widened; that Sardis Road on the opposite side has been brought straight in, and eliminates a section of Sardis Road as a major access point into Providence Road. That the concern which has been generated by this is mainly due to the problem which occurs at the intersection of Sardis and Sardis. As traffic engineers they are concerned about any possibility of traffic turning left off Providence Road and coming up to Sardis Road on the old route. It would give an almost impossible problem at Sardis and Sardis Roads. The State plans have designated a section of Sardis Road as one-way down to Providence Road. He stated as traffic engineers, the important thing is to eliminate traffic coming into Sardis Road whether it be one-way or two ways. As far as they are concerned they would prefer to see the road closed at a point somewhere near the intersection of the old part of Sardis Road and the new part, with the other section remaining available to traffic moving in both directions so you could turn off Providence Road in either direction for access into the abutting property, and it would serve the abutting property for access into Providence Road.

Mr. Corbett stated another solution would be to withdraw from dedication the entire section and use it as a private driveway serving all the abutting property. During his comments he stated traffic volume along Sardis Road previous to construction was some 13,000 vehicles a day. If the new proposed freeway on the south side of the City is built, the traffic volume along this section of Sardis Road is expected to be 11,750 vehicles per day in 1996. If the project is not built, then traffic along Sardis Road is expected to be 23,900 vehicles in 1996.

Mr. McIntyre, Planning Director, stated the Planning Commission's interest in this matter was brought to Council's attention through a resolution passed by the County Commissioners a few months ago. They are interested in having the road closed and he believes the proposal made by Mr. Corbett would serve that basic purpose so that the road would not be open to through traffic; but in a sense would be a public driveway into adjacent properties.

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Mr. Corbett stated the State is working there now, and they have held the work of the contractor up because they know Council is deliberating a decision. They have asked for the benefit of Council's decision as early as possible.

Councilman Gantt asked what this would do to the service station on the corner? Mr. Corbett replied he has had conversation with the service station owner, and as far as he knows it would suit him fine.

Mr. Walter Shapiro, 5228 Carmel Park Road, asked for clarification of the relationship of this question of the possible closing of Sardis Road at the points defined to the question of the rezoning of the property within the triangle.

Mr. McIntyre replied he is speaking for himself and not for the Planning Commission, that it seems to him the relationship the Planning Commission was trying to achieve by making a recommendation that the road be closed would be achieved by what has been proposed. Therefore, it would not have the effect of making it either difficult or impossible to use the property within the triangle in conformance with the existing and proposed land development pattern for the area which is various kinds of residential development.

Mr. Shapiro stated he understands from the Planning Commission, by a telephone call he made, that the matter of the Sardis Road removal - the section under question - and the question of the rezoning of the property in the triangle is almost as one in the mind of the City Council. From his standpoint, as further clarification as to why he raised the question, in his capacity representing homeowners in the area, as president of Carmel Park Homeowners Association and a Council of Homeowner Associations in the area, and in conjunction with Mr. Jim Patterson who is chairman of the Citizens Action Committee in this area, they are concerned that the leaving open of that part of Sardis Road will tend to throw the zoning possibilities more toward commercial. They are opposed to the commercial zoning of that property. He requested permission to speak to the question of rezoning intermingled with the question of that leg of Sardis Road. That he would like to make general comments and specific comments.

He stated it would seem to them that citizens would be entirely reasonable to look to their government and in fact expect it from their government a defense against an unreasonable shock wave of change - governmentally imposed change beyond the norms and averages which exist in a geographical area, such as the case at the intersection of Providence Road and formerly Carmel Road, now Fairview.

On another occasion before this Council he brought to their attention the fact that approximately ten years ago only six residences occurred in the environment of that triangle; now there are over 500. Therefore, what happens to that leg and what happens to zoning within that region is very, very intimate to the interests of the citizens in that area. Present zoning will enable 1,300 more living units, a total of approximately 1,900 at this intersection, whereas according to the Charlotte Chamber of Commerce, Mecklenburg County itself has grown 24 percent in the past ten years. To this moment, the number of living units at this intersection has already grown 8,600 percent with the 500 living units that exist there now. Assuming that the balance of the sites which are already zoned multi-family develop over the next five years to the extent already zoned they will have increased the number of living units, compared to ten years ago, by over 30,000 percent.

This inordinate imposition of growth and change of promise by this Council as a continuing body over the past years is not really within the bounds of reasonableness, not within the bounds of that reasonable civic and social orderliness that a citizen has the right to reasonably seek from its government. He reminded Council he is speaking at this point more toward digressivity of the zoning than he is the artery itself and the safety factors.

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Their vital concern in regard to deterioration of the quality of life in their area relates to the density which has already been imposed upon them. Not too many years ago he lived on a street called Westmoreland Avenue at Rama Road which was completely eliminated by the laying down of Independence Boulevard. His reference to Independence Boulevard is relevant because it cannot be denied that Fairview Road Extension is not an entity unto itself but rather it is a crosstown beltway extending from I-77 to Tyvola to the Fairview Extension to Rama and thus to Independence Boulevard. Now, we have the seeds of another Independence Boulevard, polarized as far as the residents in his area are concerned, polarized commercially on the north by the Zayre Shopping Center, Independence Boulevard; and to the south by Southpark -- two commercial poles at either end of the now Fairview Extension linkage which itself is part of the beltway.

With the experience of Independence Boulevard and the heavy commercialization of that artery, what is to prevent the commercial spark leaping from Southpark across Sharon Road, running down Fairview Extension, moving inextricably to the north to Independence Boulevard, especially with some 300 vacant acres across Sharon Road from Southpark at this moment? They realize that any break in the residential zoning fabric between Southpark and Independence Boulevard will spread like electricity between two poles. Hence, what might appear to be inconsistent in his comments, their position regarding the rezoning of the triangle of Providence Road, Sardis and Fairview, needs to be clarified just a touch more. They are really electing the lesser of two evils in asking that this be residentially oriented. They recognize the possibility that it could go for further multi-family units, but they believe this to be the lesser of two evils. So, despite the multi-family zoning laid upon them at this corner, some 1,900 units already, they recognize that the removal of the strip of Sardis Road in question will enable the usage of this property for more residential application infinitely less offensive to the remaining quality of life in their area than a commercial development itself, one which will break their resistance and he submits, Council's resistance, to further commercialization across the street and hence up and down this boulevard between Southpark and Independence Boulevard.

Given the unreasonable imposition of the zoning density which has been imposed upon their residents and upon the environment at the corner of Carmel (now Fairview) and Providence; and given old graveled Westmoreland Avenue now Independence Boulevard, as hindsight or foresight, can Council not understand the abject firmness of their position in regard to commercialization of the Southpark/Independence Boulevard linkage, and specifically the intolerable commercialization of the corner now in question as it relates to the heavy residential density they now have.

On the matter of safety as it relates to that leg of Sardis Road. Would this statement be fair? Does the new Fairview Road at Providence Road, moving south require a separate two lane, separate road right-turn capability? This is to say, if you are moving toward Providence Road and turn right on the little leg he is speaking about, is that leg required in a brand new engineered and designed multi-laned Fairview Extension? They submit that the new Fairview Extension would already be a design failure before its formal opening if that is the case. They would also suggest that the Department of Transportation would not for sure go along with a request that a two-lane right lane turn and right of way be purchased from the McMillan property for one who wants to make a right turn off of Fairview going east. They believe there is a safety factor involved and would like Council to take that into consideration.

Mayor Belk asked Mr. Underhill for clarification on the closing proposal. Mr. Underhill replied that the description which was included in the Notice of Intent to close the street and hold a public hearing was the entire segment, the portion running from Providence Road down to where it now intersects with the new portion of Fairview Road Extension. If it is Council's desire to close something less than that, he would suggest that they not do it today but give his office an opportunity to prepare a new resolution for their consideration. They do not have that property so defined or described in what they are considering today.

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Mayor Belk asked if he saw any objection to continuing the public hearing? Mr. Underhill replied no, once it is called it should be held.

Mr. Shapiro stated that the Department of Transportation is taking the position that length they are referring to will be left open. Several Councilmembers disagreed.

Mr. Corbett stated he talked with Mr. McBride, the immediate representative of the Department of Transportation today. He asked that a letter be sent to him today telling him of Council's deliberation on this matter and they will make whatever decision they make regarding it once Council's decision reaches them. They do not have any concern one way or the other as far as he is able to find out.

Mr. Shapiro stated he understands from Mr. Corbett's comment that the State is willing to go anyway that the Council recommends? Mr. Corbett replied that is the information he has. Mr. Shapiro stated he certainly hopes he is correct, but he has a letter from Mr. Billy Rose, dated July 14 of this year, stating that the position of the State on that date was to continue that road as is excepting that it would be one-way. Mr. Corbett replied this is some two months later and he believes the situation has changed.

Councilman Gantt asked for clarification from Mr. Corbett on the dead-end arrangement that he is talking about. He stated it does make some difference to him when he brings back a proposal that he locate why and who they are providing access to in that area. If it is all owned by one property owner then he would question even if they need to do that.

Mr. Corbett replied as far as Traffic Engineering is concerned it makes no difference to them whether the entire segment is withdrawn from dedication or not. They are concerned that they be able to permit the use of two-way traffic in the one portion and that can be done in several ways. First, by simply withdrawing from dedication a certain portion which he pointed out on the map, and leaving the remainder as a public street. Secondly, if the whole thing is withdrawn, then according to his understanding the present right of way reverts to the abutting property owners as their property. Then, they can apply for a driveway for entrance which they will grant. That would solve the problem as far as getting traffic in and out.

Councilman Withrow asked how many people this would concern? Mr. Corbett replied as far as he knows, at the present time there are only three, one being the service station owner.

Councilman Williams asked if the property owner on the northeast side, property runs continuously from Providence Road beyond the fork of the "Y". The answer was yes. Mr. Corbett stated he did not know, off hand, how far beyond, but they had been in discussion with the property owner about this proposal, and he does not want to speak for him, but his understanding is that clearly it would be satisfactory with him. They have asked him to submit a proposal of where the opening should be.

Councilman Williams stated on the south portion, in the triangle, if you close it you would be cutting them off from the north but would be giving them a new right of way entirely from the south. Is that piece of property owned by the same individual? Mr. Corbett replied as far as he knows it is. Mr. Underhill agreed.

Councilman Davis asked the maximum width of a driveway that would be permitted on Providence Road? Mr. Corbett replied 35 feet is the present law. Councilman Davis asked what type of signalization is planned and what change would they make if it goes from a dead-end street to a driveway? Mr. Corbett replied no signalization whatsoever, under any circumstances.

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Mr. Ben S. Horack, Attorney, stated he represents Hardy Oil Company, owner of the service station. It is an Exxon Station formerly an Atlantic-Richway station built in the mid-50's, been in operation ever since. Mr. Hardy was a jobber and in 1973 he bought it from Arco. He retired and bought eleven of their stations. This one is by far the most costly and is 100 percent financed by one of the local banks. This is just another way to underscore that anything that will materially affect this station will be catastrophic for Mr. Hardy.

He stated it is really great news that he thought he heard coming from several different sources during the last few minutes. As things now stand, there is a barricade there. He does not know what it is meant to imply, but it is there. Under this arrangement they have lost about 600 gallons a day out of their average pumping at that site, it customarily averaging around 2,000. As things stand right now, they have suffered a 600-gallon decrease. His point is, though, they can make do with this arrangement. They are not in love with keeping the current barricade where it is, and if, as Mr. Corbett says or Mr. McIntyre says and some of the other, they want to move it farther down the road, then "be their guest." Their main concern is wherever they put this cut-off point, do it to flow into and out of that station as it now does, as indicated by the arrows on a chart he referred to. What would really be catastrophic is if there was one-way traffic, as has been suggested. That would kill it because that would mean customers could not turn left and buff that one-way traffic coming towards Providence.

The other major factor is that once they get customers in there, whether it is a short way or in a longer cul-de-sac allow this traffic flow to the right or to the left. He hopes they can leave the median as it is, and the stack-up to protect lefthand turns.

Councilman Whittington stated he believes Mr. Corbett alluded to what Mr. Horack is talking about. If this road is withdrawn from dedication, then he would afford the service station the ingress and egress from Providence Road.

Mr. Horack stated if this is a private driveway that is fine if it would allow lefthand turns going out Providence and also going towards town.

Mr. Corbett stated the private driveway is his second choice. His first choice is what Mr. Horack has proposed because it keeps traffic out of the new intersection as far as the development of all of the abutting property. But, he would accept the entire closing of it and providing the service station with its own access, doing exactly what they want.

Councilman Withrow asked Mr. Underhill if the road is closed on both ends, is the State responsible to remove the concrete, or can both property owners keep the concrete or does it have to be removed. Can they elect to just leave the concrete? Mr. Underhill stated it is not a State maintained road, but owned by the City. Mr. Withrow stated but if they closed the road each property owner would own half of the concrete. What if they elect to keep it?

Mr. Burkhalter stated if this road is closed, then the service station owner would own all of that pavement. If they do what Mr. Horack asked them to do which is to keep this road open on both sides, then the City maintains this street from now on just for that service station.

Mr. Herb Brown, Attorney for Mr. and Mrs. Lex Marsh, owners of the property at the northeast intersection of the old Sardis Road and Providence Road which lies behind the service station. He stated they approach this hearing on the assumption that the proposal is to close this entire street. It is his purpose, on behalf of Mr. and Mrs. Marsh, to oppose this and to speak against the closing of the entire road. There are several arguments from a traffic and safety point of view that oppose the closing of it, but he will speak to the impact on the Marsh property. Mr. and Mrs. Marsh own property that has a frontage of about 700 feet that would be affected by this closing. This property would be substantially adversely affected

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by closing the road entirely. It would remove the property and remove the advantage the property has of being on the corner of Sardis and Providence. It would make whatever development were to occur on the property owned by Mr. and Mrs. Marsh substantially more expensive. They would be denied the access all along Sardis Road for approximately 700 feet. He thinks that Council should take into account that there would be very substantial damage to the value of the property. Mr. and Mrs. Marsh have been in communication with the State Highway Department because a portion of that property was taken for the extension of Sardis Road to the new location. They understood that it was the proposal of the State Highway Department that this road be one-way. That proposal would certainly be acceptable. The suggestion by Mr. Corbett that the road be closed at the old Sardis Road intersection or the place where the new Sardis Road and the old Sardis come together and the road be maintained as a public road they would have no objection to. They would certainly have stringent objections to the closing of the road, or to the making of it a private driveway. They feel that the traffic flow would not be disturbed by maintaining that street as a public street. They ask that the Council and the Traffic Department in its further deliberations about this not close that road but leave it open so as to allow access on the old Sardis Road to the entire property which is Mr. Corbett's first suggestion.

Councilman Williams asked Mr. Brown how much beyond the fork in the "Y" his client owns? Mr. Brown stated he did not have the exact measurement on it but he thinks it is approximately 700 feet that was proposed to be closed, that would be affected by the proposal. Councilman Williams asked if he is saying that his clients would own no property fronting on Sardis Road to the east of the fork in the "Y". Mr. Brown replied there is property owned by Mr. and Mrs. Marsh that is located east of the intersection. Councilman Williams asked if this would not guarantee access even if this section was closed off completely? Mr. Brown stated it would be access but it would be from a part considerably east of where any development might occur. Councilman Williams asked if it is zoned multi-family residential and Mr. Brown replied yes. Councilman Williams stated you do not have all that many driveways or means of access into a multi-family development? Mr. Brown replied he thinks the number of access points you have affects the number of units and the location of units, so that to have no right to access at any point along that street would be a substantial detriment.

Mr. Underhill summarized the proceedings so far in the hearing on this proposal. A public hearing was advertised for consideration of a resolution to close that portion of Sardis Road in its entirety, from the intersection of the new road project up to where Sardis Road at present dead ends into Sardis Road. He suggested if Council desires to do something other than that - close a smaller portion - that they give him their views as to the area of the street they do want to close and allow his office time to prepare a new description of the portion to be closed. In response to a question from Mayor Belk, he stated if they could give him some idea about the approximate boundaries of the portion of the street they desire to have closed he thinks the engineers could probably draw a plan and they could prepare a description in very short order - possibly by the next Council meeting.

Councilman Williams stated he thinks he has his mind made up about this and moved the street be closed in accordance with the advertised public hearing. The motion was seconded by Councilman Gantt.

Councilman Whittington stated there is a point he wants to make sure the Council is in agreement with. Here are two people that own property. Mr. Marsh, for many years has owned this property facing on the old Sardis Road and Providence Road, back to the creek, and running parallel with Sardis Road to the church back there. He has one ingress and egress to his property at the present time and that is from Sardis Road. This apartment project is now under construction. He stated he has not talked with Mr. Marsh at all; he just happens to be familiar with this property. Mr. Hardy, as Mr. Horack mentioned, owns this service station. The service

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station was built in 1960. When the gas pumps were changed and you had lead gas in one and one in something else, he could not even pump gas until we got some kind of amendment for him to continue to do business.

He stated if they do what Councilman Williams' motion says do, he wants to make sure that those two people, out of fairness, are protected and given ingress and egress. To do anything less than that Council is derelict in its duty. He wants to make sure that Mr. Hardy's customers can get in and out either going home or coming to work. If later Mr. Marsh needs to get into other portions of his property from what is now the old Sardis Road that he should have an understanding there today that he can do that. He does not know how he is going to get in there unless he drops in there by helicopter or comes through his front yard of his home on Providence Road.

Councilwoman Locke stated she likes Mr. Corbett's recommendation and thinks it is the solution to the whole thing.

Councilman Whittington stated he does not care which way they do it but he thinks it ought to be understood that these people who are affected are protected.

Councilman Williams reviewed the three property owners.

Councilman Whittington stated the point he is trying to make is if they withdraw all of it, according to what he understood Mr. Corbett to say, they cannot give Mr. Hardy the ingress and egress there. Mr. Corbett stated if they withdraw all of this section of Sardis Road from dedication and leave the median open as it presently is and provide a driveway access which would serve Hardy's and the triangle, it would serve Mr. Marsh's property because with it withdrawn from dedication, Mr. Hardy would get a portion of the property from his property line out to Providence Road. The owners of the triangle would get the other half and there would be no way for Mr. Marsh's tenants to get into Providence Road without crossing someone else's property.

Councilman Gantt asked should the property owners in the triangle not desire the private driveway and Mr. Hardy is left with a 35-foot wide maximum width that he can get for a private driveway, is that enough for two lanes of cars to move in and out at that intersection? Mr. Corbett replied that is correct.

Councilman Whittington again stated that before the motion was voted on he wanted to make sure that these folks out there understand what is being done and they are satisfied with it. Mr. Brown replied that he felt that the motion would result in a very, very harmful situation for Mr. Marsh. It cuts him off from this part of the present Sardis and it removes approximately 700 feet of access, it will remove an advantage that this site has of being more or less at the corner of Sardis and Providence and that is a distinct advantage that the property has. That the access all along that road is a substantial right that has been enjoyed by the property and will be denied. That he really thinks that the road should be maintained. They would have no objection to the cul-de-sac that Mr. Corbett proposed as one of his alternatives and, as he understood, is one of his favorites. That they request Council to deny this motion to close the entire street. That the public can be served by leaving the street open and putting a cul-de-sac there.

Councilman Withrow asked Mr. Underhill since they have already had a public hearing on rezoning, is there anything wrong with delaying this decision until after the rezoning decision is made? Councilwoman Locke asked what happens if they vote down Councilman Williams' motion? Then they can ask Mr. Corbett to come back with his recommendation next week? She stated she is in favor of Mr. Corbett's recommendation because she thinks that is the solution.

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In reply to Councilman Withrow's question, Mr. Underhill stated the Planning Commission has asked that Council make a recommendation so that they can make their recommendation on rezoning. They are holding everything up because of this.

Councilman Williams stated he would like to make a comment in light of what Mr. Brown has just said. He is afraid he hears something in that comment that has worried him all along and that is the desirability of the corner property. What do you want to put on corners normally except some kind of commercial development instead of multi-family? It seems to him that multi-family could go about as easily on a straightaway as it could on a corner. Another thing is about the maintenance. He is not so sure that the city ought to take on the obligation of maintaining this essentially for a couple of private owners.

Mr. John Sikes Johnston, Mr. Marsh's son-in-law, stated the problem is that if they close that street, they do not own the property there and there is going to be an intervening project between them and the corner. They will lose all favorable influence of having a large condominium or apartment project at Providence and Sardis which is a real prestigious location and they feel they will be blocked, in effect, from having a location at the corner of the best intersection in Charlotte.

Councilwoman Locke, referring to the map, called Councilman Williams' attention to how difficult it would be for the property owners to get into this property - there is only one entrance and exit. Councilman Williams stated with an exit off Sardis and an entrance off Providence, they ought to be able to get in and out.

Mr. Johnston stated they have all kinds of access worked out of there. The problem is that now they are going to have a three or four acre apartment project between their property and the road. They would like their apartments to be on this road all the way around. All of a sudden here is a project now that would be blocking them and this favorable intersection. They have had their property appraised before and after the new street and the damages are really substantial.

Mr. Shapiro stated he thinks several questions are pertinent. It would appear to him that the original recommendation to the Planning Commission by a Commission member has not been fully expounded here unless, and he would owe Mr. Corbett an apology, Mr. Corbett is representing the position of the Traffic Engineering Department as opposed to the position of the Planning Commission.

Mr. Corbett replied his recommendation is not necessarily opposed, but he is giving the recommendation of the Traffic Engineering Department. They are providing several recommendations which they think can solve all of the problems which are there. Mr. Shapiro stated the recommendations Mr. Corbett is making are new to the public. The public has been aware of the recommendation of the Planning Commission and that recommendation which he spoke to today was that the entire road be removed. He wants to make the point that as a member of the public, he is suggesting perhaps the position of the Planning Commission by a Planning Commission member has not been fully and sufficiently brought forward in this session. Whether it has been earlier and otherwise he is not aware.

Mr. McIntyre stated the position of the Planning Commission stands as recommended that that leg be removed. Councilwoman Locke stated Mr. McIntyre has no objection to Mr. Corbett's recommendation to cul-de-sac it? Mr. McIntyre stated that is a new representation.

Mr. Shapiro stated access on Providence Road for the Marsh property is a very material point. He understands there is access from Mr. Johnston's last comment to the Marsh property from Providence Road. The amount of access to the Marsh property from the pocket of the "Y" and below is also extremely material. He asked how much frontage is owned by Marsh interests to the right of that pocket of the "Y" (answer: 700 feet) and whether or

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not the Traffic Department would grant additional access if necessary along that 700 feet? Mr. Corbett replied they would grant access.

Mr. Shapiro stated, all those questions having been answered, it would appear the question resolves itself to the commercial interests of several property owners versus the environmental and the total neighborhood interests of a material and rather sizeable number of families in the area. The interests of the residents in the area are best served by the removal of that leg of Sardis Road, thereby enabling a more residential development of that triangle as opposed to a purely commercial development of that triangle.

Councilman Withrow asked Mr. Shapiro if he had previously stated he did not object to the cul-de-sac. Mr. Shapiro replied he did not say that. It was agreed among Councilmembers that Mr. Brown said that, but Mr. Shapiro did not.,

Councilman Gantt stated it seems to him there are some things to be considered here. Mr. Corbett's recommendation is essentially one related to traffic and safety. He suspects the Council has to take into consideration that factor, in addition to land use in the area. One of the reasons he seconded Councilman Williams' motion is that when you balance everything on the scales, they can provide adequate access to Hardy Oil Company and adequate access is available to the Marsh property, anyway you look at it - from Sardis Road or from Providence Road. The question is whether or not Council has the responsibility of maintaining Mr. Marsh's property values as a result of some change in the land use or location of roads. He is not sure that they have that responsibility - he thinks they ought to be concerned about that. Someone earlier in this meeting talked about government action that rendered substantial portions of property almost useless and he thinks they do have a responsibility to look at those kinds of things. But, he has to make his decision based on the viability of all the land in the subject area. He is concerned about what is going to happen if, in fact, they face a zoning petition that asks them to change residential property to commercial property and whether or not that very fact might not have a substantial impact on the Marsh property in terms of a desirable set of condominiums. What if that becomes gas stations on all points of the triangle? Does that become more desirable than residential development that might have occurred and attaches itself in any direction along Providence or Sardis? They should bear in mind that what Mr. Corbett is saying is essentially that from a traffic safety standpoint, he can live with simply closing off the intersection of Sardis and the new Fairview Extension; that from a traffic safety standpoint that could be his recommendation. The question Council has to live with is, a cul-de-sac and whether or not it becomes desirable, and maybe they have to vote that issue up or down, to have that as residential property or commercial property. He has some difficulty with that property being surrounded becoming any reasonable kind of residential development.

Councilman Locke stated her concern is that with cars coming from all directions it will be almost impossible to get into this property. She knows now what the situation is. If you have been out there early in the morning or late in the afternoon, it is impossible to get in and out of this area. That it is a problem of traffic control; you cannot get in and out.

Councilman Davis asked the City Attorney about the precedent for closing a road versus making a cul-de-sac out of it? How has the City in the past handled this obligation to consider property owners' rights versus traffic control? Mr. Underhill replied the general statutes which grant to Council the authority to permanently close streets basically provide the following: Council has to hold a public hearing and that has to be advertised prior to the hearing; the property has to be posted that a public hearing is going to be held. In addition to the mechanics of holding a public hearing, the things that the Council has to determine whether to close the street are really two factors: (1) That no individually owned property in the vicinity of the street or alley will be deprived of reasonable means of ingress and egress; (2) That the closing is not contrary

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to the public interest. Those are the two things Council has to find in order to permanently close the street. There are questions of fact that you have to reckon with when you make those kinds of determination. The statute says "if it appears to the satisfaction of the Council after the hearing that closing the street or alley way is not contrary to the public interest and that no individually owned property in the vicinity of the street or alley in which it is located be deprived of reasonable means of ingress or egress to his property, Council may adopt an order closing the street or alley."

Councilman Davis commented that whether or not it had to be in that 700 feet would be a judgment question. Mr. Underhill replied that is a factual matter that has to be determined basically on the topography, etc. Councilman Williams stated he feels that is what they are basically hung up on - what reasonable access to property is.

The question was called for and passed with Councilman Williams voting no.

The vote was taken on the motion and lost for lack of four affirmative votes as follows:

YEAS: Councilmembers Williams, Gantt and Chafin.

NAYS: Councilmembers Davis, Locke, Whittington and Withrow.

Motion was made by Councilwoman Locke to have on the agenda next week Mr. Corbett's recommendation to Council on the cul-de-sac. The motion was seconded by Councilman Whittington and carried unanimously.

ORDINANCE NO. 267-Z AMENDING ZONING ORDINANCE BY AMENDING ZONING MAP FOR A CHANGE IN ZONING FROM R-6MF TO O-6(CD) OF PROPERTY FRONTING ABOUT 120 FEET AND COMPRISING .91 ACRES ON THE SOUTH SIDE OF FENTON PLACE, ABOUT 420 FEET EAST OF THE INTERSECTION OF FENTON PLACE AND PROVIDENCE ROAD, APPROVED.

Councilman Whittington moved to approve subject petition as recommended by the Planning Commission, which motion was seconded by Councilwoman Locke, and carried unanimously.

The Ordinance is recorded in full in Ordinance Book 23 at Page 323.

CONTRACTS WITH THE HOUSING AUTHORITY TRANSFERRING GENERAL REVENUE SHARING FUNDS TO THE HOUSING AUTHORITY, APPROVED.

Motion was made by Councilwoman Locke, seconded by Councilwoman Chafin, and unanimously carried, approving the two subject contracts as follows:

- (1) \$ 42,000 for dead-bolt locks for various housing projects;
- (2) \$110,000 for balance of funding for improvements to Pitts Drive Apartments.

CONTRACT WITH BETHLEHEM CENTER, INC. TO ENGAGE IN CERTAIN PLANNING AND EXECUTION ACTIVITIES WHICH ARE CONSISTENT WITH THE SPECIAL PURPOSE OF THE DAY CARE FACILITY AND ARE DIRECTLY RELATED TO THE PURCHASE AND USE OF CERTAIN EQUIPMENT NECESSARY TO IMPLEMENT AND OPERATE A DAY CARE PROGRAM PRINCIPALLY AND PRIMARILY FOR SOUTHSIDE COMMUNITY DEVELOPMENT AREA PARENTS AND THEIR CHILDREN, APPROVED.

Councilman Gantt moved approval of the subject contract in the amount of \$15,598, to begin on September 15, 1976 and end on September 14, 1977, which motion was seconded by Councilwoman Chafin, and carried unanimously.

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AGREEMENT WITH DUKE POWER COMPANY TO INSTALL UNDERGROUND WIRING AND STEEL POLE STREET LIGHTING FACILITIES TO SERVE BAXTER STREET, IN THE BROOKLYN URBAN RENEWAL AREA, N.C.R.-43 (SECTION 4), APPROVED.

Upon motion of Councilwoman Locke, seconded by Councilman Gantt, and unanimously carried, subject agreement in the amount of \$68,531 was approved.

REPORT RECEIVED FROM PUBLIC WORKS AND PLANNING COMMITTEE ON THE PROPOSAL TO CLOSE ELIZABETH AVENUE AT CENTRAL PIEDMONT COMMUNITY COLLEGE.

Councilwoman Pat Locke, Chairman of Council's Public Works and Planning Committee, stated the committee had a very constructive meeting. They asked Mr. Hopson to come to Council with several proposals for an overhead walkway. Agreement among the committee members was that in order to provide additional safety we need traffic lights, crosswalks and lowering of the speed limits.

Mr. Hopson, Public Works Director, stated the various figures that the committee requested were: (1) An overhead ramp similar to the one at Johnson C. Smith University. They estimate that cost to be about \$130,000; (2) To extend this ramp into several of the classroom buildings and into a parking garage, which would be very helpful if they go to the overhead ramp, would be an additional \$165,000, a total of approximately \$300,000; (3) A very minimum wooden structure would be around \$40,000 - only five feet wide. The other one would be about 10 or 12 feet wide; (4) If they go to overhead structures, they might want to give some consideration to sort of an overhead mall which would encompass quite a bit of space which would be in the magnitude of \$1.0 million.

Councilman Withrow stated he is in favor of the crosswalk but he will not vote for an overhead walkway for the simple reason that people are not going to walk up eight steps to go across the street and down eight steps. They are not doing it over at Johnson C. Smith. He has been over there and looked. They are doing it some but very little. People are going to walk across the street. They are doing it on Fourth Street and they are going to do it on every other street and he is not going to vote for an overhead walkway.

Councilman Gantt stated he personally does not believe an overhead walkway is needed at this point. That it is an interesting idea and obviously much of what we do in urban planning is try to separate pedestrians from vehicles. They should try something a little less expensive at this point in time because indeed there would be more than eight steps they would have to go up to get across. He started to ask Mr. Hopson whether or not he could explain the conflict suggested by the figures he had for the number of people using the walkway at Johnson C. Smith as opposed to the survey done by The Charlotte News that showed that there were considerably more people who crossed the walkway.

Mr. Hopson replied he does not think there is any conflict at all. He is in agreement with Mr. Withrow. He has been out there many, many times and he has seen one student using the overhead walkway. Why the newspaper came out with that number he will never know. It is just a personal opinion with him.

ORDINANCE NO. 268-X AMENDING CHAPTER 20, SECTION 25, SCHEDULE V, TO ADD LAWTON STREET, BETWEEN ROZZELLS FERRY ROAD AND NORTHERN CORPORATE LIMIT, TO "DESIGNATED TRUCK ROUTES", ADOPTED.

After discussion, motion was made by Councilman Whittington, seconded by Councilman Withrow, and unanimously carried, adopting subject ordinance adding Lawton Street, between Rozzells Ferry Road and northern corporate limit, to "Designated Truck Routes", as recommended by Traffic Engineering Department.

The ordinance is recorded in full in Ordinance Book 23, at Page 324.

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ORDINANCES NO. 269 and 270 LICENSING AND REGULATING THE BUSINESS OF
MASSAGE PARLORS, ADOPTED.

Mr. Underhill, City Attorney, stated the proposal included in the agenda, if adopted, will repeal the existing city ordinance and regulations regarding the massage parlor business activities. The existing ordinance was adopted in 1968. That Charlotte, as is so often the case, experiences new business activities of this kind before other areas of the state and, to his knowledge, we had the first massage parlor ordinance in the State of North Carolina. This is our first effort at attempting to regulate this form of business activity. That ordinance was declared constitutional by the North Carolina Supreme Court and has resulted in a large number of massage businesses moving out of the city limits.

He stated in 1974 when the annexation ordinance became effective - the last major annexation the City engaged in, we annexed an area in which was located a massage parlor. That massage parlor owner brought suit in federal courts seeking to have the existing city ordinance declared unconstitutional. That litigation has been pending since January 1974. Since that time, several things have happened, not all here in Charlotte, but with massage parlor ordinances in other communities.

The Cities of Durham and Fayetteville have had their ordinances attacked in the courts and both of those ordinances have been reviewed in the U. S. 4th Circuit Court of Appeals. The Durham ordinance is the most recent one the Court of Appeals has had the opportunity to pass upon. The 4th Circuit, in its opinion in the Durham case, held that a provision that prohibits persons of one sex massaging a person of another sex is a valid police power regulation and it is not unconstitutional. For that reason, Judge McMillan, in reviewing our ordinance, held that portion of the ordinance to be valid but deferred ruling on several other provisions of our ordinance which were also under attack until this week, September 15, 1976, when he has a hearing set for other portions of our ordinance which have been challenged in the courts.

Those other provisions of our ordinance which are at issue in the pending litigation are a provision that an applicant for a license to operate a massage parlor must furnish "proof of good moral character." Another section of the ordinance requires that personal data on all employees used in the massage parlor business be placed on file with the Chief of Police. A third provision requires records of treatment maintained by massage businesses be subject to inspection by the Police Department at any time. The final section limits the hours of operation of massage parlor activities from 8:00 a. m. til 10:00 p. m.

The Police Department is charged with the enforcement of all city ordinances and is of the opinion that the above provisions are not absolutely necessary in order to regulate the business activities. It is for that reason he would recommend to Council that the best course of action at this point is to repeal our existing ordinance, remove those provisions which are challenged and adopt in its place the ordinance which is being proposed.

The proposed ordinance is similar in several respects to the existing ordinance. First of all, it still requires the licensing of massage parlor businesses. It provides for an annual privilege license tax of \$125.00 per establishment. A new feature of this ordinance which is not in the existing ordinance is that this ordinance, if adopted by this Council, will require massagists, or persons who actually administer massages, to be licensed for the first time. A license fee of \$10.00 is proposed per annum for the individual massagist. Another feature which is similar to the existing ordinance is that they have retained the provision that prohibits the massagist from massaging or treating a person of the opposite sex. From that point on the new ordinance differs from the existing ordinance. They have proposed that provision be made which prohibits the massage of any person except on the premises of a licensed massage business. That is not stated in any fashion in the existing ordinance. We

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also would require that operators of massage businesses may only employ massagists who have obtained a license and who have provided with their application for licensing the required medical certificate which certifies from a licensed physician that the applicant is free from any communicable disease.

He stated another feature which is in the new proposed ordinance which is not in the existing ordinance is a provision which prohibits the massage of private parts, which is the term found in the ordinance, by persons engaged in this business activity.

The final feature, which is of some significance and worthy of calling to their attention, is that although the ordinance would become effective upon its adoption, the ordinance would permit those massage businesses and massagists or persons engaged in the business of massage thirty days in which to come in and comply with the licensing provisions.

Councilwoman Locke stated this is at the massage parlor itself and would prevent people from calling and having someone sent to their house? Mr. Undershill replied that is correct. The establishments which are covered by this ordinance, massages would only be permitted to be given on the business premises. One thing he did not point out that they should be aware of is this ordinance does not apply to several groups of business activities. It does not apply to hospitals, sanitariums, nursing homes, offices or clinics operated or regularly used by duly qualified and licensed medical practioners, osteopaths or chiropractors in connection with the practice of medicine; nor will it apply to any treatment given in the residence of a patient if administered by a licensed physician, osteopath or registered physical therapist or chiropractor. Those exceptions from the coverage of the ordinance are the same that are provided in the existing ordinance.

Motion was made by Councilman Whittington, and seconded by Councilwoman Locke to approve the ordinance.

Councilman Gantt asked Mr. Underhill if he talked with any of the people who operate massage parlors on how they feel about this ordinance? Mr. Underhill replied he had had several inquiries wanting to know what type of regulations might be proposed and he outlined to them the contents of the ordinance they were looking at. Councilman Gantt stated the purpose of the ordinance is to regulate the massage parlor business? Mr. Underhill replied that is right. Councilman Gantt asked if there is any limitation or any reason why he arrived at \$125.00 as the privilege license fee? Mr. Underhill replied right now establishments offering massages do not pay a flat annual fee; they pay on the gross business that they do. They took the largest one in Charlotte - Cosmopolitan Health Salon - and their license last year was \$120.00, based on their volume of business. Based upon that they arbitrarily selected \$125.00 per annum as the license fee because that seemed to be the fee for the largest establishment in town that offered these types of services and which had privilege licenses.

Councilman Gantt stated so there would be no relationship between the gross business and the fee? Mr. Underhill replied that has been a question that has been litigated an awful lot. Should there be some relationship between the fee that is charged for a license for a business activity and the cost of enforcing the regulations. You can, under the law as he is aware, assuming you are not limited in any way by your State law by a ceiling on business activities of which you have a lot of, charge about any amount you deem in your discretion is necessary.

Councilman Gantt stated it seems to him from everything he has read, that what we are trying to do is to discourage the development of the massage parlor business in the City of Charlotte. Mr. Underhill stated they do not feel that \$125.00 per annum is a punitive type of tax; a town in Virginia, for example, has \$5,000.

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Councilman Gantt stated what we have done is arrive at a way we can get in a few more tax dollars as the result of the development of this business, but he thinks the public ought to understand that, as far as he is concerned, he does not see anything in this ordinance that is really going to discourage massage parlors. Even the licensing procedure seems to be that he come down and tell you that he does not have any communicable diseases and you give him a license and he pays whatever the fee is. The point he is making is that while they are drawing up a new set of ordinances that may not be challenged as the other ordinance was challenged, the fact is that the intent of Council is not to discourage the development of massage parlors.

Mr. Underhill replied Councilman Gantt is right. The Durham City Council in the ordinance that it adopted provided for the City Council to issue these licenses only after a hearing and after a great deal of documentation was submitted in support of the application and the permit could only be revoked by going through the same lengthy kind of hearing process. That is one method of regulating this kind of activity. In talking with the Durham City Attorney, he says it is very, very burdensome, cumbersome kind of procedure. It takes up a lot of their City Council time - hearing applications. They do it for other kind of activities, not just massage parlors. He stated they opted for a more streamlined approach, if you will, in just requiring that they pay a privilege license in much the same manner as most other businesses do, that is by filling out a simple application and paying the required fee, except for the massagist by requiring that they do submit with their application, a health certificate.

Councilman Withrow stated we hope to be discouraging them in certain respects - the opposite sex. Councilwoman Locke stated it prohibits the calling in.

Councilman Williams stated he feels they are burying their head in the sand if they do not acknowledge that at least in part it will discourage massage parlors, at least as they have developed and as we know them. He stated there are several members of the Police Department in the audience. He would be interested in knowing from the Police Department perspective, what sort of adverse effects these things have on non-participants out in the community.

Chief Goodman stated they do not see any major problems that have developed in massage parlors. Councilman Williams asked if they tend to attract a certain kind of people to a neighborhood that the neighbors object to? Chief Goodman replied he could not answer that question. Councilman Williams stated he guesses they have been permitted to exist in all kinds of zoning districts, industrial, residential? Mr. Underhill stated they are a business activity and only permitted in business and industrial. Councilman Williams stated, at present.

Councilman Gantt asked if the County has a similar ordinance? Mr. Underhill replied the County did adopt an ordinance; it was immediately challenged by a massage parlor owner and they repealed it before the litigation was ever concluded.

Councilman Davis stated he is completely in accord with what he believes to be the intent of this ordinance. There may be eight or ten different views as to what the intent is. But he believes it is to discourage illicit massage parlors which are actually a front for houses of prostitution and to discourage the criminal element that tends to thrive in this type of environment. For example, he believes you are more likely to have muggings, rollings, blackmail, intimidation and that sort of thing around illicit massage parlors. However, the stated purpose of this ordinance is to "protect the public health, safety, welfare and morals," and the emphasis, based on Mr. Underhill's summary of the essential elements of this ordinance, is to protect the public morals. Public morals pertaining to public behavior especially in the sexual area is measured by prevailing standards. In today's environment, people have never been more inclined to exercise their individual freedoms - to wear their hair long

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or short, wear a beard, long skirts or short skirts or what have you. That the Council should be more concerned with the public ethical conduct rather than moral conduct. In recent months we have all read of moral conduct by U. S. Senators, Congressmen, and even Presidents that does not differ from the conduct that we believe to exist in the illicit massage parlor. If the real target is the criminal element that comes up around the massage parlor, then he thinks they ought to address that issue honestly and more directly. Personally, he would favor repealing the existing ordinance which is not enforceable and look toward the ethical area and see what they can do by way of registration, regulation or licensing, much in the same manner that we do doctors, lawyers, businessmen and other professions. That in pursuing this approach to regulating, they would be justified in making some rather stringent regulations and pursuing rather aggressively, based on the amount of trouble that these businesses cause in the community.

Councilman Withrow stated he does not get his reference between moral and ethical - this bothers him. Councilman Davis stated the best example that he can come up with would be prohibition. By legislation we decided that it was unacceptable moral conduct to purchase and consume alcoholic beverages, but the legislature misread the standards of public morality and this law was never complied with and was eventually repealed. Now, we are regulating the sale and consumption of alcoholic beverages in an ethical manner rather than a moral manner.

Councilwoman Locke asked Councilman Davis what he suggests Council do? Councilman Davis replied repeal the existing ordinance and give Mr. Underhill time to see what happens to these other ordinances that have been passed in places like Durham and see what the eventual outcome of them is. They are still being tested in court; that none have reached the Supreme Court yet; that we could draft a much more enlightened ordinance when we see what will stand up. In the meantime, we should pursue the avenues available to us through ethical regulation of these businesses much like we do the doctors, lawyers, etc.

Councilwoman Locke stated she thinks they have to pass the ordinance they have before them and then pursue the ethical manner in which this could be overcome, but that we need to strengthen massage ordinances that we have and this is the best they have seen so far; that they should pass this ordinance.

Councilman Davis stated the benefit of delaying rather than passing this today would be to give the Attorney time to emphasize in his approach to drafting this ordinance the ethical approach rather than trying to protect the public morals; that efforts to protect the public morals have been singularly unsuccessful and it might turn out to be a waste of the public's time and money to pass this ordinance.

Councilwoman Locke stated she thinks they have to come up with some alternatives and that Councilman Davis has to help them do that.

Councilman Gantt stated he does not think anyone wants to be caught in the position of appearing to support massage parlors because it just happens to be one of the things in the community that we do not consider popular. That he will end up voting for the ordinance, but the intent of the ordinance is not quite as clear as Councilman Williams seemed to make it, for indeed if massage parlors are the business attraction they appear to be, he does not expect to see very much change. He will vote for it simply because they may eliminate one additional one being established. That there is some merit to talk about if we are dealing with massage parlors, maybe there is some standard that can be set other than the regulatory powers of applying fees. That if we want to eliminate them and we have this arbitrary figure that we can arrive at, then let's make the penalty punitive in terms of a fee of \$5,000 to establish one and let that be tested in the courts. That \$125.00 appears to him to be a very minimal amount and will not do very much good. He will vote for it but it is not the kind of conviction he feels.

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

YEAS: Councilmembers Whittington, Locke, Chafin, Gantt, Williams and Withrow.

NAY: Councilman Davis.

The Ordinances are recorded in full in Ordinance Book 23, beginning at Page 325 and ending at Page 329.

REAPPOINTMENT OF ROBERT BECK TO COMMUNITY FACILITIES COMMITTEE.

Councilman Davis withdrew the nomination of Ms. Nancy Johnston to the Community Facilities Committee as she has accepted an appointment to the Planning Commission.

Councilman Davis moved the reappointment of Robert Beck to the Community Facilities Committee for a two-year term. The motion was seconded by Councilman Whittington and carried unanimously.

ORDINANCE NO. 271-X AMENDING ORDINANCE NO. 155-X, THE 1976-77 BUDGET ORDINANCE, TRANSFERRING ADDITIONAL FUNDS TO BE USED FOR EXPANDED SERVICES FOR THE VETERANS' SERVICE OFFICE, ADOPTED.

Upon motion of Councilman Withrow, seconded by Councilman Whittington, and unanimously carried, subject ordinance was adopted transferring \$2,770 of additional funds to be used for expanded services for the Veterans' Service Office. The total increase for the new program is \$7,758.

The Ordinance is recorded in full in Ordinance Book 23, at Page 330.

PROPOSED EEOC CONCILIATION AGREEMENT WITH MS. CYNTHIA JACKSON, APPROVED.

Mr. Underhill, City Attorney, stated this matter has been before Council at two other stages. Once in what they call a pre-determination hearing stage. Second was after they received the determination of discrimination in this particular case. In both instances EEOC proposed to conciliate or settle this charge with requirements that this governing body found to be unpalatable. After notifying EEOC the Council's position and its refusal to consider it on the terms they had offered, we engaged in some negotiations with them. As a result, we have a new proposed conciliation agreement for Council's consideration. It is substantially different from the two similar proposals in the types of things it does not require. There is no requirement for reporting on a regular basis; there is no requirement for goals or timetables in hiring in certain departments and certain divisions; there is no requirement that certain agencies be notified and recruitment be directed at certain agencies or institutions. The primary requirements of this settlement agreement, if Council approves it, would be the payment to the charging party, Ms. Jackson, the sum of \$901.88, less the standard deductions that would be made from any city employee's paycheck, plus 6 percent interest. The charging party has agreed to not seek re-employment with the City; also agrees not to bring any lawsuit against the City based on these charges and the EEOC officer agrees to that. Mr. Underhill stated this is the best agreement they are going to get.

Motion was made by Councilman Whittington, seconded by Councilwoman Chafin, and unanimously carried, approving the Agreement as recommended by the City Attorney.

CONTRACTS FOR VARIOUS PROJECTS AWARDED.

(1) Upon motion of Councilman Withrow, seconded by Councilman Whittington, and unanimously carried, the present contract with National Electronic Card Company was extended for an additional year, effective September 8, 1976.

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(2) Motion was made by Councilwoman Locke, seconded by Councilman Whittington, and unanimously carried, awarding contract to the low bidder, E. F. Craven Company, in the amount of \$73,407.00, for one Crawler Tractor.

The following bids were received:

E. F. Craven Company	\$ 73,407.00
Mitchell Dist. Company	<u>78,876.00</u>
L. B. Smith, Inc.	83,967.00
Western Carolina Tractor Company	84,705.00

(3) Councilman Withrow moved award of contract to the low bidder, Harrell's Concrete Works, in the amount of \$111,688.50, on a unit price basis, for 1976 Sidewalk Construction, various streets. The motion was seconded by Councilman Whittington, and carried unanimously.

The following bids were received:

Harrell's Concrete Works	\$111,688.50
Lee Skidmore, Inc.	<u>120,653.50</u>
Crowder Construction Company	126,031.50
T. A. Sherrill Construction	142,970.50
Blythe Industries, Inc.	146,537.50
Cardinal Construction Company	153,300.00

(4) Motion was made by Councilman Whittington, seconded by Councilwoman Locke, and unanimously carried, awarding contract to the low bidder, Blythe Industries, Inc., in the amount of \$159,725 on a unit price basis, for North Charlotte Community Development Drainage Improvements, Project No. 512-75-106.

The following bids were received:

Blythe Industries, Inc.	\$159,725.00
Sanders Brothers, Inc.	<u>164,121.00</u>
T. A. Sherrill Construction	169,629.60
Crowder Construction Company	174,219.00

(5) Upon motion of Councilwoman Locke, seconded by Councilman Whittington, and unanimously carried, contract was awarded to the low bidder, Graves Building Contractor, in the amount of \$5,990, on a lump sum basis, for repairs to 720-22 North Alexander Street - First Ward Urban Renewal Project.

The following bids were received:

Graves Building Contractor	\$ 5,990.00
Harold E. Casperson	<u>6,550.00</u>
Lennon-Michael Contracting, Inc.	7,800.00
Motion, Inc.	8,192.77

(6) Councilman Whittington moved award of contract to the low bidder meeting specifications, Rockwell International, in the amount of \$45,420.00, on a unit price basis for 5/8" cold water meters. The motion was seconded by Councilwoman Locke, and carried unanimously.

The following bids were received:

Rockwell International	\$ 45,420.00
Hersey Products, Inc.	<u>46,020.00</u>
Neptune Water Meter Company	46,575.00

Bid. received not meeting specifications:

Badger Meter, Inc.	\$ 44,850.00
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(7) Motion was made by Councilman Whittington, seconded by Councilwoman Locke, and unanimously carried, awarding contract to the low bidder meeting specifications, Hersey Products, Inc., in the amount of \$1,580.00, on a unit price basis, for 1" cold water meters.

The following bids were received:

Hersey Products, Inc.	\$ 1,580.00
Rockwell International	<u>1,625.00</u>
Neptune Water Meter Company	1,656.25

Bid received not meeting specifications:

Badger Meter, Inc.	\$ 1,462.50
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(8) Councilman Withrow moved award of contract to the low bidder, Hersey Products, Inc., in the amount of \$3,471.00, on a unit price basis, for 1-1/2" cold water meters. The motion was seconded by Councilwoman Locke, and carried unanimously.

The following bids were received:

Hersey Products, Inc.	\$ 3,471.00
Rockwell International	<u>3,575.75</u>
Neptune Water Meter Company	3,625.00
Badger Meter, Inc.	4,015.00

(9) Upon motion of Councilman Whittington, seconded by Councilman Withrow, and unanimously carried, contract was awarded to the low bidder, Neptune Water Meter Company, in the amount of \$9,572.50, on a unit price basis, for 2" cold water meters.

The following bids were received:

Neptune Water Meter Company	\$ 9,572.50
Rockwell International	<u>9,825.00</u>
Hersey Products, Inc.	10,059.00
Badger Meter, Inc.	10,972.00

(10) Councilwoman Chafin moved award of contract to the low bidder, Rockwell International, in the amount of \$599.00 on a unit price basis, for 3" cold water meter. The motion was seconded by Councilman Withrow and carried unanimously.

The following bids were received:

Rockwell International	\$ 599.00
Badger Meter, Inc.	<u>740.65</u>
Hersey Products, Inc.	782.00
Neptune Water Meter Company	920.40

(11) Motion was made by Councilman Whittington, seconded by Councilwoman Chafin, and unanimously carried, awarding contract to the low bidder, Rockwell International, in the amount of \$968.00 on a unit price basis, for 4" cold water meter.

The following bids were received:

Rockwell International	\$ 968.00
Badger Meter, Inc.	<u>1,060.50</u>
Hersey Products, Inc.	1,197.00
Neptune Water Meter Company	1,241.40

(12) Upon motion of Councilwoman Locke, seconded by Councilwoman Chafin, and unanimously carried, contract was awarded to the only bidder, Hersey Products, Inc., in the amount of \$2,698.00, on a unit price basis, for 6" cold water meter.

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(13) Motion was made by Councilwoman Locke, seconded by Councilman Whittington, and unanimously carried, awarding contract to the only bidder, Hersey Products, Inc., in the amount of \$3,927.00, on a unit price basis, for 8" cold water meter, MFM-MCT Magnetic Drive Type for Fire and Domestic Service.

(14) Councilman Whittington moved award of contract to the only bidder meeting specifications, Bell Helicopter Company, in the amount of \$174,752.00; and that \$16,861.00 be authorized for the purchase and installation of special police equipment from Associated Air Center, Dallas, Texas. The motion was seconded by Councilwoman Chafin. After discussion, the vote was taken, and carried unanimously.

Bid received not meeting specifications:

Vertiflite Air Services	\$218,998.00
Less Trade-in	<u>24,000.00</u>
	\$194,998.00

RESOLUTION AUTHORIZING CONDEMNATION PROCEEDINGS FOR THE ACQUISITION OF PROPERTY LOCATED AT 940 ARROWOOD ROAD (AT I-77) IN THE CITY OF CHARLOTTE, FOR THE ANNEXATION AREA I (11) SANITARY SEWER TRUNKS PROJECT, ADOPTED.

Upon motion of Councilwoman Locke, seconded by Councilman Whittington, and unanimously carried, a resolution was adopted authorizing condemnation proceedings for subject property belonging to Letty M. Stoneman and husband, H. Keith Stoneman, Jr.; Angus M. McDonald and wife, Margaret McDonald; Mebane M. Reed and husband, Robert B. Reed, Jr.; Martha M. Glenn and husband, James H. Glenn, Jr.; Frances M. Vaughn and husband, Stuart F. Vaughn; Ann M. Baker and husband, Edward L. Baker; Mrs. Frances L. McDonald (widow); Wachovia Bank and Trust Company N. A., Trustee.

The resolution is recorded in full in Resolution Book 12, at Page 44.

RESOLUTION AUTHORIZING CONDEMNATION OF KENDRICK STREET IN THE GREENVILLE URBAN RENEWAL PROJECT NO. N. C. R-78, ADOPTED.

Motion was made by Councilman Whittington, seconded by Councilman Gantt, and carried unanimously, authorizing condemnation of Kendrick Street in the Greenville Urban Renewal Project No. N. C. R-78.

The resolution is recorded in full in Resolution Book 12, at Page 45.

RESOLUTION AUTHORIZING THE OVERALL CONDEMNATION OF THE AREA IN THE GREENVILLE URBAN RENEWAL PROJECT NO. N. C. R-78, ADOPTED.

Motion was made by Councilwoman Locke, seconded by Councilman Whittington, and carried unanimously, authorizing the subject condemnation, the purpose of which is to assure that gaps and gores and bits and pieces of property which may not have been described in deeds conveying the property to the City in the acquisition process are covered, and to avoid the cost of obtaining title insurance prior to disposing of such property.

The resolution is recorded in full in Resolution Book 12, at Page 47.

ITEMS REMOVED FROM CONSENT AGENDA.

At Council's request, two items were removed from Consent Agenda for consideration.

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RESOLUTION CALLING JOINT PUBLIC HEARINGS ON THREE HISTORIC PROPERTIES.

Motion was made by Councilman Whittington and seconded by Councilwoman Locke, to adopt the subject resolution calling joint public hearings on Monday, October 4, 1976; and the request that the Commission bring to the hearings a minority report as well as the majority reports on the properties which are as follows:

- (a) Berryhill House at 324 West Ninth Street
- (b) Overcarsh House at 326 West Eighth Street
- (c) Morrison House at 226 West Tenth Street

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

YEAS: Councilmembers Locke, Whittington, Chafin, Davis, Williams and Withrow.

NAY: Councilman Gantt.

The resolution is recorded in full in Resolutions Book 12, at Page 67.

COUNCILMAN GANTT EXCUSED FROM VOTE ON FOLLOWING ITEM.

Councilman Gantt requested he be excused from voting on the item relating to the Baptist Church.

Motion was made by Councilman Whittington, seconded by Councilwoman Locke, and unanimously carried excusing Councilman Gantt.

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

Councilman Withrow asked the price we are paying for the church property. Mr. Sawyer replied the price they are recommending is \$207,500.00. Councilman Withrow read a letter from the church to a prospective buyer, dated October 16, 1974:

"Dear Mr. Richardson:

Our minister informed us sometime ago that you were interested in the purchase of our church property on the corner of Independence Boulevard and Church Street and that you had made an offer of \$35,000 on the purchase price.

Our Board took this proposition under advisement and presented your proposal to members of our church. After much discussion a motion prevailed to express to you the church's appreciation for your interest but could not sell the property for that amount. A second motion prevailed that the church would offer for sale the property in quantity for \$55,000."

Councilman Withrow stated what he cannot understand is how a piece of property can go from \$55,000 to \$200,000 in two years.

Mr. Sawyer replied that the only way he can answer that is to explain their procedures. That Mr. Richardson called him and talked with him over the phone and told him this. He knew nothing about that and does not know whether or not their appraisers knew. That their procedure is to employ two competent, independent appraisers to appraise the property. The appraisals they brought back were \$188,600.00 and \$188,500.00. He was not aware of this letter; he does not know whether Mr. Richardson had it appraised and offered the \$35,000.00 or whether the church had it appraised and then made the counter-offer of \$55,000.00. But, he cannot explain how

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it went from \$55,000.00 up to \$188,000.00 except to explain their procedure. They are the same appraisers they have used over and over again. They have found them competent and they have confidence in them.

Councilman Whittington stated the reason it went up so much is because the City is buying it. It is that simple. Councilman Withrow stated his concern is the precedent they are setting. For all of the properties in urban redevelopment everybody just thinks that once they get in that area they are worth a million dollars. Mr. Sawyer stated that every property they have ever purchased whether in the Urban Renewal Program or the Community Development Program the price for that property has been based on these two appraisals, and sometimes three. Now they have added another opinion to the two by employing a review appraiser to review the two appraisals that come in. They are really contracting with an appraiser to check the appraisers. His opinion was that they were fair. They are recommending a higher price than the appraised price because they could not settle for the appraised price. Rather than take it to condemnation because their experience has been if you go to court the owner is going to get more and they can substantiate this by their records, they are recommending to Council a higher price than the appraisal but one that is acceptable to the church. It is about 10 percent higher but if they go to court their experience has proved that it would cost about 30 percent. That is on the average - you never know how any individual property is going to come out.

Councilman Williams stated he is not a condemnation lawyer but asked Mr. Underhill if the other side is not entitled to discover that our own appraisers appraised it at this price. Mr. Underhill replied yes. Councilman Williams stated he did not see how you would get any less then - if your own appraisers say that.

Motion was made by Councilman Whittington and seconded by Councilwoman Chafin to approve the acquisition. The vote was taken on the motion and carried as follows:

YEAS: Councilmembers Whittington, Chafin, Davis, Locke, Williams and Withrow.

NAYS: None

Councilman Gantt abstained.

CONSENT AGENDA.

Motion was made by Councilman Whittington, seconded by Councilwoman Locke, and unanimously carried, that the following consent agenda items be approved:

- (1) Settlement in the additional amount of \$100, for a total of \$1,000, in the case of City of Charlotte v. Robert P. Schwartz, et al for land acquisition in Annexation Area I (2) Sanitary Sewer Trunks Project, Parcel 264, as recommended by the City Attorney.
- (2) Settlement in the additional amount of \$850 for a total of \$3,000, in the case of City of Charlotte v. Walter D. Hand, et ux, for land acquisition in the Clanton Road Extension Project, as recommended by the City Attorney.
- (3) Adoption of a Resolution authorizing the refund of certain taxes collected through clerical error and illegal levy, in the amount of \$192.50, from three accounts.

The resolution is recorded in full in Resolutions Book 12, at Page 52.

- (4) Loan to Byrd Jameson, Jr. and Yvonne Jameson, in the amount of \$13,450, for rehabilitating their home and refinancing an existing mortgage on the property located at 839 Woodside Avenue, in the North Charlotte Community Development Target Area. The Loan is to be financed for a period of 20 years.

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- (5) Amendment to Lease No. 06-2-011-9349, between the City of Charlotte and the National Weather Service, which was executed July 20, 1965 for a term of twenty years. This amendment covers the increase in maintenance and operations cost for the 959 square feet occupied in the Airport Terminal Building by the Weather Service, and covers the period of July 1, 1976 through September 30, 1978, at a rate of \$3.23 per square foot for an annual rental of \$3,097.57. All other conditions of the lease shall remain in full force and effect.

- (6) Ordinance No. 272-X transferring funds in the amount of \$48,000 from the Unappropriated Balance of the 1966 Airport Bond Fund for the acquisition of land in accordance with the Airport Master Plan. These funds will be used to complete settlements on outstanding land condemnations in connection with Airport land acquisition.

The Ordinance is recorded in full in Ordinance Book 23, at Page 331.

- (7) Adoption of a Resolution authorizing the Mayor to execute a Letter Contract with the North Carolina Arts Council, for an "Arts in the Park" Pilot Program, in the amount of \$2,500.

The resolution is recorded in full in Resolution Book 12, at Page 53.

- (8) Adoption of a Resolution authorizing David A. Burkhalter to execute and file an Urban Mass Transportation Administration Section 5 Operating Assistance Application with the U. S. Department of Transportation; David A. Burkhalter to file assurances associated with this application; Michael D. Kidd to provide information supplemental to the application; David A. Burkhalter to set forth and execute affirmative minority business policies and authorizing Mayor John M. Belk to sign and comply with the terms of contracts for this project.

The resolution is recorded in full in Resolution Book 12, at Page 54.

- (9) Adoption of Resolutions calling for Public Hearings on Monday, October 4, 1976, at 3:00 o'clock p. m., in the Council Chamber, City Hall, on Amendment No. 1 Redevelopment Plans for:

- (a) Southside Park Community Development Area;
- (b) Grier Heights Community Development Area;
- (c) West Morehead Community Development Area.

The resolutions are recorded in full in Resolution Book 12, beginning at Page 56 and ending at Page 66.

- (10) Adoption of ordinances ordering the removal of weeds, grass, trash, rubbish and tree limbs from the following locations:

- (a) Ordinance No. 273-X, vacant lot at corner North Poplar and West 7th Streets;
- (b) Ordinance No. 274-X, vacant lot at rear of 2829 Bancroft Street, on North Graham Street;
- (c) Ordinance No. 275-X, vacant lot rear of 2833 Bancroft Street;
- (d) Ordinance No. 276-X, 921 Woodside Avenue;
- (e) Ordinance No. 277-X, vacant lot at rear of 1724 Hawthorne Lane;
- (f) Ordinance No. 278-X, 2956 Ross Avenue;
- (g) Ordinance No. 279-X, 700 South Summit Avenue;
- (h) Ordinance No. 280-X, vacant lot corner Booker Avenue and Beattles Ford Road;
- (i) Ordinance No. 281-X, vacant lot adjacent to 2217 Booker Avenue;
- (j) Ordinance No. 282-X, vacant lot adjacent to 2412 Kingsbury Drive;
- (k) Ordinance No. 283-X, 1936 East 9th Street;
- (l) Ordinance No. 284-X, vacant lot adjacent to 5509 Park Road;
- (m) Ordinance No. 285-X, corner Wintercrest and Arundel Drive;
- (n) Ordinance No. 286-X, vacant lot adjacent to 1820 South Boulevard;
- (o) Ordinance No. 287-X, 3011 North McDowell Street;
- (p) Ordinance No. 288-X, 1201 Echo Glen Road;

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- (q) Ordinance No. 289-X, 3115 Cedarhurst Drive;
- (r) Ordinance No. 290-X, 1108 Georgetown Drive;
- (s) Ordinance No. 291-X, 317 East Boulevard;
- (t) Ordinance No. 292-X, vacant lot between 4133 and 4201 Carlyle Drive;
- (u) Ordinance No. 293-X, vacant lot adjacent to 408 North Cregler Street;
- (v) Ordinance No. 294-X, vacant lot adjacent to 3040 Ridge Avenue;
- (w) Ordinance No. 295-X, 1120 McArthur Avenue;
- (x) Ordinance No. 296-X, vacant lot adjacent to 2425 Rachel Street;
- (y) Ordinance No. 297-X, vacant lot at rear of 4327 Oak Forest Drive;
- (z) Ordinance No. 298-X, vacant lot adjacent to 1905 Washington Avenue;
- (aa) Ordinance No. 299-X, vacant lot 1205 South Church Street;
- (bb) Ordinance No. 300-X, 3633 Old Statesville Road;
- (cc) Ordinance No. 301-X, 1813 Umstead Street;
- (dd) Ordinance No. 302-X, 2325 Barry Street;
- (ee) Ordinance No. 303-X, 2504 Columbus Circle;
- (ff) Ordinance No. 304-X, vacant lot at 1314 Fillmore Avenue;
- (gg) Ordinance No. 305-X, vacant lot adjacent to 2401 Celia Avenue;
- (hh) Ordinance No. 306-X, 821 Lamar Avenue;
- (ii) Ordinance No. 307-X, 2318 West Boulevard;
- (jj) Ordinance No. 308-X, 305 Cemetery Street.

The ordinances are recorded in full in Ordinance Book 23, beginning at Page 332.

- (11) Ordinance No. 309-X, transferring funds in the amount of \$815,000, within the general Capital Improvement Projects Fund, reducing the appropriation for the Oaklawn Avenue Widening and Kings Drive Relocation Projects to supplement the unencumbered balance of the 1973 Transportation Bond Fund.

The ordinance is recorded in full in Ordinance Book 23, at Page 368.

- (12) Change Order No. 2, in contract with Gilbert Engineering Company, in the amount of \$2,919.18, for sanitary sewer construction, Parkway Avenue Trunk Line Project; necessary for the difference in cost of Tunnel Liner Plate required by Seaboard Coastline Railroad in lieu of specified material and for extra premium for additional insurance required by Seaboard Coastline Railroad, not required in the specifications.
- (13) Change Order No. 1, in contract with Crowder Construction Company, reducing the original contract amount of \$167,929.00 by \$1,945.50, for adjustment of the concrete testing allowance to reflect that actually used and for elimination of curb, gutter and sidewalk paving, for Plaza Road Booster Pumping Station Project.

- (14) Property transactions:

- (a) Acquisition of 15' x 49.12' of easement on vacant land at end of Essington Drive (off Alexander Road), from David Kelly and Dorothy L. Kelly, at \$1.00, for sanitary sewer right of way revision at end of Essington Drive.
- (b) Acquisition of 15' x 375.58' of easement at 6021 Florence Avenue (off Rama Road), from Housing Authority of the City of Charlotte, North Carolina, at \$1.00, for sanitary sewer to serve Florence Avenue.
- (c) Acquisition of 950 square feet, plus a construction easement, at 5600 Preston Lane (corner of Sardis Road and Preston Lane), from Harold L. Hall and Horace E. Hall, at \$800.00, for Sardis Road Widening Project.

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- (d) Acquisition of 198.15' x .27' x 178.15' x 31.39' x 22.18' of easement at 5200 Sardis Road, from William Jack Francis, Jr. and wife, Susan W., at \$1,014.00, for Sardis Road Widening Project.
 - (e) Acquisition of 350.36' x 5.10' x 128.96' x 221.45' x 3.25' of easement, plus a construction easement, at 5310 Sardis Road, from Robert D. Harkey, at \$1,667.00, for Sardis Road Widening Project.
 - (f) Acquisition of 9.87' x 50.0' x 9.92' x 50.0' of easement, plus a construction easement, at 1209 Tyvola Road, from Mary Marshall Young, at \$6,750.00, for Tyvola Road Improvements.
 - (g) Acquisition of 10' x 25' of easement, plus a construction easement, at 2733 Country Club Lane, from George B. Cramer and wife, Elizabeth, at \$2,610.00, for Brook Road Drainage Improvement Project.
 - (h) Acquisition of sixteen parcels of real property located in the Southside Park Community Development Target Area, as recommended by the Community Development Director.
 - (i) Acquisition of one parcel of real property located in Grier Heights Community Development Area, as recommended by the Community Development Director.
 - (j) Acquisition of one tenant interest of real fixtures located in the First Ward Urban Renewal Project, as recommended by the Community Development Director.
- (15) Resolution authorizing an encroachment agreement with the Southern Railway Company to construct and maintain sewer pipe line located along Southern Railway's crossline from Mile Post 2 at Charlotte, North Carolina.
- The resolution is recorded in full in Resolution Book 12, at Page 69.
- (16) Encroachment Agreement with the North Carolina Department of Transportation permitting the City to construct a 12-inch water main from Beatties Ford Road to Statesville Road in the right-of-way of Slater Road and Cindy Lane and crossing Interstate Highway 77.
- (17) Right-of-way Agreement with Duke Power Company on City-owned property at 3001 Wilmount Road, for the construction of distribution lines to serve the Wastewater Collection Division Operations Center.

COMMENTS REGARDING WATER AND SEWER BONDS AND LEAA PLANNING.

Councilman Williams stated he should have made this comment when they were voting on the Water and Sewer Bonds. It is appropriate that they attach to the minutes of this meeting the official resolution of the Community Facilities Committee. He commented on some of the things that they recommended. First and foremost, they are on record in favor of annexation. Secondly, they say that in their opinion, there is going to be some pressure on utility rates somewhere down the road as a result of expanding lines and service into the newly annexed areas. Thirdly, they say that pressure on utility rates should be minimized by using General Fund monies to subsidize the Utility Department. That he does not know what approach different people are going to take in going out and campaigning for these bonds - he certainly plans to campaign for them; he thinks we really do need annexation; we ought to be ready and willing to furnish the services that go with it. He can agree with the first two points completely; there may be some disagreement with them from other quarters. But his opinion is that when you spend that money for capital improvement, it is not going

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to be any different from Duke Power or any other utility enlarging their facility and they know what pressure we have had with all utility rates lately and that is the same sort of phenomenon as it were.

The third point he does disagree with a little bit where they say to subsidize to a large extent the Utility Department so that there will not be so much pressure on the rates. Instead of doing that, the windfall that comes from the new tax basis, instead of using that windfall that comes from the new tax basis for a subsidy to the Utility Department, they ought to use it as a dividend to the taxpayers - an annexation dividend. He hopes they will at least consider that and maybe by the time budget season rolls around next year we will have some money to pay an annexation dividend with. If anyone asks him about bonds during the campaign that is essentially what he is going to say.

The second matter he wants to bring up is something he thinks all of them have heard about. The LEAA has given us a chance to do our own planning. They took a poll of Council and everyone pretty much agreed to let the regional Criminal Justice Planning Agency continue with it. The rub is the City and County would have to agree to this because that would become the planning unit instead of the COG type planning unit. He does not think the County was very enthusiastic about it, at least Mr. Foley did not express any enthusiasm in getting into it and he thinks rightly so. Our staff was of that opinion too, that we should leave it alone. It might have meant as much as \$40,000 a year in planning money but when you think about all the costs that would be involved in operating the thing, we would have to do all of our own grant preparation and the whole thing. The regional unit would have nothing else to do. He is not so sure that we could have done a good job, any better than we are getting right now, for \$40,000. So, we went ahead and told them tentatively to leave it alone. Unless somebody instructs him differently he will consider those his marching orders.

NOMINATION OF PATSY KINSEY TO CHARLOTTE HISTORIC DISTRICT COMMISSION.

Councilman Williams stated Mr. Stenhouse has resigned from the Historic District Commission, and he would place the name of Ms. Patsy Kinsey in nomination to fill that vacancy.

COMMENTS REGARDING RICHLAND AVENUE CONNECTION.

Councilman Davis stated he would like to second Councilman Williams' comments about the annexation. That what the Community Facilities Commission has proposed should be dealt with in our campaign for the passage of these bonds.

Secondly, he would like to comment on a memorandum from Mr. Burkhalter on the subject "Richland Avenue Connection," dated August 23, 1976. He requested that the information in this memorandum be placed on the agenda for the September 20th meeting along with discussion of abandoning the Discontinuous Street Program. The reason for this request is that he discussed this with the Public Works Department and they tell him Richland Avenue is the most justified discontinuous street connection that they have in the entire program. They have all received a lengthy petition from the neighbors who would be affected that they are opposed to this. He would like to hear from anyone, outside of our staff, who favors it. He thinks it would make sense from the standpoint of connecting the discontinuous streets, but outside of our staff, he does not know of anyone who favors the connecting of these discontinuous streets.

Councilman Whittington stated from the memo he read it was his understanding that Councilman Davis asked for a review of the opening of Richland Avenue. Councilman Davis replied yes and the staff has said they recommend that this discontinuous street be connected. Councilman Whittington asked Councilman Davis if he is for or against it? Councilman

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Davis replied he is not sure but the only input he gets at all from the public is that everyone is opposed to it. He received a lengthy petition and he has not heard from any member of the public who favors this. The fact that these are not arterial routes but generally would be generated into short cuts, he does not see any purpose that would be served by this one other than to maybe take a little bit of the traffic off of Monroe Road and the Wendover Belt Road when it is completed. He feels that is contrary to what they are really trying to accomplish. That we want to move the through traffic onto these arteries.

Councilman Whittington stated when he received the memo from Mr. Burkhalter, it was his understanding that Councilman Davis wanted Richland Avenue to be considered as a connecting street connecting with Bertonley and on over to McAlway. Of course, when this happened people on Bertonley started calling and writing members of Council opposing this connection. We did not do it on another street and the next one that comes up, which is apparently this one, he will vote not to do it because we did not do it on Shady Bluff. He thinks we ought to protect the other neighborhoods the same way.

Councilman Davis stated that is his point. This is an ideal one to accept because according to Mr. Hopson this is the most vital one in the entire program in his opinion. So, if we cannot justify this one, we cannot justify any of them. Councilman Whittington stated they cannot justify any of them in his opinion because they denied Shady Bluff. He does not think they can justify connecting any two streets after what they did last year.

CITY MANAGER REQUESTED TO ASCERTAIN INFORMATION REGARDING LEASES.

Councilman Davis stated several days prior to the August 23rd Council Meeting he telephoned the Director of Public Works to ascertain how real estate leases are handled in Greensboro, Winston-Salem and Raleigh, particularly with regard to competitive bids and appointment of exclusive agents with the anticipation that this information would be available at or prior to the August 23rd discussion. He requested that Mr. Burkhalter check and see what happened to this report and in view of the discussion that took place on August 23rd, several Councilmembers expressed new concern about our staff procedures about competitive bids and exclusive agents. That the information might be of general interest to all of Council and if Mr. Burkhalter could provide that to them in written memorandum and not as an agenda item, he would appreciate it.

CITY MANAGER TO SEND COUNCIL'S REGRET TO MOTION DUE TO CONFLICTING ENGAGEMENT FOR SEPTEMBER 16.

Councilman Gantt stated he had an invitation to one of Motion's housing development's opening on the day that the Hearing on the shopping centers will be held. He does not see how any of them can make it and requested that Mr. Burkhalter apologize for them or see if Motion could change their schedule. He thinks that is a very significant development and hates to see no member of Council show up for it, but they do have a conflict. He stated that recently in a national publication the Belmont Regional Center was featured as a prime example of public administration architecture.

HERBERT SPAUGH, JR. NOMINATED FOR RE-APPOINTMENT TO AIRPORT ADVISORY COMMITTEE.

Councilwoman Locke stated on July 15 Council received a notice from the City Attorney concerning the eligibility of Ben E. Douglas and Herbert Spough, Jr. to terms on the Airport Advisory Committee. She quoted part of the notice as follows: "Two of the members of the Committee shall be persons who are familiar with aviation matters by reason of their avocation or vocation." For that reason, she nominated Mr. Spough for re-appointment.

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Mr. Spaugh is a Lieutenant Colonel in the Air National Guard, has been since 1957; he has flown over 10,000 hours without an accident; he flies a C130 four-engine turbo-prop transport for the Guard and has a light twin engine for business purposes. He is familiar with all of the aspects of the problems that confront pilots at Douglas, both with the small planes and the large planes and has the technical expertise required for this appointment.

CITY ATTORNEY TO INCLUDE DISPOSITION OF WARRANTS IN LEGISLATIVE PACKAGE.

Councilman Whittington stated they had all received letters from former Councilman John Thrower about the disposition of warrants signed against individuals. It seems to him to make a lot of sense. A warrant has been signed, they take the warrant out and issue it and then it is not their responsibility to make disposition of what happens to those charges.

He stated this is very serious because a man can have something on his record where it has been corrected but there is no record of his being found not guilty and forever he has that blemish on his record. He does not know what to do about it except to say to Mr. Underhill that they want him to get the Legislative Committee to make sure that in the Legislature this is changed where the court will have the responsibility to make sure that the record is complete, rather than the Police Department.

He stated Mr. Thrower wrote this to the Editor of either The News or The Observer and they got literally dozens of calls where people had this same problem to happen to them. He wants to make sure that the responsibility of this be given to the Courts to furnish completed case records, which they are not doing now.

Mr. Burkhalter stated if they would write right now and ask for a record from the FBI they would send you out a record where there might be fourteen charges but no disposition on them. This is wrong. What happens is that the charges are made here and they are not disposed of for about three years and everybody loses all connections with them. It is a very difficult thing to rectify. He agrees - if something goes on a man's record and within eighteen months or a certain period of time, nothing is done it ought to be wiped off.

Councilman Whittington stated if a man wanted to get in the military service, for example, he could not do it. Mr. Burkhalter stated the record does not say he was convicted, it just says he was charged. What they would have to do is go back through all the records - it would be very bad.

CITY ATTORNEY REQUESTED TO DRAW ORDINANCE RE SCREENING OF DRIVE-IN THEATRES.

Councilman Withrow stated that the City Attorney has sent them a pornography ordinance that he thought would stand up on drive-in theatre screening. He moved that Council ask Mr. Underhill to prepare such an ordinance in accordance with his memo. The motion was seconded by Councilman Whittington, and carried unanimously.

Mr. Underhill stated they would have to amend the zoning ordinance to do the screening because fences high enough to screen some of the theatres in town would be significantly higher than the zoning ordinance allows.

Councilman Davis stated he voted for Mr. Withrow's request for an ordinance and will be interested to see what they come up with. That we have given our staff a lot of work to do, especially the City Attorney, and this is a very difficult thing to do and his personal feeling is that they are going at traffic here to try to get at pornography. He would be much happier if they are going to draw up an ordinance to regulate traffic that it come from the Traffic Engineering Department.

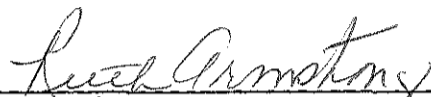
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A. J. LITTLE NOMINATED TO AIRPORT ADVISORY COMMITTEE.

Councilman Withrow placed in nomination the name of A. J. Little, President of Little's Hardware, for appointment to the Airport Advisory Committee. Mr. Little lives on the west side of Charlotte, on Tuckaseegee Road, where airplanes fly over or close to his home.

ADJOURNMENT.

Upon motion of Councilman Gantt, seconded by Councilwoman Chafin, and unanimously carried, the meeting adjourned.



Ruth Armstrong, City Clerk