

June 15, 1977
Minute Book 65 - Page 369

The City Council of the City of Charlotte, North Carolina, met in regular session on Monday, June 13, 1977, at 3:00 o'clock p. m., in the Council Chamber, City Hall, with Mayor pro tem James B. Whittington presiding, and Councilmembers Betty Chafin, Louis M. Davis, Harvey B. Gantt, Pat Locke, Neil C. Williams, and Joe D. Withrow present.

ABSENT: Mayor John M. Belk.

* * * * *

INVOCATION.

The invocation was given by Dr. Thomas K. Reinowski, Minister of Selwyn Avenue Presbyterian Church.

APPROVAL OF MINUTES.

Upon motion of Councilman Withrow, seconded by Councilwoman Locke, and unanimously carried, the minutes of the last meeting, on June 6, 1977, were approved as submitted.

RESOLUTION APPROVING AMENDMENT NO. 2 - REDEVELOPMENT PLAN AND THE FEASIBILITY OF RELOCATION FOR GRIER HEIGHTS TARGET AREA.

The scheduled public hearing was held on Amendment No. 2 to the Redevelopment Plan for Grier Heights Target Area, to revise the residential rehabilitation standards; to up-date the estimated costs and re-schedule financing; to revise the schematic location of Dunn Avenue; and to retain the present location of Alpha Street, between Jewell Street and Dunn Avenue.

Mr. Vernon Sawyer, Director of Community Development, stated the hearing today has been advertised as required and covers the above-stated items. That they are recommending a proposed revision of the rehabilitation standards which will make them less restrictive because in this project, the standard was raised above the standard of the Minimum Housing Code and they are recommending to Council they be down-graded to the Minimum Housing Code.

He stated originally their Plan for a higher standard was based on the assumption of the properties, especially the absentee-owners, would want to rehabilitate their properties and keep them rather than have the City buy them because the threat to buy was their only means of enforcing the higher standard. In actual practice, what has actually happened, is that many of the property owners want the City to buy their property and when the City put the pressure on them to either rehabilitate it or the City will buy it, they asked "where do I sign?"

Mr. Sawyer stated their budget just will not stand all of the acquisitions that they can anticipate that will take place if they enforce this higher standard. In order to change it, they are merely changing the word "shall" that they have in the standard, which is mandatory, to read "should", which is optional. They will still attempt to encourage the owner to convince him that he ought to reach a higher standard in the respect that our standards were above the minimum but it also gives the City the option to buy and that is the important thing. If the owner will not fix the property up, if he elects instead to board it up, or to demolish it on his own accord, then that housing unit is lost to the project, it is lost to the market for low income people and either choice he makes, we are without that housing unit in the project.

He stated on the other hand, if it is a unit which the City could buy and in using the Block Grant money, rehabilitate and retain, then the City could either rent it or sell it, then the City would have the option to buy, rather than the mandatory requirement to buy. This is the reason he is recommending this to Council. It has been reviewed and approved by the neighborhood organization in the Grier Heights Project and they understand the situation and in order to accomplish it, not only do they change the "shall" to "should", but there are some minor changes in the text of the Plan in order to adjust down to the Minimum Housing Code Standards.

June 13, 1977
Minute Book 65 - Page 370

Mr. Sawyer stated to update the cost and financing of the Project, this just adds to the existing budget, the Fiscal Year 80 Funds that Council added to Grier Heights when it approved the current three year plan for community development which allocated the money they expected to receive between the nine target areas. That amount was \$5,520,000 over-all, and of that amount, Council allocated \$600,000 to Grier Heights and that \$600,000 has been added to the current budget in the categories which Council approved.

He stated this was on Page 4 of the material which was sent to Council with the budget, under the column headed by FY 80. It shows \$600,000 in the category that Council has already approved being added to the budget at this time. This merely brings the budget into conformance with the Plan that Council approved in March of this year.

Councilman Gantt asked about the net effect of this rehabilitation change and if it was going to mean that the City will be doing less in the way of acquisitions and Mr. Sawyer replied yes, there will be a possibility of that.

Councilman Gantt stated he is imagining a picture of an owner of property who decides to do nothing and that property is not up to standards and a City agency that is reluctant to enforce the housing standards because he knows full well that he has only once choice, which is to purchase the property because there is no incentive on the part of the owner to do anything about it. Mr. Sawyer stated that could be correct.

Councilman Gantt stated he understands why Mr. Sawyer is recommending this because he is finding that people are only too happy to sell the City their property which has not been maintained over the years and what we are going to do is expend a substantial portion of our budget in acquisition. That he is wondering if there were any other ideas which might have come forth here with regard to Griertown, Southside and all these other areas where we are going to be running into these kinds of problems. For example, the idea of if the property is abandoned, does that really depreciate the value of the property and the owner himself will find that he is in a situation where the City may be buying the property for considerably less than the value of the real estate agent? Mr. Sawyer replied that could happen if the property sits there and is vandalized or if it just plain deteriorates over a period of years and the property owner does nothing, nothing except secure it and do the minimum to meet the Code.

Mr. Sawyer stated the City turns it back, under this procedure, to the Housing Inspection Department to enforce under its usual police powers but there again, that could result in just a boarded up condition, or a demolition.

Councilman Gantt asked if going back to the minimum Housing Code, would it allow him to enforce that Code and Mr. Sawyer replied that is correct and it would also give them the option to buy and fix that up and keep that housing unit in the market. Councilman Gantt stated the net result might be, even after Mr. Jamison's people go down and take a look at it, the owner might decide you either buy it or he will leave it like it is. That it seems to him what we have here is the increased possibility of a status quo situation. He stated he feels Mr. Sawyer is responding to what Council has asked him to do and that is to limit the amount of money he spends on buying up property.

Mayor pro tem Whittington asked how many of the houses have been acquired? Mr. Sawyer replied none under this policy, but they have acquired and demolished a number of them that were already approved under the Plan. That was mainly the Rock Apartments and they have acquired some others that were needed for right of way, street extensions and that sort of thing, but they have met with resistance and when they did, and they said "where do I sign" or "go ahead and buy it", they have just sort of put this on the back burner and held it until they could see which way the trend was running. That they see, very obviously, that the trend is running heavily toward selling instead of fixing up.

June 13, 1977
Minute Book 65 - Page 371

Councilman Gantt stated one of the things he is talking about is that he received some information from a couple of the landlords who own a number of units in these areas and he was asking them why they did not respond at all to the 3% Loan Program which Council had a lot of debate about last year and wondered whether or not they were sort of "cutting off their noses to spite their faces" with regard to some mythical bureaucratic red tape syndrome that said "we don't want to get involved with a government program." That one of the gentlemen handed him some interesting statistics which showed the reason that they did not get involved in the Loan Program had absolutely nothing to do with rent controls; that if, in fact, they made any kind of Loan even at no interest rates, the rent that would have to be charged to the consumer, compared to what he is presently paying for, in that somewhat less than desirable housing units, would be a substantial increase, even with no interest rates.

He stated the landlord's last statement to him was it was becoming increasingly impossible for private owners to maintain decent housing units for low income people - that is becoming increasingly the responsibility of government, rather than the private owner.

Mayor pro tem Whittington stated it seems to him we have to change this around because there is no way the government can continue to build or make these houses available; there is no way to finance them.

Councilman Gantt stated we are also finding out that people on up the ladder soon will not be able to afford single family housing.

Councilman Withrow stated these same property owners have asked him what is poverty level - they asked what is below poverty level and he replied he did not know. That a landlord told him he was renting below poverty level. For example, in the Cherry area, these people are renting apartments for \$13.00 per week, that is \$52.00 a month and there is no way the owner can pay the property taxes on \$52.00 per month, or the financing charges or any interest at all. He stated if he has maintenance to do and people collecting the rents, he is going to run into the hole every month he rents. In this same area, the gas people will not extend gas lines and the cheapest way to heat is by gas because of the maintenance property. It is cheaper to maintain gas units than it is oil units, but the gas people will not extend lines into the Cherry area. These people are really locked in and Mr. Sawyer is aware of what he is talking about. He stated if he were in the landlord's position, he would say "sure, where do I sign?"

Councilman Withrow stated he did not know how to correct this problem because it is impossible for them to borrow 3% money and not be able to go up on that \$13.00 a week; the landlord is just getting worse off.

No opposition was expressed to the amendment.

Councilwoman Locke moved adoption of the resolution approving Amendment No. 2 - Redevelopment Plan and the Feasibility of Relocation for Grier Heights Target Area, which motion was seconded by Councilman Withrow, and carried unanimously.

The resolution is recorded in full in Resolutions Book 12, beginning at Page 408.

Later in the meeting, Mr. Sawyer stated he would like to come back and mention something that was included in the material he presented to Council on the Grier Heights Target Area, but forgot to point out on the map.

June 13, 1977
Minute Book 65 - Page 372

He stated there was a plan to change the alignment of Alpha Street from its present configuration which was intended to by-pass some property already there, and to make a wide swing around the area of the Rock Apartments; that anticipated buying some vacant land and subdividing it. This looked good on the plan on the map, but after it was surveyed, it was not sufficient for standard lots so they had to abandon that. What they propose to do is merely keep Alpha Street in its travel line down to Jewell Street, and then swing it around. He stated this will not increase the cost; and in fact, it might create some savings because they will not buy that land.

RESOLUTION APPROVING AMENDMENT NO. 2 - REDEVELOPMENT PLAN AND THE FEASIBILITY OF RELOCATION FOR SOUTHSIDE PARK TARGET AREA.

The public hearing was held on Amendment No. 2 to the Redevelopment Plan for Southside Park Target Area to revise the residential rehabilitation standards, and to update the estimated costs and re-schedule financing.

Mr. Vernon Sawyer, Director of Community Development, stated here again the recommendation is to take the same action with respect to Southside Park that was just recommended for Grier Heights. That is to lower the standards from the higher standards to the Minimum Housing Code Standards.

Mr. Sawyer stated as far as the estimated cost and method of financing, it adds to the present budget those allocations which were made in the preliminary plan for FY 80 to the current budget, approved in the amount of \$216,000, and these are the recommended changes.

Councilman Gantt moved adoption of a resolution approving Amendment No. 2- Redevelopment Plan and the Feasibility of Relocation for Southside Park Target Area. The motion was seconded by Councilman Withrow.

A gentleman from the audience stated the people who live in the places which were mentioned earlier concern him. No matter how they approach this situation, the whole thing reverts back to the mistake made by the State Legislature a week or so ago.

First they raised the minimum wage rate to \$2.50; then a day or so later they came in and reduced it to \$2.30. These same people who try to pay the rent of \$13 a week on the apartments thought they had a little hope to increase their income to that they could pay that.

Mayor pro tem Whittington stated this is a problem for the State Legislature and he should talk with Senator Craig Lawing about this problem.

Mayor pro tem Whittington stated he would like to request Mr. Sawyer, as the Director of Community Development, to arrange a bus tour, and an on-site inspection of these target areas for Council so they can go out there and see what they have done, and to talk to Council more specifically about the housing, if the other members of Council do not object. Mr. Sawyer replied he would be glad to arrange the tour.

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

The resolution is recorded in full in Resolutions Book 12, beginning at Page 412.

June 13, 1977
Minute Book 65 - Page 373

PRESENTATION OF ANNUAL REPORT OF THE MUNICIPAL INFORMATION REVIEW BOARD
BY CHAIRMAN.

Dr. James Golson, Chairman of the Municipal Information Review Board, stated the Municipal Information Review Board has recently put together their Annual Report for Council.

He stated some of the information that went into producing that report included the activities of the past three years of the MIRB. That as Council is aware, the function of the MIRB was created back in the 1960's when the City Government of the City of Charlotte, along with many organizations that involved information realized that they needed new and better ways of keeping up with that information. So, in the year 1970, the City of Charlotte contracted as part of a five year \$5 million research project into designing a more highly efficient and highly functional information process system, relying very strongly on computer-based systems.

The information we are talking about could be considered perhaps in a way as one of the primary natural resources, or raw materials, of the City Government. He stated he would like to draw some analogies about this information in the form of a public raw material and consider the development of this computer based information system along the idea of drawing a new store house and a new structure to process this raw material, this information.

He stated there are some unique things about this raw material. For one thing, it is not raw material that the City owns in its entirety; this raw material - this information still has some ownership line certainly in the City Government itself, but it has some ownership in the general public and it has some ownership with the people, the citizens from whom the information was collected.

That one of the things that they realized very quickly that had to be addressed was the definition of some procedures having to do with ownership and its intended access to its information. So in 1972, the University of North Carolina Institute of Government was asked to develop a proposed ordinance to handle this information of the City Information System. This ordinance was drafted, it was reviewed by the City Council and was adopted in November of 1972. From the Winter of 1972 to May of 1974, there was an Interim Committee that was charged with reviewing this Ordinance and putting it into implementation.

In May of 1974, the formal Municipal Information Review Board was created and they have been wrestling with this process since that time, for about three years. One of the first actions of the MIRB was to develop a catalog of this information. In essence, they have a raw material; they had a structure to keep it in but they did not know what all the different parts were. So, they wanted to know how this information was collected, what the access procedures were and which of the rooms of the store house this information was kept, etc. As they began doing this cataloguing procedure, they also began addressing the process of access to this information; they began putting different materials in different rooms, some of the rooms had locks on the doors and some of the others were opened without locks. They went strictly by the City Ordinance No. 803 which said that the first thing they had to do was to look at these pieces of information to determine whether it was personal or non-personal; after having made that definition, then the City Ordinance says that non-personal information should be open to the general public, in effect, it should be in a room without a lock on it and should be available for any one to see at any time, under reasonable circumstances.

He stated if the material were personal, then, according to the City Ordinance, that had to be classified as being restricted, and it had to be put in a room, it had to be locked, and the access to the information had to be seriously restricted. In fact, there are in some very special circumstances where there is a category called "highly restrictive." The difference between these two is very important - the restricted information simply says that this information is not open to the general public, but it is open to the individual about whom the information is collected. The "highly restricted information" is not

June 13, 1977
Minute Book 65 - Page 374

even open to the individuals about whom it is collected. So they had different kinds of rooms and different kinds of locking procedures. That this went on for about a year and a half or two years, and then, in 1975, the next thing the MIRB noticed was that over and above the City Ordinances, there were some State Rules that had to do with information processes and the rooms and the locks on these rooms.

That they looked into these rules and it seemed to be some disagreement between these laws, the General Statutes having to do with Public Records for the State and the City Ordinance No.803. They asked around and basically got the answer back that nobody was concerned enough to make an issue of this, so they went on with what they were doing.

Dr. Golson stated they continued classifying the materials and everything went along without any incidents until late 1976, this issue of disagreement between Local and State Laws again came up and some of the members of the MIRB were concerned over this and suggested perhaps the best way to get around the concerns would be to have the City of Charlotte exempted from those regulations as defined at the State Level, so they met with the City Attorney and drafted a Bill for presentation to the North Carolina Legislation to this effect.

He stated the Local Legislators did not agree with the purpose or the way this was carried out and the Bill was never presented to the Legislature, so again, nothing more has been done on reconciling these ordinances.

Dr. Golson stated only in 1977 has any real interested been drafted toward what he is talking about here today and he was concerned over a very particular file - a file which they considered "most highly restrictive" and this, of course, is the police investigative file. This situation cooled off somewhat when Chief Goodman, the keeper of the files, offered Councilmembers to come down and look at portions of the file and that kind of dropped it out of the limelight for a few weeks.

Then, in the month of May, it came back into some interest when one of the Councilmembers, Mr. Davis, suggested that, as a member of City Council, it was right and proper that the members of Council should have master keys to all the rooms and should have a complete catalogue of where the information was kept and should have access to that information as deemed necessary, or desirable. That he believes Councilman Davis requested copies of the lists of information which was presented to him and last week he did review this most controversial file on the Police Department.

Dr. Golson stated that is very briefly where they have been and where they are today. That he would like to ask Council since some of them were not on Council back in 1974 when this Board was created, for an affirmation from Council and ask Council what it is they would like for them to do. They recognize that this Board was created by Council and they feel a sense of responsibility toward Council and are asking for some guidance from them.

He stated on Page 3 of the Report, they have listed some very specific listed concerns and some eight questions. That one of their concerns has been the inconsistency between the local ordinance and the State Public Records Act; accordingly to the direct wording of the ordinance, there is not a real inconsistency because there is wording in Section 2-36.6 of the City Ordinance that says that "the Municipal Information Officer shall place personal information in the restricted access category except if there is a specific Statute requiring the information to be maintained as public record." So that gives proper deference to the State Public Records Act there. But, more properly, there is a difference in philosophy behind it, too. The philosophy of the Charlotte Ordinance, as he reads it, is saying we are very interested in the difference between personal information and non-personal information. They want to protect the privacy of persons as much as possible; the State Public

June 13, 1977
Minute Book 65 - Page 375

Act, on the other hand, looks primarily at information in the context of guaranteeing the public's right to access of the information and does not deal o terms of personalities, whether it is personal or non-personal; it does have the confidentiality aspect; it has the right of classifying some information as confidential. But he feels these two philosophies are different and the fact that they have been trying to work in the context of those two different legislative, or legal confinements, have caused them of some thought of trying to go beyond the technicalities, but look at the philosophy.

Dr. Golson stated they would like to know from Council what their philosophy is - which of those aspects are they really interested in and based on which philosophy they are interest in, then they can go back and begin acting again, knowing that they are going on with the proper philosophy. A very specific question they would like to raise is the one that says you can read this local ordinance two ways, or perhaps a lot of ways, and one of those says that the purpose of the MIRB is to set the guidelines for the collection, maintenance and dissemination of this information; another point of view would be to go beyond those guidelines and actually go in and review this information; look at those cabinets, open them up and see what is in the files. They need to know from Council what the direction is that they want them to go forward on. He would like Council to look at those concerns and he would also like to hear some response from Council on the question of where do they go from here.

Councilwoman Locke stated she would like to wait a week or two and study the report before Council makes a response.

Councilman Whittington stated if there is no objection, he would like this placed on the agenda in about two weeks.

Councilwoman Locke stated it might be easier for Council to schedule this for a City Manager/Council Luncheon and have a complete dialogue and that would give Council enough time for everyone to respond.

PETITION NO. 77-8 BY F. T. WILLIAMS COMPANY, INC. FOR A CHANGE IN ZONING FROM R-6MF to I-2 OF PROPERTY ON THE NORTHEAST SIDE OF CLYDE DRIVE, SOUTHEAST OF THE INTERSECTION OF CLYDE DRIVE AND CORONET WAY, DENIED.

Motion was made by Councilwoman Locke to deny the subject petition for a change in zoning from R-6MF to I-2 of property on the northease side of Clyde Drive, southeast of the intersection of Clyde Drive and Coronet Way. The motion was seconded by Councilman Gantt, and unanimously carried.

DECISION ON PETITION NO. 77-10 BY JAMES J. HARRIS AND ANGELIA M. HARRIS AND SHARON HOME LOAN COMPANY FOR A CHANGE IN ZONING FROM B-1SCD, O-15 AND R-12MF TO B-1(CD) OF PROPERTY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF MORRISON BOULEVARD AND ROXBOROUGH ROAD, DEFERRED FOR TWO WEEKS.

Councilman Withrow moved that decision on this Petition be deferred for two weeks, which motion was seconded by Councilwoman Chafin.

Councilman Williams asked if there was some special reason for this request and Councilman Withrow replied yes, he would like to defer this petition personally because he has talked to some of the Councilmembers and some of them are not quite sure where they stand on it and he feels it might be necessary to go back to the Planning Commission and get some more information so Council will come up with a good decision, whether it is approved or denied.

Councilwoman Locke asked if Council does go back to the Planning Commission for more information, what specific information did Councilman Withrow want and Mayor pro tem Whittington replied Councilman Withrow is just suggesting that possibly Councilwoman Locke might want to go back to the Planning Commission for more information.

Councilwoman Locke stated she would like to have more information on traffic - some real hard-nose facts on traffic, ingress, egress and the traffic generated in that area by this development, and what kinds of traffic the shopping center would generate. The City Manager asked if she would accept the market study, and she replied yes.

Councilman Gantt stated if Council wants to consider this another two weeks, he would not object because if the other members have not made their minds up, he would like to see them all come to a good decision. If they need more time, it is all right with him; but he, personally, has spent a lot of time on this particular petition and it is his feeling that he doubts that anyone could tell Council more about the traffic than what has already been said. That he is just hoping this is not just a delaying tactic because he is a little tired of the issue and would like to see it resolved. He stated he would prefer to go ahead and bite-the-bullet and vote this petition up or down today.

Councilman Withrow stated there might be points of compromise on both sides; he does not know if this is possible or not. Council might could get a little more of what they want from this property and might also help the people in the area to get what they want and also the people who own the property. That there might be some re-negotiation through the Planning Commission and this is what he is trying to say - the property owners might not get all they want and the people in the area might not get all they want, but possibly some compromise might be reached that everyone can live with.

Councilwoman Locke asked if he had some specific proposal in mind and Councilman Withrow replied he did not.

The Vote was taken on the motion to defer decision on this petition for two weeks, and carried by the following vote:

YEAS: Councilmembers Withrow, Locke, Chafin, Davis and Williams.
NAYS: Councilman Gantt.

DECISION ON PETITION NO. 77-11 BY JAMES J. HARRIS AND ANGELIA M. HARRIS AND SHARON HOME LOAN COMPANY FOR A CHANGE IN ZONING FROM B-1SCD, O-15, AND R-12MF TO O-15(CD) OF AN ODD-SHAPED TRACT OF LAND FRONTING ON THE NORTH SIDE OF MORRISON BOULEVARD AND EXTENDING NORTH ABOUT 1,300 FEET, GENERALLY LOCATED BETWEEN BARCLAY DOWNS DRIVE AND ROXBOROUGH ROAD, DEFERRED FOR TWO WEEKS.

Motion was made by Councilwoman Locke, and seconded by Councilman Withrow to approve the subject petition as recommended by the Planning Commission.

After comments by Council that the subject petition is related to the previous petition which has been deferred, Councilman Withrow withdrew his second to the motion to approve.

Councilwoman Chafin moved that decision on the petition be deferred. The motion was seconded by Councilman Withrow, and carried unanimously.

ORDINANCE NO. 562-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE OF THE CITY OF CHARLOTTE AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY FRONTING ABOUT 400 FEET ON THE NORTH SIDE OF MORRISON BOULEVARD ABOUT 800 FEET NORTHWEST OF THE INTERSECTION OF MORRISON BOULEVARD AND ROXBOROUGH ROAD, AS PETITIONED BY BISSELL AND ASSOCIATES AND JAMES J. HARRIS AND ANGELIA M. HARRIS.

Councilman Gantt moved adoption of the subject ordinance changing the zoning from B-1SCD to O-15 property fronting about 400 feet on the north side of Morrison Boulevard, and about 800 feet northwest of the intersection of Morrison Boulevard and Roxborough Road, as recommended by the Planning Commission. The motion was seconded by Councilwoman Locke.

June 13, 1977
Minute Book 65 - Page 377

Councilman Davis asked if there was any opposition to this petition. Mayor pro tem Whittington replied Council received a number of letters in opposition.

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

The ordinance is recorded in full in Ordinance Book 24, at Page 224.

UNNAMED STREET OFF FAIRVIEW ROAD, EAST OF INTERSECTION OF SHARON AND FAIRVIEW ROAD, ASSIGNED NAME OF SAVINGS PLACE, AS PETITIONED BY MUTUAL SAVINGS AND LOAN ASSOCIATION.

Motion was made by Councilman Gantt, seconded by Councilman Withrow, and un-animously carried, approving the petition of Mutual Savings and Loan Association to name an unnamed street off Fairview Road, east of the intersection of Sharon and Fairview Roads, to Savings Place.

RESOLUTION APPROVING AN APPLICATION FOR PRELIMINARY LOAN FOR LOW RENT PUBLIC HOUSING TO ACQUIRE AND REHABILITATE 91 ADDITIONAL UNITS OF LOW RENT HOUSING.

Upon motion of Councilwoman Locke, seconded by Councilman Gantt, and un-animously carried, the subject resolution approving an application by the Charlotte Housing Authority for a preliminary loan, in the amount of \$18,200 from the Department of Housing and Urban Development for the preliminary planning and survey costs required for acquiring and rehabilitating 91 additional units of low rent public housing, was adopted.

The resolution is recorded in full in Resolutions Book 12, at Page 417.

RESOLUTION AUTHORIZING ACCEPTANCE OF A GRANT FROM THE NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION OF THE U.S. DEPARTMENT OF COMMERCE FOR THE DEVELOPMENT OF AN AREA-WIDE EDUCATION AND TRAINING PROGRAM.

Motion was made by Councilman Gantt, seconded by Councilwoman Locke, and un-animously carried, adopting the resolution authorizing acceptance of a Grant from the National Fire Prevention and Control Administration of the U.S. Department of Commerce for the development of an area-wide fire education and training program.

The resolution is recorded in full in Resolutions Book 12, at Page 417.

CONTRACT WITH THE CHARLOTTE MOTOR SPEEDWAY, INC. PERMITTING THE CITY TO OPERATE A SANITARY LANDFILL AT VARIOUS LOCATIONS ON PROPERTY OWNED BY CHARLOTTE MOTOR SPEEDWAY, INC., APPROVED.

Councilwoman Locke moved approval of a contract with the Charlotte Motor Speedway, Inc., permitting the City to operate a sanitary landfill at various locations on property owned by Charlotte Motor Speedway, Inc., at a cost of \$100 for each twelve month period of operation. The motion was seconded by Councilman Withrow, and carried unanimously.

CHANGE ORDERS IN CONTRACT WITH CHARLES F. SMITH AND SON, INC. FOR TRUNK SEWERS TO SERVE 1974 ANNEXATION AREA I (1), (12) AND (2), APPROVED.

Councilman Gantt moved approval of Change Order No. 2 in contract with Charles F. Smith and Son, Inc., increasing the contract price by \$43,750 for the installation of 175 feet of 48-inch tunnel liner across the 15th fairway at Quail Hollow Golf Course, which motion was seconded by Councilman Withrow, and carried unanimously.

June 13, 1977
Minute Book 65 - Page 378

Councilman Gantt stated he would like to discuss the second change order listed under Item 14 (b). There was an exceptionally low bid on this, way below everybody else, and he appears to be making some complaints of claims in excess of one-half million dollars, and we are settling in the amount of \$25,000. He would like to know about this.

Mr. Dukes, Director of Charlotte-Mecklenburg Utility Department, stated his letter to members of Council tried to explain their predicament in this case. This was a most frustrating experience. How to settle this, they do not know. They just listened to charges and complaints against the city about this particular project. So actually this is an act of judgement more than anything else.

Mr. Dukes stated Pease and the City's Engineer have gone through every one of the items they contested, and tried to give a plus or a minus for this. But the largest amount of complaints they had was about \$370,000 of change orders they were proposing against the City.

Councilman Gantt asked if they are willing to settle for \$25,000; or is Mr. Dukes asking for \$25,000 to offer them as a settlement? Mr. Dukes replied they have written us that they are willing to settle for the \$25,000.

Councilman Gantt asked if this was after submitting claims for almost \$700,000? Mr. Dukes replied this is correct. That he called Mr. Campbell one day and offered to settle for \$25,000. His request was that he be allowed to bid again. Mr. Dukes stated he thinks the word had gotten around that the City would not be interested in any work with this company in the future.

Mr. Underhill, City Attorney, stated a lot of these claims are subject to arbitration under contract. That we have not formally convened the Arbitration Panel yet, but we have gone right up to that point. If we have to go into arbitration, it would be extremely time-consuming and expensive because of staff-time, etc. If we can avoid that, based on what his staff, who worked very closely with Mr. Dukes' staff he thinks it will be in the best interest of the City.

Councilman Withrow moved approval of Change Order No. 3, increasing the contract price by \$25,000 for outstanding claims and extending the contract with Charles F. Smith and Son, Inc., by 155 days. The motion was seconded by Councilwoman Locke, and carried unanimously.

June 13, 1977
Minute Book 65 - Page 379

ORDINANCE NO. 563-X TRANSFERRING \$1.0 MILLION TO FUND THE IMPROVEMENTS TO SUGAR CREEK WITHIN FREEDOM PARK; AND AUTHORIZATION FOR THE DEPARTMENT OF PUBLIC WORKS AND THE MANPOWER DEPARTMENT TO PROCEED WITH ADVERTISING AND TAKING OF BIDS FOR THE IMPROVEMENTS.

Councilman Gantt stated his views on the Sugar Creek park situation are fairly well known. He commended the staff for going back and reducing this by \$300,000, stating that it is, however, his feeling that they ought to do something more than the bare bones approach to this thing, which would be simply rip rapping the creek all the way down from East Boulevard to Princeton Avenue. That the intensity of use of Freedom Park justifies more in the way of expenditure, because in effect they are creating a park in a park. That because that park is more of a district size or community wide park, they are justified in doing a little more than simply rip rapping the creek.

In addition to that, he feels very strongly that this is a significant opportunity to use the CETA employees that are proposed for the program. However there has been some concern that we were getting away from this from the last presentation made by Mr. Groves of Metrolina. In his own personal discussion with the Public Works Department, it does appear that some of those estimates seem to be somewhat inflated.

Councilman Gantt stated that while the staff has suggestion a reduction of \$300,000 from what they presented to Council three weeks ago, he would like to offer a motion that Council approve the Sugar Creek park development in the amount of \$1.0 million in addition to the CETA funds set aside, and ask the staff to carry that \$1.0 million as far as it can possibly go. This would allow them to use the remaining funds for other projects in the area of erosion control. The motion was seconded by Councilwoman Locke.

Councilwoman Chafin stated she would like to ask the staff several questions. She stated she does not clearly understand the statement in Alternative No. 1 that it would not be feasible to utilize CETA employees under the rip rapping alternative.

Mr. Robert Hopson, Director of Public Works, replied because of the heaviness of the rocks most of them would have to be moved in by machine. They would also have to do considerable grading out and shaping so it is not manpower usable; just a general contract for equipment is what they would look at. The other process, Alternative No. 2, there would be a considerable amount of smaller rocks, most of them embedded in concrete, so they could use a lot of hand workers on that.

Councilwoman Chafin asked if it is clear that the property where the lagoon is proposed to be located is not museum property? Mr. Hopson replied this is all within Freedom Park. The only possibility would be if they have money enough left to install the bridge on the other side and that would probably be in the park, but everything that they will do will be within the Freedom Park property. Councilwoman Chafin asked if this project has been discussed with the museum? Mr. Hopson replied yes; they are very anxious to have the bridge replaced.

Councilman Davis stated he will vote against this motion as well as either of the staff alternatives because the bulk of the money for this project is coming from money set aside previously for flood control. That this is a rather critical need in the Charlotte area and he is opposed to removing it from that classification and spending it on anything other than flood control.

Councilman Williams stated he is inclined to agree with Councilman Davis. No matter what euphemism you apply to this project - it has been called flood control at one time; erosion control at another time - it has the appearance to his mind of being an off-shoot of the old Projection 70 project. In fact, from what he understands, this proposal would not either prevent the going forward with Projection 70 nor require it, but it is at least neutral and would permit it. He is concerned sometimes that the camel gets his head in the tent and before long he is in the tent and you are outside. He thinks it is a step towards Projection 70 which may be all right, but he just does

June 13, 1977

Minute Book 65 - Page 381

they had an Economic Feasibility Survey - the Hammer Associates - back somewhere in the early 70's and that cost \$30,000. The total they will have paid to Metrolina-Texas up to date is \$495,000. That is about right when you figure the original \$20.0 million they were talking about at one time.

Councilman Williams stated then this is a \$100,000 on top of that. Mr. Hopson stated they need the \$100,000 in there to oversee this construction.

Councilman Gantt stated those were complete engineering plans. Mr. Hopson stated complete and ready to let contract. Councilman Gantt stated the \$100,000 for this particular development would bring the total to Metrolina to \$595,000? Mr. Hopson replied yes, either we pay them or someone else. Councilman Gantt stated \$600,000 will be required for engineering fees to do this project. Mr. Hopson replied no, \$495,000 was for the original plan, now on the shelf. Councilman Gantt stated he understands that; but what he is trying to say is that in terms of total dollars for plans confirmed if Metrolina were to do this, they are talking about almost \$600,000. He stated it ought to be understood clearly that the bulk of that was used for aborted plans that never were built.

Councilman Williams asked if we could do in-house, engineeringwise, Alternative No. 1? Mr. Hopson replied they have looked into that and are in hopes they are able to do some of that, but with all of the Community Development projects now underway - there are \$12.0 million worth of those - and they will be bringing to Council shortly a report on the Public Works bill, the last \$4.0 billion that was appropriated by Congress and signed by the President which also involves some engineering; he does not know whether they can or not. They would much prefer to do it that way.

Mr. Hopson stated the total cost on the Sugar Creek project which Council also asked for last time was \$369,000.

Councilwoman Chafin asked how Mr. Hopson and his staff justify taking the funds out of the flood control project for what they all agree is an erosion control project? Mr. Hopson replied that is a decision Council will have to arrive at from both the previous Monday and today; that is the only source of funds that he knew of that were readily available. They could come out of Revenue Sharing or it could not be done at all.

Councilwoman Chafin asked if Council for any reason disapproves this project, do they have flood control projects that they could recommend to Council now? Mr. Hopson replied he has to go back to the overlapping responsibilities of the County and the City. The County is charged with most of that and he is working with them by using some city employees at the present time. He cannot recommend flood control projects at this time but he is sure he could as time goes on. These are Revenue Sharing funds so they are available for anything that Council so desires.

Mayor pro tem Whittington asked if we know any more about what the Corp of Engineers is going to do south of Princeton Avenue? Mr. Hopson replied from the confluence of Briar Creek and Sugar Creek down next to Park, past the little bridge on the old Tyvola Road, we have just been authorized to go to land acquisition. We have six or seven pieces and parcels of property to purchase there, and one for disposal. They anticipate being under contract on that project by Labor Day.

Councilman Gantt stated he wants to point out one thing - when they put the \$1.2 million of Revenue Sharing Funds into flood control, he suspects they put it there not really fully understanding what was involved in terms of really bringing about a concerted attack on the flood control in this community. The funds were originally allocated for something called "the Sugar Creek Canal." That many of them on Council objected to that project and at the time they took those dollars and allocated them to what they called flood control. All of them are aware of the fact they have had numerous reports since that time - 1975 - on what it would take to attack the problem of flood control in this community. It appears to be a very substantial sum of money. He thinks they would have some difficulty trying to figure out what to do with \$1.0 million in terms of doing anything significant for flood control in this community.

June 13, 1977
Minute Book 65 - Page 382

Councilman Gantt stated another point he would like to make is that unlike Councilman Williams, he has never really objected to the Sugar Creek Projection 70 project on the basis of that being a viable kind of urban concept for this community. What he has always objected to is the timing of the project in relationship to other needs in the community. He still objects to that although he thinks that project might be revived one day and he does not mind saying that to the Council and to the public. That at the proper time that might be a very appropriate project for this community. The issue at hand right now is whether or not we do something at Freedom Park and whether or not the expenditure is worthwhile.

Mr. Burkhalter, City Manager, asked Councilman Gantt if he would specify in his motion which alternative he is proposing so that it will be clear.

Councilman Gantt replied it would be Alternative No. 2 using \$1.0 million to go as far as they can.

Mr. Burkhalter asked that he include that \$200,000 of that reduction come from flood control, the \$1,165,000 so that they do not have to prepare another ordinance.

The vote was taken on the motion and carried by the following vote:

YEAS: Councilmembers Chafin, Locke, Gantt and Withrow.

NAYS: Councilmembers Davis and Williams.

The ordinance is recorded in full in Ordinance Book 24, at Page 225.

Mr. Burkhalter stated these bids will brought back to Council and they will make the decision as to what is to go into the project. That they are making some progress on flood control; they are making some studies, counting houses, looking at those that are available. They may have some program to present to them and they will start "nibbling" on it piece by piece. They have not given up on that.

RESOLUTION CALLING A PUBLIC HEARING ON MONDAY, JULY 11, AT 3:00 O'CLOCK P. M. IN THE COUNCIL CHAMBER TO RECEIVE CITIZEN COMMENTS AND SUGGESTIONS ON THE 1977 CHARLOTTE-MECKLENBURG THOROUGHFARE PLAN.

Motion was made by Councilman Withrow, seconded by Councilwoman Locke, adopted a resolution calling a public hearing on Monday, July 11, at 3:00 o'clock p.m. in the Council Chamber to receive citizen comments and suggestions on the 1977 Charlotte-Mecklenburg Thoroughfare Plan.

Mr. Burkhalter stated if Council has no objections he would like to inform the Highway Commission that they are not prepared to give a new priority of streets until this is finished and they need some information; is there any objections to staying with their past priorities - a continuation of that until Council changes it? He stated the State needs something or we are going to be left out of their program.

Councilwoman Chafin asked if we would be able to change it at a future date? Mr. Burkhalter replied this is something Council has done, everything he is talking about is something they have already done.

It was generally agreed that Mr. Burkhalter should so advise the State Highway Commission.

The vote was taken on the motion to set the date for the public hearing and it carried unanimously.

The resolution is recorded in full in Resolutions Book 12, at Page 418.

June 13, 1977
Minute Book 65 - Page 383

ORDINANCE NO. 564-X, AMENDING ORDINANCE NO. 155-X, THE 1976-77 BUDGET ORDINANCE REVISING REVENUES AND EXPENDITURES FOR THE GENERAL, UTILITIES DEBT SERVICE AND MUNICIPAL DEBT SERVICE FUNDS; AND TRANSFERRING INTEREST EARNINGS, TO ADJUST APPROPRIATIONS WITHIN THE VARIOUS FUNDS TO COVER ALL EXPENDITURES ANTICIPATED BY THE FISCAL YEAR END.

The subject ordinance was adopted on motion of Councilman Gantt, seconded by Councilman Withrow, and unanimously carried.

The ordinance is recorded in full in Ordinance Book 24, beginning at Page 226.

REPORT ON SURVEILLANCE EQUIPMENT PURCHASED BY THE CHARLOTTE POLICE DEPARTMENT.

Mr. Underhill, City Attorney, stated he had given a report to members of Council and he does not have anything further to say that is not contained in the memo except perhaps to summarize that four questions which certain members of Council have indicated they would like to have the Police Department make a presentation on are outlined on Page 2 of his memorandum. That U. S. Attorney Snyder for this district has advised that Council inquiry into those questions will present no particular difficulty to his office or to the Grand Jury investigations presently going on. He stated based on what Mr. Snyder has said in that regard, he indicated in the memo that it appeared to him that it would be appropriate for Council to quiz the department on those particular questions. That Mr. Pat Hunter, Attorney for the Police Department, will talk to Council about that subject in more detail.

Mayor pro tem Whittington stated that in his memo which is included in the Agenda attachments he says it is "virtually impossible for me to intelligently advise the Council on whether a particular matter is an appropriate subject for inquiry since so little is known about the present parameters of the Grand Jury investigation."

Mr. Underhill stated it is extremely difficult for him to advise the Council what may be appropriate or proper for the Council to consider since Grand Jury investigations are conducted, as they all know, in secret and very little is publicly known about the specifics, the subjects and the scope and range of their investigations. There are some things that are known - those that basically come out as a result of various orders by the Court and various motions filed by parties who are involved in the present proceedings; that other than those specific facts there is not very much that is publicly known about the Grand Jury investigation. He, therefore, concluded in the memo that he wrote to Council that he cannot tell them what they can or cannot inquire into because he does not know anymore than perhaps Councilmembers do about where the Grand Jury might stand in this investigation, and what specifics they are inquiring into.

Motion was made by Councilman Gantt, seconded by Councilwoman Chafin, and carried unanimously to hear what Police Attorney Pat Hunter has to say about the surveillance equipment.

Mr. Burkhalter stated he has asked Mr. Hunter to discuss with Council fully and frankly all matters involved in this. If he thinks some question they ask might be contrary to that, he has asked him to tell them so.

Mr. Hunter stated Council has a copy of the U. S. Code before them which lays out the laws of electronic surveillance in the United States. We have a state law of very little significance - it is a \$10 fine for tapping on to a Southern Bell or any phone company line. It is really mostly to keep from tampering with their lines and putting on a phone which you do not pay for. It is not effective. The law we are concerned with is the U. S. Code 18-2511 and 18-2512. 18-2511 says you can have interception with one party consent, which means that anytime one person consents to it then it is all right to use any type of equipment that you have available in a situation where two people are using the phone equipment.

June 13, 1977
Minute Book 65 - Page 384

The other situation concerns a list of people who are not allowed to possess equipment that could be surreptitiously used to intercept conversations. Section 18-2512 allows the Police Department to possess this equipment. It exempts political subdivisions of States; it exempts States; it exempts government agencies. There is no question whatsoever about us possessing any equipment illegally. They can put that to rest; he talked with Attorney Snyder twice last Thursday and told him he was coming before Council today and he wanted to make certain in his own mind that he would not do anything or say anything that would jeopardize the investigation of the Grand Jury, and he also wanted to make certain that anything he said about their equipment would not create a problem. That Mr. Snyder asked him to convey to Council that to his knowledge there is nothing illegal about the equipment that the Police Department possesses. That he, of course, is not aware of all the equipment, but every bit that he is aware of he is certain there is nothing illegal and does not violate any laws.

The U. S. Attorney suggested that under certain circumstances the use of this equipment can be illegal, but not the equipment itself. He suggested that things like a body mike is a good tool for law enforcement to use properly. He suggested that he mention to Council that he, in the supervision of some of the federal agencies that work under him, he certainly recommends that they use electronic equipment such as body mikes to protect their officers and agents when they are dealing with a heroin ring or when they are involved in a situation where he is meeting with an organized crime group, or organized car theft rings. You cannot take a weapon into that situation - generally it would not do any good. The best protection they have is to have officers at a safe distance who are monitoring the individuals' conversations with the suspected criminals and you can tell when an officer starts to get into a difficult situation.

The U. S. Attorney also mentioned that when dealing with electronic equipment, particularly wiretap equipment, it only takes a little bit of money and a little bit of knowledge to purchase any of this equipment that would do the job at any of our electronic stores today. It does not take anything very sophisticated; it just takes some knowledge.

Mr. Hunter stated on September 24, 1968 they received a letter from the North Carolina Governor's Committee on Law and Order; it was directed to all state and local law enforcement officials and referred to the Omnibus Crime Control and Safe Streets Act of 1968. He quoted from one section: "Most of the actual grants can be obtained only after the overall state plan has been filed. An exception has been made however, that permits states to obtain money immediately before a plan has been filed and for the use in the detection, prevention and control of violence. North Carolina has taken advantage of this exception and has received approval of a grant of \$109,185.00 for these purposes. Separate information will be mailed on to local agencies who seek to participate in the use of this money."

He stated on January 10, 1969 a grant was made up and was sent to the Governor's Committee on Law and Order. A copy of this grant was in the material he had given each Councilmember. Referring to Page 5 of the grant he stated this is where you get the reason for the special grant:

"Charlotte has developed into a major urban center and continues to be one of the Southeast's fastest developing areas. Charlotte has also experienced an intensification in its crime rate. In the aftermath of violence following the assassination of Martin Luther King the City of Charlotte sustained an estimated property damage from \$75,000 to \$100,000. Incendiary fires accounted for 29 calls of the total of 52 answered by the Fire Department; during the duration of the disturbance 192 persons were arrested for curfew violations, etc.

"By virtue of its size Charlotte is unique in its desire for special equipment to combat riots and insure protection for its citizens. To deter riots on a big city scale, special types of equipment are needed to combat these acts.

"Before actual riots occur, proper surveillance is required on known agitators. Specialized telephoto equipment and miniature cameras are required for surveillance purposes to photograph meeting places and identify ring leaders.

June 13, 1977.

Minute Book 65 - Page 385

Frequently, such surveillance requires that the police be a considerable distance from the disturbance or at points where concealment of camera equipment would be imperative. A city the size of Charlotte requires at least one special telephoto lens to adequately cover such surveillance. Such telephoto equipment could also be utilized in street battles for identifying snipers and agitators."

Mr. Hunter went on to name some of the equipment listed in the application for grant. The Sony audio video equipment being used at the Training Academy; Teattie Coleman Imperial 90 I. D. camera which is used at the jail to photograph prisoners; telephoto lens; pentax camera; Bell and Howell movie camera; Bazooka or long range directional mike; Intelligence Support System (F-670), the electronic surveillance - battery operated recorder with remote control circuits, Fargo pocket transmitter with built-in microphone; receiver, antenna, instruction and maintenance manual and other accessories; attache case with built-in antenna, concealed microphone and concealed control switch; matching, smaller attache case to carry accessories.

At present, Charlotte has a number of para-military organizations whose activity is under surveillance by the Criminal Investigation Bureau. The gathering of intelligence type information is essential in determining known agitators. This information is collected by undercover agents, and the agents cover must be protected and his safety assured. This equipment is easily concealed on the agent's person or vehicle and his activity could be monitored at all times. This would provide an anti-riot prevention. In a riot situation, this system would protect the plainclothes officer.

The Mark IV Bumper beeper; briefcase tape recorder; intelligence support system and components.

Councilman Gantt asked if this is the type of equipment you can buy at your every day electronic shop? Mr. Hunter replied you can buy the substitute; this is 1969, and you can buy better equipment today.

Mr. Hunter stated Number 11 is the pocket recorders; Number 12 is the radio telephone, and this was never used inside; speech scrambler, and to his knowledge this was never purchased; the disposal plastic handcuffs and walkie talkies were purchased. He stated that is the grant.

Mr. Hunter stated if they will turn through the book, they will see the requisitions with the purchase orders written in for the equipment. These are the requisitions that went from the Police Department to the Purchasing Department.

He stated on March 20, 1969 after the grant was sent in, we received a check made to the City of Charlotte which came from the Governor's Committee on Law and Order. There is a letter on this date from Chief Goodman to the City Manager which reads as follows:

"We have received a check from the Governor's Law Enforcement Committee in the amount of \$15,215 for the purchase of specific items for training purposes and for the prevention and control of civil disorders.

We suggest that the Finance Department of the City handle these funds by setting up a special account and issuing checks for purchases authorized by the Project Director. (Chief of Police)

We are not required, nor desire, to become involved in the City's purchasing process other than seeking advice and assistance that might be helpful.

Our request is based on the desirability of having another department handle these funds which can provide us with a proper audit of expenditures.

I'll be happy to discuss further at your convenience."

Mr. Hunter stated the letter is marked: "approved: Suggest use of usual purchasing services. W.J. Veeder, 3/24/69" He stated there are other notes on the page.

June 13, 1977

Minute Book 65 - Page 386

Councilman Gantt asked if that is the only purchase of electronic equipment? Mr. Hunter replied they can go back beyond that. Councilman Gantt stated but the modern equipment was purchased in 1969. That he understands the reasons for the purchase was they felt it was necessary for riot control, for surveillance of para-military organizations, and things of that nature? That if he understands the US Code correctly, this was the proper use of the equipment? Mr. Hunter replied yes under the US law.

Councilman Gantt asked when there was a change in the law; or if there is now a change in that law? Mr. Hunter replied in 1968; the Omnibus Control Act had many ramifications, and this was one of them. Before, a State could not pass enabling act if it wanted to for wiretapping. That after 1968 or 1969 the Federal Government passed a law saying yes, a State can authorize their local police departments to wiretap with court orders under certain circumstances. A number of States have elected to go this route; North Carolina is not one of them. So this Act did allow, and before you could not under any circumstances get a court order; State agencies could not. Today, we cannot but States like Texas, their local police can go to court and get them. This was somewhere in 1968 or 1969.

Councilwoman Chafin stated in 1970 or 1971, was there an effort on the part of our police department to obtain this enabling legislation? Mr. Hunter replied it came up, and a model was built, which was sent around to all the legislators, and it came to the local Department. That was right after it was made possible. Before, even if a State wanted to, they could not do it. The U.S. Code flatly prohibited it. There was not any way to pass a State law. When they allowed you to do it, they passed a model law around, and it came to Charlotte like it did to every other police department. From what he reads in the paper, Charlotte said "yes, we'd like to have it". That was the limit of our involvement.

Councilwoman Chafin asked if it would have been requested in the legislative package? Mr. Hunter replied he does not know; it could have been; that he just does not have any recollection of it. He does not think the Bill ever got off the ground. When they were recodifying the narcotics act, they had a section added concerning electronic surveillance, and that never got out of committee.

Councilman Gantt stated if in fact the Omnibus Crime Bill required that court orders be obtained before you could actually have any electronic surveillance, and North Carolina did not go along with that by not passing such a bill, and we purchased our equipment in 1969, does that mean any kind of electronic surveillance we did was illegal? Mr. Hunter replied no; they should separate electronic surveillance from wiretapping. We have never been able to, and still today, cannot intercept phone conversations without somebody's permission. Body mikes have been legal; are legal; and have never been affected by this law. The law only spoke to phone interceptions.

The equipment we have, and Council has seen some of the equipment, has a complete inventory with pictures. That Major Killman will be up here in a moment, and will give Council some more details on how they use this equipment; why it is valuable to a law enforcement agency; and what they are doing to prevent abuse of it. Every bit of electronic equipment they have in front of them today, including the recorder for the meeting, can be used as part of an electronic system to tap phones. When someone talks about wiretapping, he has to shake his head. The equipment they have and have had since 1969 is not what you would buy to use in wiretapping. You have to sit out and monitor their equipment - you have to stand out, basically, and listen to it. Their proven need is to have an agent inside a place and another to stand out and see how he is getting along. There is equipment today that is much more sophisticated; you do not need to stand around; you bury it in the ground and it does the job without any humans being there to monitor it. Our Police Department does not have that type of equipment.

Councilwoman Locke asked if it is not easily available? Mr. Hunter stated he cannot answer that because he does not know. His department has not had it to his knowledge; they certainly have not authorized anybody to use any such equipment, either directly or indirectly. He stated there is not anything that is electronic that you cannot use for wiretapping. There is not a person

June 13, 1977
Minute Book 65 - Page 387

in Law Enforcement that would not tell them that now - so there is no big debate over the equipment.

One of the questions Council asked is "Who has been trained to operate our equipment?" Mr. Hunter stated somewhere back in the 70's they sent two officers to a school in California. The equipment they had purchased was very hard to keep operating, every time the department wanted to use it it would not function - the batteries were worn down or for some reason it would not operate. The idea for sending these two officers to California was to get someone in house with the capability of repairing the equipment. The officers were sent to this school - it has been a number of years ago; there was never any special group set up to keep it repaired. That is the extent of the training.

He stated it certainly does not take any training to turn a switch that says "on" anymore than it takes to put a body mike on a person. It is just a very simple thing to operate and does not take any great skills. It takes skills to manufacture it, but it does not take skills to operate anything that they have.

He referred to a letter in the materials Councilmembers received last week from a Mr. Ritch who said the equipment in general is out of date and antiquated which is why it is on display in the museum. He is sorry and apologizes, but that is the best they have. It is ten years old and electronics have changed, but that is their equipment. Mr. Ritch says "the equipment is not illegal and should not necessarily be banned. It is the use of such equipment that the laws can be broken and I am sure the police only know how it was used." Mr. Hunter stated that is correct; certainly it is not the equipment, but it is the misuse of it - no different from the weapons they give their men; they can misuse them and they can misuse electronic equipment.

Major Sam Killman stated he has been asked to come and explain some of their surveillance equipment. The body transmitter is simply strapped to the body of the undercover officer; it has a microphone built in to it with a transmitter in it and it is attached to a 9-volt battery and is concealed on his person, so that any conversation that goes on in his general proximity will be transmitted to the receiver. It is on the FM frequency, so you just turn the "on" switch and tune it into the frequency that it happens to be transmitting on. Then the conversation will be broadcast through the speaker. A recorder can be plugged in to record any conversation that comes out of it; an earphone can be plugged in so that the officer can hear but no one else can hear it. That is what they call the body transmitter and the body receiver. In response to a question from Councilman Gantt he stated he thinks they only have two of these - this is the older one - the new model has been turned over to the Grand Jury. They do have an inventory and if there are more than two it would show on the inventory.

As to the uses they put this equipment to, it is to cover an undercover officer when he goes into a dangerous situation, such as drug buys where he goes in with a lot of money. One case they had was a \$5,000 LSD buy where the officer had to go into a motel room by himself with three other people.

(At this point in the meeting Councilman Gantt was excused for the remainder of the meeting on motion of Councilwoman Locke, seconded by Councilwoman Chafin, and carried unanimously.)

He stated this was simply for the officer's protection. A lot of times, in these situations where you have a lot of money and have to show the money before the deal is made, it results in rip-offs where the officer is actually robbed of the money, they lose their \$5,000 and they do not even make a case. It is to protect the officer from physical danger, to protect their money; and also can be used as evidence in court. Once the officer goes into court he has two or three more officers who have heard the conversation and can testify to that or, in fact, have a recording that can be played in court.

Another example of a case where they used this kind of equipment was the case where the parents were offering their two daughters for prostitution; they sent the undercover officer in to make the contact and had the body mike on

June 13, 1977

Minute Book 65 - Page 388

and the conversation was heard where they told how much each daughter would go for - the whole conversation.

He stated they feel as though this kind of equipment is needed and is beneficial to the Police Department.

Councilwoman Chafin asked how often it is used? Major Killman replied recently it has not been used very often because they have had problems with it operating. They set up on some cases and once they got inside the building they had trouble with the reception. They would like to use it every time an officer goes in to make an undercover buy.

Councilman Williams asked if the equipment also has the capability to eavesdrop on telephone conversations which would be illegal if neither party to the conversation knew that it was being done? Major Killman replied he would assume it had that capability if you had the technology and the know-how. That personally he does not have the know-how. Councilman Williams asked if it would require more equipment than what they have been shown today? Major Killman replied it would require more than that. He stated it could be used illegally by just planting the microphone in a room, if you were trying to do that and it would be illegal. If the officer or another person who was a party to the operation was not in the room or had not given permission to put it in the room, then it would be illegal. This is his understanding.

Mr. Hunter stated on December 23 a letter came from the state Law and Order Administrator listing the items they had approved for funding. Council also had a copy of this list. He called their attention to "Surveillance Kit;" "Radio Beeper Trail Device;" and "Scrambler." They tried to purchase as best they could at the state level, getting the best prices.

He stated a resolution was passed by City Council on May 12, 1969 stating that the City of Charlotte recognizes the value of planning for the improvement of law enforcement and the criminal justice system in North Carolina; that the Omnibus Crime Control and Safe Streets Act of 1968 provides matching funds to permit planning for the future of law enforcement and the criminal justice system; that these funds are available to local government planning units through the Governor's Committee on Law and Order; that the City of Charlotte has agreed to participate in joint law enforcement and criminal justice planning efforts in cooperation with other units of local government in this area. Mecklenburg, Iredell and Cabarrus are the counties that went together. J. C. Goodman, Jr., Chief of Police, was appointed to serve on the law enforcement planning board of Mecklenburg, Iredell, Cabarrus Planning Agency.

He stated that is the extent of the records they were able to reconstruct. That on December 1, 1971 he sent out a Police Attorney's Opinion to all officers which was Judge Susie Sharpe talking about the use of tape recorders and confessions. A tape recording of an accused's statement is only one method of perpetrating and properly authenticating a recorded confession, voluntary and otherwise lawful, is admissible the same as if it had been in the defendant's own handwriting, transcribed by a reporter who had taken notes, or testimony of one who read a statement. In other words, a recorded confession, like any other form of confession, is standard evidence. Indeed, it has been said that a sound recording of a confession is of more value to the court than one in writing, especially where an issue has been raised as to whether it is voluntary. Judge Sharpe laid out just what they should do to introduce this type of evidence into court. That the Supreme Court has heard many cases on electronic recordings; the courts invariably allow Law Enforcement to record anything that is lawfully heard by Law Enforcement officers. In North Carolina they are prohibited by state statute from wiretapping; this does not prohibit them from using recordings in other situations which include the following: (1) Tape recorders concealed on a police officer; (2) Telephone conversations recorded with one of the parties' consent; (3) Recordings taken from a public place that involved no unlawful intrusion into an individual's rights to his privacy. The courts are making every effort to encourage the use of recorded confessions, admissions and statements. This should not take the place of written and signed statements, but the recordings are used to supplement the written document when necessary.

Mayor pro tem Whittington thanked Mr. Hunter for his presentation, stating it has been very helpful.

June 13, 1977
Minute Book 65 - Page 389

Councilwoman Chafin asked if it is correct that according to the articles in the newspapers that the City Council never approved this grant?

Mr. Burkhalter replied he does not know. Councilwoman Locke stated we do not have a record of it.

APPOINTMENTS TO THE CIVIL SERVICE BOARD.

Council was advised there were two appointments to be made to the Civil Service Board - one for a term of three years and one for a term of two years. That Councilman Williams had nominated Mr. A. James Thornhill, Jr. to succeed Mr. C. D. Thomas and Councilwoman Chafin had nominated Mrs. Mary Rogers to succeed herself for a three year term.

Councilman Williams stated he and Councilman Whittington had some discussions about his nomination last week. He stated up until that point he was convinced to leave it in limbo but at the same time Councilwoman Chafin nominated Mrs. Rogers for re-appointment. Then he saw the number of vacancies diminishing and he asked the City Clerk to put his nomination back on the Agenda.

He stated he is perfectly willing to hold up on his nomination if Councilman Whittington has someone he wants to nominate. Councilman Whittington replied Council is going to have to decide what they are going to do about Mr. Thomas. That all the members of the Civil Service Board feel Mr. Thomas should be retained on the Board and Council agreed to that last year but he does not know how long this is supposed to go on.

Councilwoman Locke stated Mr. Thomas's term has already been extended for about a year.

Councilman Whittington stated he does not have anyone for nomination in Mr. Thomas's place because when he discussed this with Council, he told them he felt Council ought to leave Mr. Thomas there at the request of the Board. That at one time he had in mind nominating someone from the Greek Community but he does not have anyone in mind because he had not had an opportunity to talk with anyone.

Councilman Williams moved the appointment of Mr. A. James Thornhill, Jr. to the Civil Service Board. The motion was seconded by Councilman Davis.

Councilman Williams stated Mr. Thornhill is the Personnel Director, or Manager, for Allison-Erwin Company and is skilled in dealing with personnel problems, which, according to the Civil Service Board, they are concerned with. And, in view of all the recent discussion about geographical balance on Boards and Commissions, he would point out that Mr. Thornhill lives in Westchester, on the west side of the city.

Councilman Davis asked how many years Mr. Thomas served on the Board all together and Councilman Whittington replied he did not know exactly.

Mr. Burkhalter stated if Mr. Thomas had left the Board when his term expired in May of 1976, he would have been eligible to go back on the Board at this time.

A vote was taken on the motion to appoint Mr. A. James Thornhill, Jr. to the Civil Service Board, and unanimously carried.

Councilwoman Chafin moved the re-appointment of Mrs. Mary Rogers to the Civil Service Board. The motion was seconded by Councilwoman Locke.

Councilman Whittington asked if this appointment was for a three year term and Councilwoman Chafin replied yes; that Mrs. Rogers had served one full term, then went off the Board and has come back and served a partial term. Councilman Whittington stated it seems the terms listed on the agenda are backwards - it should be just the opposite.

Councilman Williams asked what the length of a regular term is on the Board and the City Clerk replied a regular term is for three years but because Mr. Thomas served an extra year, it threw the terms off balance.

Councilman Williams asked if Mr. Whittington is suggesting that Mrs. Rogers fill the unexpired term of Mr. Thomas so the terms would come out even and Councilwoman Locke replied that would be a good idea.

Councilman Williams amended his motion that Mr. A. James Thornhill, Jr. be appointed to the Civil Service Board for a three year term. The motion was seconded by Councilman Davis, and carried unanimously.

Councilwoman Chafin amended her motion for the re-appointment of Mrs. Rogers for a term of two years on the Civil Service Board, which motion was seconded by Councilwoman Locke, and unanimously carried.

CONTRACT AWARDED TO CROWDER CONSTRUCTION COMPANY FOR SHARON VIEW ROAD CULVERT AT SWAN RUN.

Councilman Davis moved award of contract to the low bidder, Crowder Construction Company, including the alternate bid of maintaining traffic, in the amount of \$176,740.01, on a unit price basis, for Sharon View Road culvert. The motion was seconded by Councilwoman Locke, and carried unanimously.

The following bids were received:

Crowder Construction Company	\$176,740.01
Sanders Brothers, Inc.	181,622.25
Blythe Industries, Inc.	184,693.45
Hickory Construction Company	193,485.76

CONTRACT AWARDED TO BURGESS FIRE EQUIPMENT, INC. FOR FIRE HOSE.

Motion was made by Councilwoman Locke, seconded by Councilman Davis, and unanimously carried awarding a contract to the low bidder, Burgess Fire Equipment, Inc., in the amount of \$42,581, on a unit price basis for fire hose.

The following bids were received:

Burgess Fire Equipment, Inc.	\$ 42,581.00
Dillon Supply Company	45,418.10
American LaFrance	45,455.00
Southern Rubber Company	46,245.00
Uniroyal, Inc.	46,481.40
Goodall Rubber Company	47,715.00
Southern Pump & Tank Company	47,782.35
Action Fire & Safety, Inc.	48,020.00

CONTRACT AWARDED ACTION FIRE & SAFETY, INC. FOR FIRE HOSE.

On motion by Councilwoman Chafin, seconded by Councilman Withrow, and unanimously carried, contract was awarded to the low bidder, Action Fire & Safety, Inc., in the amount of \$8,580, on a unit price basis for fire hose.

The following bids were received:

Action Fire & Safety, Inc.	\$ 8,580.00
Southern Pump & Tank Company	10,246.50
Zimmerman-Evans, Inc.	11,550.00
Burgess Fire Equipment, Inc.	12,077.91
Goodall Rubber Company	13,350.00

RESOLUTION AUTHORIZING CONDEMNATION PROCEEDINGS FOR THE ACQUISITION OF PROPERTY AT 305 SKYLAND AVENUE, AND AT 603 BILLINGSLEY ROAD, FOR THE GRIER HEIGHTS COMMUNITY DEVELOPMENT TARGET AREA.

Councilwoman Locke moved adoption of a resolution authorizing condemnation proceedings for the acquisition of property at 305 Skyland Avenue, from the heirs of Minnie Moore Bell; and property at 603 Billingsley Road, from Lula M. Crawford, for the Grier Heights Community Development Target Area. The motion was seconded by Councilman Davis, and carried unanimously.

The resolution is recorded in full in Resolutions Book 12, at Page 419.

Mayor pro tem Whittington asked if this is the dilapidated house, and the Director of Community Development. replied the one on Skyland Avenue is dilapidated. He would like to point out the difference between these and those he discussed during the public hearing on the amendment to the Plan. At the time the original plan was approved, these houses were earmarked, and they were pointed out by the citizens of the area during the public hearing they were so badly blighted they probably could not be fixed up. These were planned to be purchased from the beginning. Even though they were identified early, they gave the property owner the option of fixing them up, and he elected to sell them

CONSENT AGENDA, APPROVED.

Motion was made by Councilwoman Locke, seconded by Councilman Withrow, and unanimously carried, approving the following Consent Agenda items:

1. Loan Agreement with Margaret L. Robbins and Odell Robbins, in the amount of \$5,300 for the rehabilitation of the house located at 908 Westbrook Drive in the Third Ward Target Area.
2. Contract with Coopers & Lybrand in the amount of \$650, to audit eligible program costs which were partially funded by three Federal Comprehensive Planning and Assistance Grants received by the City of Charlotte during the fiscal years 1973, 1974 and 1975.
3. Resolution authorizing the refund of certain taxes in the total amount of \$879.22 which were collected through clerical error and illegal levy against 12 tax accounts.

The resolution is recorded in full in Resolutions Book 12, at Page 420.

4. Ordinances ordering the removal of weeds and grass; trash and junk:
 - (a) Ordinance No. 565-X ordering the removal of trash and junk at 2634 Jefferson Davis Street.
 - (b) Ordinance No. 566-X ordering the removal of weeds and grass from vacant lot adjacent to 3920 Selwyn Avenue.
 - (c) Ordinance No. 567-X ordering the removal of weeds and grass from vacant lot adjacent to 126 Martin Street.
 - (d) Ordinance No. 568-X ordering the removal of weeds and grass from vacant lot adjacent to 1817 Patton Avenue.
 - (e) Ordinance No. 569-X ordering the removal of weeds and grass from vacant lot adjacent to 1916 Welch Place.
 - (f) Ordinance No. 570-X ordering the removal of weeds and grass from vacant lot adjacent to 1936 St. Mark Street.
 - (g) Ordinance No. 571-X ordering the removal of weeds and grass from 4737 Kenmont Drive.
 - (h) Ordinance No. 572-X ordering the removal of weeds and grass from vacant lot adjacent to 5509 Racine Avenue.
 - (i) Ordinance No. 573-X ordering the removal of weeds and grass from vacant lots 400 to 416 East Park Avenue.
 - (j) Ordinance No. 574-X ordering the removal of weeds and grass from vacant lots 423 and 413 East Boulevard.
 - (k) Ordinance No. 575-X ordering the removal of weeds and grass from vacant lot at 419 East Boulevard.

The ordinances are recorded in full in Ordinance Book 24, beginning at Page 230.

5. Contracts for the installation of water mains and sanitary sewer lines:
 - (a) With Brown & Glenn Company for the extension of 570 feet of two inch water mains to serve property on Carmel Estates Road west of Rea Road, outside the city, at an estimated cost of \$3,200.

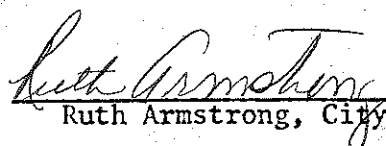
- (b) With Arlen Realty, Inc., for the construction of 2,050 feet of 8-inch and 6-inch water mains and two fire hydrants to serve North Park Mall, inside the city, at an estimated cost of \$19,100.
 - (c) With Dr. J. Roderick Smith and wife, for the construction of 60 lineal feet of 8-inch sanitary sewer line to serve 6615 North Tryon Street, outside the city, at an estimated cost of \$1,250.
 - (d) With Ralph Squires Construction Company for the construction of 1,162 linear feet of 8-inch sanitary sewer line to serve Timber Creek, Phase 2-C, outside the city at an estimated cost of \$17,430.
6. Encroachment Agreements with the North Carolina Department of Transportation, for:
- (a) A proposed sanitary sewer to serve 5800 Albemarle Road.
 - (b) A sanitary sewer to serve 6600 Providence Road.
 - (c) A proposed sanitary sewer to serve Holly Hill Subdivision.
7. Property transactions:
- (a) Acquisition of 15' x 374.99' of easement, at 1801 Cottonwood Street, from Eugene F. Lombardi and wife, Buvena B., at \$375 for sanitary sewer to serve Hartley Street and Joe Street areas.
 - (b) Acquisition of 15' x 115.10' of easement at 4528 Sharon Road, from Thomas W. Samonds, Jr. and wife, Anne S., at \$215, for sanitary sewer to serve Sharon Road at Coltsgate Road.
 - (c) Acquisition of 15' x 210.96' of easement at 4538 Sharon Road, from Thomas W. Samonds, Jr. and wife, Anne S., at \$335, for sanitary sewer to serve Sharon Road at Coltsgate Road.
 - (d) Acquisition of three parcels of land for the Grier Heights Community Development Target Area:
 - (1) 424 Sq. ft., at 3710 Ellington Street, from Mayo Kilgo and Whitelaw Kilgo, at \$1,800.
 - (2) 374 sq. ft., at 3714 Ellington Street, from Mr. and Mrs. Charlie Davis, at \$300.
 - (3) 1,104 sq. ft., at 3710 and 3714 Ellington Street, from Jade Construction Company, at \$450.

NOMINATION OF CARRIE GRAVES TO SUCCEED REVEREND MACON ON CHARLOTTE AREA FUND, BOARD OF DIRECTORS.

Councilwoman Chafin stated before Councilman Gantt left the meeting, he asked that she place in nomination the name of Ms. Carrie Graves to fill the vacancy on the Charlotte Area Fund, Board of Directors created by the expiration of Reverend Macon's term on October 16, 1976.

ADJOURNMENT.

Upon motion Councilwoman Locke, seconded by Councilman Withrow, and carried unanimously, the meeting adjourned.


Ruth Armstrong, City Clerk