

March 21, 1977
Minute Book 65 - Page 73

The City Council of the City of Charlotte, North Carolina, met in regular session on Monday, March 21, 1977, at 2:30 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 and Joe D. Withrow present.

ABSENT: Councilmembers James B. Whittington and Neil C. Williams (at the beginning of the meeting).

The Charlotte-Mecklenburg Planning Commission sat with the City Council, and as a separate body, held its public hearings on the zoning petitions. Present were Chairman Tate and Commissioners Broughton, Campbell, Kirk, Marrash, Johnson, Jolly, Ross and Royal.

ABSENT: Commissioner Ervin.

* * * * *

INVOCATION.

The invocation was given by Dr. G. Carswell Hughs, Minister of First Presbyterian Church.

APPROVAL OF MINUTES.

Motion was made by Councilwoman Locke, seconded by Councilwoman Chafin, and unanimously carried, approving the minutes of the last Council Meeting, on Monday, March 14, 1977, as submitted.

RESOLUTION EXPRESSING SYMPATHY UPON THE OCCASION OF THE DEATH OF HAROLD MILTON SHORT, SR.

Councilman Withrow read the following resolution:

WHEREAS, it was with profound sorrow that the City Council learned of the death of Harold Milton Short, Sr., father of former City Councilman Milton Short, Jr., on March 9, 1977; and

WHEREAS, Mr. Short was a well-known business man, the founder and President of Mecklenburg Furniture Shops, who served in many capacities and received numerous awards during his career; and

WHEREAS, as one of the city's respected civic leaders working for the betterment of the Mecklenburg area, Mr. Short was associated with various groups and organizations including that as the first President of the Piedmont Better Business Bureau and as one of the organizers of the Charlotte Consumer Credit Counseling Service.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlotte, in regular session assembled this 21st day of March, 1977, that the Mayor and City Council, do by this resolution and public record, extend their deepest sympathy to the family of Harold Milton Short, Sr.

BE IT FURTHER RESOLVED, that this resolution be spread upon the minutes of this meeting and a copy thereof be presented to his family.

CHARLOTTE CITY COUNCIL

March 21, 1977
Minute Book 65 - Page 74

RESOLUTION COMMENDING THE UNCC-49'ERS.

Councilwoman Chafin read the following Resolution:

A RESOLUTION COMMENDING THE UNCC-49'ERS

WHEREAS, those magnificent miners, the 49'ers have distinguished themselves as Champions of the Mideast Regionals; and

WHEREAS, the team was a rash upstart in national basketball; and

WHEREAS, the 49'ers are no longer called "little" Charlotte as a result of their resounding defeat of the former No. 1 ranked team, University of Michigan; and

WHEREAS, the 49'ers' feats have been lauded, applauded, and rewarded with a place among the final four; and

WHEREAS, the team has won the hearts and respect of fans throughout this land, and brought fame to our fair City;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Charlotte, in regular session duly assembled, that they hereby express on behalf of the City, its utmost gratitude and appreciation to the University of North Carolina at Charlotte 49'ers for its unique gift to the City; and

BE IT FURTHER RESOLVED that a copy of this resolution be spread upon the minutes of this meeting and a copy thereof be presented to the team members, and to Coach Lee Rose.

Unanimously adopted this 21st day of March, 1977. On to The Omni!

CHARLOTTE CITY COUNCIL

HEARING ON PETITION NO. 77-7 BY COMMUNITY DEVELOPMENT DEPARTMENT TO CHANGE THE ZONING FROM R-6MF to B-1 OF PROPERTY LOCATED AT THE NORTHWEST CORNER OF THE PROPOSED INTERSECTION OF ALPHA STREET AND GOLDWYN AVENUE IN THE GRIER HEIGHTS TARGET AREA.

The public hearing was held on the subject petition as scheduled.

Mr. Fred Bryant, Assistant Planning Director, stated this request for a change in zoning by the Community Development Department is part of the process leading to the carrying out of a plan which has already been considered and approved for the revitalization of the Grier Heights Community Area.

He pointed out the property on the map as being on the northeast side of what is now Goldwyn Street and showed its location in relation to the Billingsley Elementary School on Skyland Avenue. The property is vacant at the present time and has already been acquired by the Community Development Department as has some additional property around it. There are single family residential houses across Goldwyn Street from the subject property although they face on side streets rather than Goldwyn. There are also a scattering of single family houses on Alpha Street. Predominately vacant land is to the east. He pointed out the location of the former apartment area known as The Rock, stated that land has already been acquired and the buildings demolished by the CD Department.

He stated the nearest non-residential use in a small area of miscellaneous business which is located at the intersection of Jewell and Alpha. It is in the process of being acquired by the Community Development Department and

March 21, 1977
Minute Book 65 - Page 75

another business site will eventually take its place as far as neighborhood service facilities are concerned. The property in question does have vacant land on the two sides east and north of it and single family housing across Goldwyn in front of it.

The zoning pattern at the present time is predominately R-6MF throughout much of the area associated with the property in question. There is an area of I-2 zoning which extends back down from the Seaboard Railroad at the present time but the plan of renewal for the area calls for the elimination of some of that industrial potentiality. Those are the only two zoning patterns in the vicinity at the present time. Basically, this is part of the plan that has been proposed for the redevelopment of the Griers Height area and would provide for small, limited neighborhood commercial services for the needs of the residents.

Mr. Joe Michie of the Community Development Department stated there has been neighborhood participation in the general plan and zoning for the area. This particular location for the commercial center is part of the economic development plan. They are working with a group of individuals now in putting together a small shopping center as a kind of commercial activity. It will be a new location on Alpha Street, at a corner created by the realignment of that street.

Commissioner Kimm Jolly asked if there will be screening along Goldwyn Street and Mr. Michie replied yes, he believed so. He has not personally seen the design for the streets but it has been completed for Goldwyn and Alpha Streets. Construction is scheduled tentatively to start about February of next year. That he has not seen the screening and the particular design. Ms. Jolly stated the houses along there are quite nice. Mr. Michie agreed and stated it is designed to meet and exceed the requirements for a shopping area in a residential zone. It is something they are particularly sensitive to when the City is encouraging this kind of thing. They would have the proper parking and screening, etc. from the residential area.

No opposition was expressed to the petition.

Decision was deferred pending a recommendation from the Planning Commission.

HEARING ON PETITION NO. 77-8 BY F. T. WILLIAMS COMPANY, INC. TO CHANGE THE ZONING FROM R-6MF TO I-2 OF PROPERTY FRONTING 325 FEET ON THE NORTHEAST SIDE OF CLYDE DRIVE, ABOUT 55 FEET SOUTHEAST FROM THE INTERSECTION OF CLYDE DRIVE AND CORONET WAY.

The scheduled public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, stated this property is already being utilized for an industrial type use - sand and gravel storage purposes. It fronts on Clyde Drive, a street that runs parallel to Rozzelle's Ferry Road. He pointed out the area on the map as it relates to the Belvedere Homes Area, the Kiser Garage and the old Highway N. C. 16, before it was relocated onto the expressway. The property is predominately related to residential housing. There is a house on the corner of Coronet Way which had to be shown residential although it is boarded up, not occupied at the present time; the same thing is true of some of the other houses in the immediate area - one that would be labeled dilapidated and another one on Clyde Drive in very bad shape. Others on Clyde Drive are in somewhat better condition and are occupied as single family homes at the present time. Farther down on Clyde there is an operation which extends all the way from Rozzelle's Ferry Road, utilizing a portion of this property for the storage of old automobile tires. It is a form of usage that has been there for a number of years. There is a small church on Clyde.

March 21, 1977
Minute Book 65 - Page 76

To the rear of the property fronting on Rozzelle's Ferry Road, there is a combination of heavy commercial activities including a junk yard, the Williams Sand & Gravel Company. There are several body shops, an auto upholstery shop - a miscellaneous arrangement of heavy commercial and industrial type uses.

He stated the zoning pattern at the present time - the subject property is zoned R-6MF as is all the property on Clyde Drive in this vicinity. I-2 zoning faces on Rozzelle's Ferry Road and I-1, light industrial, on the opposite side of Rozzelle's Ferry and a considerable amount of B-2 zoning along an area of Rozzelle's Ferry. The immediate relationship of the subject property to existing zoning is multi-family on three sides and industrial on one side.

Councilman Gantt asked Mr. Bryant to comment on what appears to be a residential area. Mr. Bryant again described the condition of some of the houses, stating that a portion of them are habitable; that it certainly is not an extremely good residential area but the houses are providing a form of housing for the people who are there. They are mostly frame-type structures.

Councilman Gantt asked if the use is a non-conforming use and Mr. Bryant replied it is, it has been there for a number of years. He stated the reason they have a couple of non-conforming industrial uses, prior to 1952, the whole area was zoned industrial under the old ordinance that was in effect at that time and it was actually the result of a cut-back on the industrial that occurred in 1962 that created some of the non-conforming uses.

Mr. Jerry Williams, 3009 Rozzelle's Ferry Road, the petitioner, stated his company is growing; that they do have some I-2 zoning fronting Rozzelle's Ferry Road and they currently have an office building and a garage. They feel the additional zoning is necessary because they need to expand their garage facilities and their storage area. They currently employ about a hundred people, mostly from the Charlotte area - about 40 percent are black who are employed as drivers and mechanics and various other jobs which are needed to maintain a fleet of trucks. They are in a position where if they cannot get the zoning and are not allowed to grow, they will be forced out of the city. They feel like it is a bad situation; they are providing jobs that are necessary and if they do have to leave the area and go farther out into the County or to another town, taxes derived from the equipment will be lost and many of the people they employ now would not be able to follow them. They would like to stay where they are and hope that the Council will consider this request.

Councilman Gantt asked Mr. Williams if he owned the property at the corner of Clyde Avenue, adjacent to his property, and Mr. Williams replied no. Councilman Gantt asked if he could tell them specifically what he plans to put on his property and Mr. Williams replied their plans are to build a garage there - they need to expand their facilities. Councilman Gantt asked how they would get to the garage and Mr. Williams replied from Rozzelle's Ferry Road, there would be no entrance from Clyde Drive, that no trucks now use Clyde Drive.

Councilman Gantt stated one of the difficulties he has is if they rezone that, it seems to him they are increasing the problem of spot zoning. They will end up with a little triangle - there would be R-6MF against I-2 against B-2. He wonders whether or not that whole area might not call for some reevaluation. That the Planning Commission might want to look at that possibility when they consider this petition.

In response to a question from the audience, Mr. Bryant stated that normally you would not need I-2 for a garage, but this is a garage for a sand and gravel company so it becomes an actual part of the sand and gravel operation.

No opposition was expressed to the petition.

Decision was deferred pending a recommendation from the Planning Commission.

COUNCILMAN GANTT EXCUSED FROM PARTICIPATION IN NEXT AGENDA ITEM.

Upon motion of Councilwoman Locke, seconded by Councilman Davis, and unanimously carried, Councilman Gantt was excused from participation on Agenda Item No. 5 due to a conflict.

RESOLUTION APPROVING THE SALE OF LAND IN THE FIRST WARD URBAN RENEWAL AREA TO THE TRUSTEES OF UNION MISSIONARY BAPTIST CHURCH TO BE DEVELOPED AS A CHURCH FACILITY.

The scheduled hearing was held on the proposal to sell to the Trustees of Union Missionary Baptist Church 41,752 square feet of land in Block No. E, Parcel 1, First Ward Urban Renewal Area, Project No. N. C. R-79, to be developed as a church facility, in accordance with the Redevelopment Plan for the Project.

Mr. Joe Michie, Community Development Department, stated this land is located at the corner of 11th and Davidson Streets. The price has been set as \$8,350.40 through the appraisal process. He stated the Community Development Department has no problems with the transaction and recommend it for this sale.

Mr. Scott Gorman, representing the architectural firm of Gantt, Huberman presented drawings which they propose to develop, and explained the plan of the building. He stated the sanctuary would be adjacent to the street and would seat approximately 200 people. In addition, there would be an assembly room and offices. The construction will be of concrete block in a beige brown color. They feel it will be an attractive building.

No opposition was expressed to the petition.

Mr. Underhill, City Attorney, stated he has requested the Court to exclude this property from the injunction in the Cannon lawsuit and the Court has signed a Consent Order, which the plaintiffs have joined in, allowing the structures that are on this site to be excluded from the injunction. He stated Council is free to take action on this petition.

Councilwoman Locke moved adoption of a Resolution approving this proposal, seconded by Councilman Withrow, and carried unanimously.

The resolution is recorded in full in Resolutions Book 12, beginning on Page 321.

ORDINANCE NO. 458-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE BY AMENDING THE ZONING MAP TO CHANGE ZONING OF PROPERTY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF EASTWAY DRIVE AND MICHIGAN AVENUE.

Councilwoman Locke moved adoption of the subject ordinance changing the zoning from 0-6 to B-2 of property located at the southeast corner of the intersection of Eastway Drive and Michigan Avenue, as recommended by the Planning Commission. The motion was seconded by Councilwoman Chafin, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 24, at Page 43.

ORDINANCE NO. 459-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE BY AMENDING THE ZONING MAP TO CHANGE ZONING OF PROPERTY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF EAST BOULEVARD AND CHARLOTTE DRIVE.

Upon motion of Councilwoman Locke, seconded by Councilman Withrow, and unanimously carried, the subject ordinance changing the zoning from 0-6 to B-1(CD) of property located at the southwest corner of the intersection of East Boulevard and Charlotte Drive, was adopted.

The ordinance is recorded in full in Ordinance Book 24, at Page 44.

March 21, 1977
Minute Book 65 - Page 78

COUNCILMAN GANTT RETURNS TO MEETING.

Councilman Gantt returned to the meeting at this time and remained for the remainder of the session.

RESOLUTION AUTHORIZING A CONTRACT WITH THE STATE BOARD OF TRANSPORTATION FOR A GRANT FOR CHARLOTTE'S TRANSIT SYSTEM.

Motion was made by Councilwoman Chafin, seconded by Councilman Withrow, and unanimously carried, adopting a resolution authorizing a contract with the State Board of Transportation for a Grant of ten percent (\$7,100) of the cost of (1) The update of Charlotte's Transit Development Program; (2) Transit Data Collection; and (3) Transit/Parking Coordination Study.

The resolution is recorded in full in Resolutions Book 12, at Page 322.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHARLOTTE REQUESTING THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION TO CLOSE FAIRFAX DRIVE AT ITS POINT OF INTERSECTION WITH THE BELT ROAD.

Councilman Gantt asked if this was originally intended to be closed and this is simply the procedure for doing that and Mr. Burkhalter replied no, it was originally to be open and some of the residents asked for the closing and he asked them to submit a petition and Council would hear it.

Councilman Gantt stated this is certainly a good way to avoid a Sherwood Drive situation.

Mr. Bernie Corbett, Traffic Engineer, confirmed Mr. Burkhalter's statement, adding that all but one of the residents signed the petition and this resident's property is up for sale and was out of town.

Councilman Davis asked if this would in any way interfere with the flow of traffic in the arteries and Mr. Corbett replied at the present time Fairfax Drive comes off of Selwyn and forms a simple loop and comes back into Selwyn again beyond Barclay Downs. There is no intersection at all where the intersection is proposed. The proposed belt road would create the intersection. The citizens have asked that Fairfax be deadended short of the belt road and all of their access would be from Barclay Downs and it would cause no problems as far as traffic is concerned and it would serve the people who live along the street.

Councilman Davis stated this is apparently an obvious case, but particularly when the Sherwood Avenue comes up - that by that time, he hopes Mr. Corbett will have developed some criteria to guide the Council so they can say what the characteristics they look for in a street that will be a logical one for closing. Mr. Corbett replied they are hoping that Council will set some policy that will guide the Traffic Engineers in future matters of this kind.

Councilman Davis asked if he would have some recommendations along those lines and Mr. Corbett replied they would have some definite recommendations. Councilman Davis stated after they have closed a half dozen of these, he can see Council "eating some famous last words." Mr. Corbett stated this is quite a different situation. Presently, much of the traffic which crosses Selwyn Avenue on Woodlawn Road uses this section of Fairfax which the residents have asked to be closed. Their concern is that they might continue once the belt road is constructed. He stated he sees no reason it would continue because the belt road would be a much more direct route and there would be no reason for any through traffic to cut through Fairfax. As far as he can determine it would not be detrimental to the operation of the belt road or any other street in the neighborhood.

March 21, 1977
Minute Book 65 - Page 79

Motion was made by Councilman Gantt, seconded by Councilman Withrow, and unanimously carried, to adopt the subject resolution requesting the North Carolina Department of Transportation to close Fairfax Drive at its point of intersection with the Belt Road.

The resolution is recorded in full in Resolutions Book 12, at Page 323.

ORDINANCE NO. 460 AMENDING CHAPTER 4, SECTION 14(d) OF THE CITY CODE INCREASING LANDING FEES FOR AIR TAXIS FROM \$0.15 TO \$0.25 PER 1,000 POUNDS, AND RESCINDING THE \$30 PER MONTH TERMINAL USE FEE FOR THIRD LEVEL CARGO FLIGHTS.

Mr. R. C. Birmingham, Airport Manager, stated in reply to a question from Councilman Gantt, that a third level cargo flight would be someone who comes in in a small airplane, less than 12,500 pounds, and carries cargo from point to point, and does not use the terminal. That is the reason they ask that these be exempted from the \$30 terminal fee. They are asking that they pay the new landing rate fee. That back when the commercial airline rates were established they talked to Council briefly about a later date trying to adjust to the others to bring them more in line. They try to get everyone to pay their share and the only way they have been able to identify a way to do that is on a cost-per-passenger landing. Right now a 12,500 pound airplane is paying about 11.4¢ per passenger, per landing. The new rate would carry it into about 18¢; for the commercial carriers, it would be about 22¢ per seat, per landing. He stated it does not mean a lot of revenue per year; that right now, they are collecting about \$12,000 a year and they estimate they will collect another \$7,000.

Upon motion of Councilman Gantt, seconded by Councilwoman Locke, and unanimously carried, the subject ordinance amending Chapter 4, Section 14(d) of the City Code to increase landing fees for air taxis from \$0.15 to \$0.25 per 1,000 pounds, and rescinding the \$30 per month terminal use fee for third level cargo flights, was adopted.

The ordinance is recorded in full in Ordinance Book 24, at Page 45.

COUNCILMAN WHITTINGTON CAME INTO THE MEETING.

Councilman Whittington came into the meeting at this time and was present for the remainder of the session.

DEVELOPMENT OF A STREET INDEX SYSTEM AND THE UPDATING OF THE COMPUTERIZED STREET NETWORK FILE, AUTHORIZED.

Motion was made by Councilman Gantt and seconded by Councilman Whittington authorizing the development of a Street Index System and the updating of the computerized street network file, as follows:

- 1.) Receipt of \$21,875 from the Bureau of the Census.
- 2.) Ordinance No. 416-X, amending Ordinance No. 155-X, the 1976-77 Budget Ordinance, amending the general revenues and expenditures to establish an appropriation for unified work program projects funded under Section 112 and the Census Bureau.
- 3.) Contract with F. M. Weaver Associates, in the amount of \$63,875, for updating the computerized street network file and implementing a Street Index System.

Councilman Gantt asked, for the purpose of information, what a GBF/DIME Program, referred to in the agreement, is and Mr. Joe Motto, MIS Director, replied DIME stands for Dual Independent Map Encoding and comes from the way in which the intersections are identified, first by node numbers which are sequential numbers and by coordinates which should arrive from the State Coordinating System. It is a file put together by the Bureau of Census.

March 21, 1977
Minute Book 65 - Page 80

Councilman Gantt asked how we arrive at the amount of funds we are requesting? Is this after we have negotiated with the firm that is going to do most of the work? Do we have an open-ended amount that we can request under the Section 112 Program and Mr. Motto replied he is not sure about the Section 112, but the Joint Statistical Agreement that the Bureau of Census offers is 75 percent-25 percent funding and the 75 percent of the estimate they got for the updating is the \$21,875.

Councilman Gantt asked what this allows us to do that we cannot do now and Mr. Motto replied we are using the DIME files against which is stored geographic based information for streets, addresses and intersections. That the DIME file they are using now is very inadequate. It is based on a series of maps which support the 1970 census and there are major portions of the city that are not adequately covered.

Councilman Gantt stated he is sure that enough information was prepared for Council in the agenda attachment and that if he knew enough about computers, he could understand it. That what he is really wanting to be told is the practical use of this thing - how it is applied? Mr. Motto replied it is an index into information stored by a number of different departments of the City. A lot of information is stored by geographic location - by street segment and intersections.

Councilman Gantt asked if that is information about publically owned things or quality of housing, or something like that and Mr. Motto replied traffic signals, the number of No Parking signs on a street segment, the fact that a particular intersection has a certain kind of traffic signal, pavement markings, whether or not there is curbing, whether or not there is a sidewalk, the type of covering material used, width of the street - that sort of information that is identifiable by geographical location.

Councilman Gantt asked if it is the kind of information that has to be updated periodically; do we go back next year and update that again and Mr. Motto replied that the process they are installing would preclude the need for the annual survey that is taken in many cases. We are trying to set up a process where people can keep their data up-to-date as changes are made as opposed to having to go out every summer and re-count traffic signs or re-measure streets, etc. It is not something that is going to have to be redone every year.

The vote was taken on the motion and carried unanimously.

The ordinance is recorded in full in Ordinance Book 24, at Page 46.

RESOLUTION AUTHORIZING THE CITY MANAGER TO FILE APPLICATION REQUESTING STATE GRANT ASSISTANCE FOR WATER WORKS IMPROVEMENTS.

Upon motion of Councilman Whittington, seconded by Councilman Withrow, and unanimously carried, the subject resolution authorizing the City Manager to file application requesting 25 percent funding in the State Grant Assistance for wastewater collection projects in the proposed annexation areas.

The resolution is recorded in full in Resolutions Book 12, at Page 326.

ACCEPTANCE OF GRANT OF \$664,317 FROM ECONOMIC DEVELOPMENT ADMINISTRATION FOR FINANCIAL ASSISTANCE AUTHORIZED; AND FUNDS APPROPRIATED FOR WASTEWATER FACILITIES PROJECTS.

Motion was made by Councilman Whittington, seconded by Councilman Withrow, and unanimously carried, to take the following actions related to a grant from the Economic Development Administration under the Public Works Employment Act:

- 1.) Resolution authorizing the City of Charlotte to accept the Grant of \$664,317 for financial assistance for wastewater facilities projects.
- 2.) Ordinance No. 462-X appropriating funds in the amount of \$664,317 for the following projects:

(a) Campbell Creek Outfall, Phase II	\$166,897
(b) Woodlawn Green Collector	389,785
(c) Jason-Carlotta Collectors	67,980
(d) Billingsley Road Collector	39,655

The resolution is recorded in full in Resolutions Book 12, at Page 328.

The ordinance is recorded in full in Ordinance Book 24, at Page 47.

ORDINANCE NO. 463-X TRANSFERRING FUNDS WITHIN THE UTILITIES CAPITAL IMPROVEMENT PROJECTS FUND TO PROVIDE A SUPPLEMENTAL APPROPRIATION FOR RELOCATION OF WATER MAINS WITHIN THE STREET RIGHT OF WAY.

Councilwoman Locke moved adoption of the subject ordinance transferring \$50,000 within the Utilities Capital Improvement Projects Fund to provide a supplemental appropriation for relocation of water mains caused by street widenings and storm drainage construction. The motion was seconded by Councilman Withrow and carried unanimously.

The ordinance is recorded in full in Ordinance Book 24, at Page 48.

ORDINANCES APPROPRIATING FUNDS FOR THE CONSTRUCTION OF PHASE I OF 201 PROJECTS.

Upon motion of Councilman Whittington, seconded by Councilwoman Chafin, and unanimously carried, ordinances were adopted as follows:

- 1.) Ordinance No. 464-X appropriating funds, in the amount of \$7,581,765 for the North Mecklenburg Wastewater Facilities Project:
 - (a) McDowell Creek Wastewater Treatment Plant
 - (b) McDowell Creek Interceptor - Phase I
 - (c) McDowell Creek Interceptor - Phase II
 - (d) McDowell Creek Interceptor - Phase III
 - (e) Davidson Pump Station & Force Main
- 2.) Ordinance No. 465-X appropriating funds, in the amount of \$9,267,491, for the Metro Charlotte Wastewater Facilities Project:
 - (a) Irwin Creek Lagoon
 - (b) Long Creek Interceptor - Phase I
 - (c) Paw Creek Pump Station & Force Main
 - (d) Long Creek Pump Station & Force Main
 - (e) Gum Branch Interceptor
 - (f) Mallard Creek Wastewater Treatment Plant.

The ordinances are recorded in full in Ordinance Book 24, beginning on Page 49.

RESOLUTION AUTHORIZING THE SUBMISSION OF STEP II GRANT REQUESTS FOR WASTEWATER FACILITIES IN THE METRO CHARLOTTE 201 AREA.

Upon motion of Councilwoman Locke, seconded by Councilwoman Chafin, and unanimously carried, the subject resolution, authorizing the submission of Step II Grant Request for Wastewater Facilities in the Metro Charlotte 201 Projects, for engineering services for the following projects, was adopted: (a) McAlpine Creek Wastewater Treatment Plant Improvements; (b) Big Sugar Creek Interceptor; (c) Toby Creek Interceptor; (d) Matthews Interceptor.

The resolution is recorded in full in Resolutions Book 12, at Pages 329 and 330.

March 21, 1977
Minute Book 65 - Page 82

CONTRACTS WITH J. N. PEASE ASSOCIATES FOR WASTEWATER TREATMENT PLANTS,
APPROVED.

Councilman Gantt referred to a memo from Mr. Burkhalter about the subject contracts and asked him to be more specific. Mr. Burkhalter replied the last time Council approved a contract for these projects, they questioned whether or not other firms should be considered. That is why he sent the memo to tell them it was not on the agenda as something they had to do today; that he had reference to the third contract which is new.

Councilman Gantt stated this would be the third project in a series and they are talking about the design concept; that the last time Council questioned whether or not the staff had gone through a procedure by which they would look at a number of engineering type firms to give them an opportunity to be considered for the work. It had nothing to do, of course, with the Pease firm in terms of the quality of work they do, and he wondered whether Mr. Burkhalter's memo indicated he had something further.

Mr. Burkhalter replied he thought Council might raise some question about the third contract and he sent the memo to tell them they were not putting it on the agenda for action today. It is his recommendation that they approve it. The law is very clear on this; it is perfectly legal to do it this way. As a matter of fact, it is not only legal but he suspects they encourage it, because EPA says the firm that does the 201 is eligible to do this without considering other proposals. They did not seek other proposals. It was done under the permission granted them and the Federal Government has approved this firm's doing it because of their connection with this work and the work they have done on this plan.

On motion of Councilman Gantt, seconded by Councilwoman Chafin, and unanimously carried, contract with J. N. Pease Associates, in the amount of \$255,500, for utility engineering inspection for the Mallard and McDowell Creek Wastewater Treatment Plans and Mallard Creek Interceptor, was approved.

Councilwoman Locke moved approval of an existing contract with J. N. Pease Associates for the design of the North Mecklenburg and Mallard Creek Wastewater Treatment Plants. The motion was seconded by Councilman Whittington, and carried unanimously.

Motion was made by Councilman Whittington and seconded by Councilwoman Locke to approve an Engineering Design Contract with J. N. Pease Associates to meet EPA upgrading requirements assigned to the McAlpine Creek Wastewater Treatment Plant.

Councilman Gantt asked if there is a relationship between the McAlpine Creek Wastewater Treatment Plan and the projects that have previously been designed by the Pease firm and Mr. R. D. Campbell, Assistant Utility Director, replied J. N. Pease Associates has done all the design having to do with the McAlpine Creek Plant in years gone by.

Councilman Gantt asked if he would consider it unusually difficult to retain another engineering firm to do the specific work they are asking and Mr. Campbell replied yes, he would.

Councilman Gantt asked what would be the reason and Mr. Campbell replied this is an extremely complex assignment; we are expected now to design for treatment standards that they have never experienced before. The existing plant is complicated enough. The J. N. Pease Company has complete and absolute familiarity with everything that is there now and they can pick up from where we are and carry forward. J. N. Pease has also assisted and prepared the 201 Plan which sets forth what we are to do in years to come in order to clean up the streams. They already know our problems and are prepared to undertake them.

March 21, 1977
Minute Book 65 - Page 83

Councilman Gantt asked if he inquired or entertained or interviewed with any other engineering firms that might be in the local area to see whether or not they might be interested in this work, whether they possessed the capabilities of handling this type work and Mr. Campbell replied from time to time other engineers do come to their office and they talk with them and they have sent other firms that have expressed interest in doing work for them. They recognize that fact.

Councilman Gantt stated his point to the Council, and he thinks he made this point in 1975, and it puts him in a very sensitive position, because he has a great deal of respect for the Pease firm and the principals who are in the audience today, but it does occur to him that over the period of time they have been dealing with the utility system and the improvements made and/or other professional service type contracts, they have tried to entertain a policy of at least entertaining proposals or interviewing all other eligible firms in the area, primarily because this is not the kind of work that is bid on the basis of competitive bids at least, and they have tried to find the most qualified firm. That he requested last year when they came to these firms to do the design or Phase II studies for the North Mecklenburg and Metro Charlotte that they look into the possibility of at least retaining or hearing other firms to determine their capabilities to do that work. Apparently the staff has not done this and yet they say that other firms might be able to do the work.

He stated that in all fairness to other engineering firms in the area the staff ought to make every effort to interview all persons simply because these are taxpayer dollars; that there is some merit in the fact that they should continue to spread this work around to the extent they can. The industry itself is operating in somewhat of a depression and he feels that everyone should feel there is an opportunity open. He stated there is not one letter on his desk coming from any other engineering firm in the Charlotte area expressing an interest in this particular project, but as a matter of policy he thinks the staff ought to consider when they have proposals, no matter how complex they are, evaluating all the firms in the area. After that evaluation, if they felt this was the best recommendation, all right, but what they have done essentially is say they have not looked at anyone else and we think this firm ought to have the work. Certainly he agrees with staff's testimony that the Pease firm is highly competent, but he does think they ought to try to continue to carry the policy out.

Mayor Belk asked if he does not think that another job with the Utility Department would be more appropriate on what he has reference to than this particular one? Councilman Gantt replied he is not sure; that is why he asked the question.

Mayor Belk stated on this particular job he does not think another engineer would maybe do as well as Pease would do. There are other phases of the system that will be coming up at a later time that his suggestion would have a lot of merit.

Councilman Whittington called attention to the fact that on Friday or Saturday, in The Charlotte Observer, the Utility Department is advertising for some of these projects that the Mayor is talking about where other consultants would be considered.

Councilman Davis stated Mr. Campbell had indicated there would be some additional work on the way in reference to meeting EPA standards and he thinks they are going to have this same problem. He is inclined to agree with a good bit of what Councilman Gantt said; that at some point if they are ever going to change and give some other firms some business, they will be faced with this idea that they have a nice, comfortable relationship with a highly qualified firm and it is going to be some inconvenience for the Utility Department, the firm of J. N. Pease and perhaps the new firm, but that we will have to live with. That whenever we find ourselves in a situation where we are authorized to, or for one reason or another want to, proceed on a non-competitive basis where we only receive one proposal, that under these circumstances they should have some rather extraordinary justification for the selection of the firm because this puts a great deal of burden on the decision making body that selects the firm.

March 21, 1977
Minute Book 65 - Page 84

Councilman Whittington stated all of these contracts have already been negotiated with the EPA and they have been going on for a long time. These people have been working, he thinks, since 1937 although not on this particular project, but they have been the consultant all these years and these contracts have all been negotiated with the City staff and with the EPA even to the hourly wage and how many people, how many car miles they are going to be driving, etc.

Councilman Davis stated he has had a number of telephone calls and a few letters from good architectural firms challenging this proposal; firms that either want to get on the City's approved list to do business or firms that are on our list but who have not done much business or any business with the City of Charlotte. That it puts Councilmembers in a difficult position to respond to these firms if, when they take some action like this, they do not have some real solid reasons for doing so.

The vote was taken on the motion to approve the Engineering Design contract with J. N. Pease Associates for the McAlpine Creek Wastewater Treatment Plant and carried unanimously.

Mr. Burkhalter stated there are several things he feels he must call their attention to. One of the reasons for his approval of this project in this way is time; he did not want to push Council with the time element, he wanted them to make up their mind on the basis of the facts of the contract. There is money available at the State level which is returned if it is not appropriated for local purposes. It is put back to Federal. They have been told by the State EPA administrators that we will lose our position if we do not take advantage of it this year; that we will not necessarily qualify for this same thing next year. They have been told now that the State will recommend approval for a certain amount of grant out of this year's money. These plans they approve now must be ready by September in order to qualify for this money.

He stated in September they will be back to Council asking for this money. He wants Council to know that now. This is a lot of money and at that time Council is going to have to make up its mind where they are going to get the matching funds because they do need these improvements. He does not want them led blindly up the alley on the possibilities they are referring to. They have gone over these projects over and over and over and they are all familiar with them. He just wants them to know today what they are doing. They need to put themselves in the position that they are going to have to make that decision in September.

Councilman Davis stated the matching funds he refers to is the \$103,000? Mr. Burkhalter replied no, that is already available. The matching funds he is talking about are half of the long range program. He stated it is awfully complicated but there is one other thing they ought to know. If they get this approval today we have been assured by EPA that we will qualify for some interceptor lines and such in connection with this program which we would not if we did not do this part. If we make the improvements to the plant they will give us some grants for some interceptors, but they would not give us the grants with the interceptors by themselves.

Councilman Davis asked if he is saying that this matching money is not available in our Utility Department, is not budgeted? Mr. Burkhalter replied it has not been asked for. Down the line to do this work that we are doing the plans for, Council will have to find the matching funds.

Councilman Davis stated he is not sure he quite understands yet. Does he mean we are making commitments to spend money today that is not in our capital improvements budget? Mr. Burkhalter replied they are "making" money today to do plans for a project - money for the construction of the project is not available today. What they are talking about today is all right. He just wanted them to know what came next.

Councilman Davis stated the matching money they are committing themselves for today is \$103,000? Mr. Burkhalter replied that is right.

March 21, 1977
Minute Book 65 - Page 85

CITY ATTORNEY INSTRUCTED TO DRAFT ORDINANCE REGULATING ITINERANT SOLICITATION IN THE CITY OF CHARLOTTE.

Councilman Whittington made the following motion for discussion: That the City Attorney be instructed to draw up an Itinerant Solicitation ordinance according to the guidelines submitted with the agenda today and that they had on January 26. The motion was seconded by Councilwoman Locke.

Mr. Ted Law, President of the Better Business Bureau, read a local newspaper advertisement for itinerant salespersons, 18 years of age or older, to travel New York, D. C., Miami and return - a random itinerary - to represent leading recording artists - all expenses paid. He stated last summer two kids from this crew had to be taken from Charlotte by the Travelers' Aid. There are no expenses paid; there is nothing paid. These kids are on commission and because they are on commission abuses do happen door-to-door. He read a list of incidents that had been reported to the Better Business Bureau. He stated he does not want to restrain trade but just control it so that we know who they are, what they are, so that if something comes of it they have some recourse.

Councilman Gantt asked Mr. Law if he agrees with the evaluation that the City Attorney made on this particular bill? Mr. Law stated he thought Mrs. Ballard of the Attorney's Office should be complimented for an excellent research. Councilman Gantt asked why any such unscrupulous group that might come into town would even bother to go down to the police station and register; why would they not come into town, do what they have to do and be gone inside a week and a half. How would we be able to enforce the law?

Mr. Law stated, as an example, two years ago he came before City Council and asked for a very innocuous sounding ordinance to be passed to make it a misdemeanor to use the words Better Business Bureau, Chamber of Commerce, etc. in a sales pitch if in fact the organization was not associated with these agencies. He knows that they have stopped seven door-to-door sales presentations - they go to other towns. He is not talking about the magazine crews - they do register, nine times out of ten, with the Better Business Bureau, but they still go out and misrepresent. The itinerant peddler comes through town with the unmarked car and out-of-state license plates; that it happens in the spring, summer and fall. He agreed these are the ones who would probably not go to the Police Department and these are the ones by one simple phone call to Better Business Bureau or the Fraud Squad would be a deterrent. That is what they need - a deterrent. That no matter where the person lives - in Myers Park or West Trade Street - no matter what the income level is, they are fair game. This city is clean in business - it does not have the problems of Philadelphia or Long Island. There are only a few things that need to be done. Just simply registering would help.

Mr. Law referred to the agenda attachment which states a proposed ordinance would have nothing to do with charity organizations because they are already covered. He wants to get with Mr. Underhill on this. This is what they do. An organization, a good one, might need \$3,000 for a bar in their clubhouse, or swings in a park. They hire a fund raising pro who comes into Charlotte but does not go through the City Clerk's Office to get a charity permit; they get a business permit. They start calling every business in the city saying they are going to send some children to a circus or a magic show. All they have to do now is to contract to get the \$3,000 back to whatever organization. But the magic show - the one-man magic show - is not till five months away. They can keep calling until they are blue in the face and take thirty to forty thousand dollars out of Charlotte for a magic show that they might take three kids to or thirty kids to. It is perfectly legal as long as they do not use the words "charity, underprivileged, orphan" or give the impression that it is a charity.

Councilwoman Chafin stated she thinks one of the concerns Council had last week was a reaction to a presentation they had just heard from District Attorney Peter Gilchrist. She asked if he had had an opportunity to discuss this proposed ordinance with Mr. Gilchrist? Mr. Law replied he has discussed

March 21, 1977
Minute Book 65 - Page 86

it with him and he stated he would, of course, like to see it ahead of time. The concept he had no problem with at the time he spoke to him which was last week.

Councilman Davis stated he got a negative slant from the staff's presentation on this, that it would be very difficult to enforce. He would like for Mr. Underhill, or the staff member who wrote it, to elaborate on the remarks and also indicate if he has some comments from the Police Department or those that would be charged with enforcing this. What sort of experience have they had in other cities; has it been worth the effort expended? That we have problems right now with vandalism in many neighborhoods. People tell him that they call the police and report it but it is hard to get anything done about it. If this is going to be the same deal, maybe we would be better off to concentrate our efforts on the vandalism, or forget the vandalism and concentrate on the itinerant salesmen. He agreed with Mr. Law that constituents are being "taken" both ways, but we have laws now on vandalism and apparently we are unable to effectively prevent many homes from being vandalized or burglarized.

Mr. Law replied they have effectively stopped some of the abuses once they are on the books by working closely with the Fraud Squad and the "Blue and White". He does not feel the police will be handling them - he is going to be involved, not the police.

Councilman Gantt stated that is where he has a problem. That there is a tendency sometimes, on Council's part as elected officials with the ability to pass ordinances, that they want to respond to the immediate problem - to pornography issues, etc. One of the things they tend to want to do is pass an ordinance. In effect, it gets them out from "under the gun" by saying well, we have an ordinance over here that takes care of that or we have something over here that takes care of this problem. That Mr. Gilchrist's comments to Council last week have had somewhat of an impact on him because he is wondering whether or not by passing an ordinance on which the legal approach has been done in which they say they have some doubts themselves as to whether it can really be enforced, will accomplish anything; that there has really been nothing said here today that convinces him that the guy who is really on the take is going to come in "blowing his horn" and decide to go down to the police station and fill out this commitment. If they are going to do this kind of thing, he asked if the Better Business Bureau and the Chamber of Commerce plan to assist them in a massive publicity campaign that sends out information to every household in the city that says don't talk to a door-to-door salesman unless he comes with a blue, red and white card that says a, b, c, d, e, f? Otherwise, most people will not even know that such a law exists. He just wonders how it will really be enforced. He asked Mr. Law how Better Business Bureau would assist? If they will get involved in the kind of public relations or publicity campaign that will allow the electorate to be informed that we have that kind of law on the books?

Mr. Law replied absolutely, all of the firms that they know of that come through town. It is part of his job to educate. That the deterrent is when he has complaints and can go out to the motel to the crew chief, introduce himself, and say to him that he is not registered, here is the law. He will either get down and register within 24 hours or the Better Business Bureau can sign a complaint, and he will do that.

Councilwoman Locke called for Mr. Underhill's response to the questions raised by Councilman Gantt.

Mr. Underhill stated he would like to respond to Councilman Davis' question first. He stated he did not mean to imply in the memorandum he sent to Council in January any negative feelings toward the preparation of this proposed ordinance. His department tries to remain as neutral as they can on any proposal the Council wishes them to research; that in their research they try to point out to them what the law permits to do and what it appears to prohibit the Council from doing. If they recognize some problems they have learned through experience can exist. That in an ordinance such as this, through talking with cities which have this kind of ordinance, they

say "Yes, they are good but they are not a cure-all, they are not going to run all of the unscrupulous itinerants out of your town, because first of all, they either will not register or they will use the card with some unsuspecting person as saying the City of Charlotte approves of what they are doing". He did not mean to imply that he thinks an ordinance like this would not be a good one; he was merely pointing out that there are some problems.

Councilman Davis stated he got the impression there is a possibility that this ordinance might be more cumbersome and more expensive to administer.

Mr. Underhill replied that perhaps he did not take the assignment far enough. He was merely wanting to give Council the benefit of their research and then get some guidance and directions from Council as to whether they should follow through with it or not. That the Police Department is not the only governmental agency they could charge with the responsibility for administering this ordinance; that the City-County Tax Collector is someone who could be involved in this type of ordinance enforcement and implementation. He did not ask the Police Department what would be involved from their standpoint in implementing this ordinance if Council chose to adopt it; who would be charged with the responsibility of issuing the cards, running the checks that are necessary and this kind of thing. He does not know what all is involved with that. He felt they were the logical governmental agency to perform the task, but they are certainly not the only ones. He does not know what their reaction would be to having such an ordinance implemented.

Councilman Davis stated if he felt reasonably sure that the ordinance would be any help, it would be very easy to go ahead and vote for it. He would like to hear from the Police Department if that is the one Council envisions being the enforcement agency for this to get their ideas on it before they get into something and find out a month or two months hence that they just generated a lot of paper work for some department and a lot of book work for our attorney.

Mr. Underhill stated they had done enough research in this area; that he has two files on solicitations and peddlers. Drawing the ordinance will be very simple. They can draft the ordinance, let Council consider it and they can get whatever input they might need from other City departments and other interested persons.

Councilman Gantt asked Mr. Law the average number of complaints he has with regard to this kind of thing? Mr. Law replied they get ten phone calls a day, split either 7-3 or 6-4 on charity or home solicitation. Councilman Gantt asked if he is successful in running these people out of town? Mr. Law replied they do not try to run them out of town; they try to get information to the public. There are two people now going around collecting money door-to-door for "Spirit House."

Councilman Whittington referred to a lady who had spoken to him about an ad which was soliciting sales people to sell flowers. He stated she is concerned about the girls who sell flowers at service stations at Woodlawn and Park Road and at Hawthorne and Independence - if they are legitimate. Mr. Law replied as long as they are not affiliated with what they call the "moonies", the Korean organization under Rev. Moon; that they have been denied a license to solicit by the State. He stated he would find out about these particular locations for Councilman Whittington; that the Better Business Bureau is certainly not against free enterprise.

Councilman Withrow stated they keep putting ordinances on the books and the Police Department is not able to bring the offenders to court because the courts are full. He agrees that the good of the ordinance would be to deter if they just spot check once in awhile. That to expect the police to carry out the letter of the law, they just cannot do it.

Mr. Jim Morton spoke in favor of the ordinance, stating while in college he sold Bibles door-to-door in Savannah, Georgia. He secured a license because he wanted people to know he was licensed so they would do business with him. He stated a good ordinance will help our community immensely; that a lock on

March 21, 1977
Minute Book 65 - Page 88

a door is meant simply to keep a dishonest person out - honest people will not go in. He stated he has raised money in this community for various organizations and has always gotten a permit from the City Clerk.

Councilman Davis asked that the motion to request the City Attorney to draft an ordinance also specify that they have with it the recommendations of the enforcement agency. Councilman Whittington stated he has no objections to that.

The vote was taken on the motion and carried unanimously.

ORDINANCE NO. 466 AMENDING CHAPTER 2, ARTICLE III, DIVISION I, OF THE CITY CODE, ENTITLED CHARLOTTE-MECKLENBURG PLANNING COMMISSION, TO ADD REQUIREMENT THAT NO MEMBER SERVE MORE THAN TWO FULL CONSECUTIVE TERMS.

Mayor Belk advised that he had received word that the County took no action on this proposal at their meeting today.

On motion of Councilman Whittington, seconded by Councilwoman Chafin, and carried unanimously, the subject ordinance amending Chapter 2, Article III, Division I of the City Code, entitled Charlotte-Mecklenburg Planning Commission, to add a requirement that no member appointed to the Commission shall serve more than two full consecutive terms, was adopted; to become effective upon adoption of a similar amendment by the County Board of Commissioners.

Councilwoman Locke questioned if Council could take action on this without doing it in conjunction with the County Commissioners? Councilman Whittington stated Council should go ahead and pass it and let the Commissioners do what they want to do.

Mr. Underhill stated by the wording of the ordinance it would not become effective until the County takes similar action; that Council can go ahead and pass their ordinance, but its effectiveness will depend on whether or not the County does the same thing.

The ordinance is recorded in full in Ordinance Book 24, at Page 52.

Mayor Belk requested the City Manager to notify the County Commissioners of this action.

APPOINTMENT OF TRANSPORTATION TASK FORCE MEMBER DELAYED UNTIL COUNCILMAN WILLIAMS IS PRESENT.

Councilman Gantt moved appointment of Mr. L. C. Coleman to the Transportation Task Force, seconded by Councilwoman Chafin.

A substitute motion was made by Councilwoman Locke, seconded by Councilman Withrow, that action on this item be deferred until Councilman Williams is present since he had submitted a nomination. The motion carried as follows:

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

ORDINANCE NO. 467-X AMENDING ORDINANCE NO. 155-X, THE 1976-77 BUDGET ORDINANCE, TRANSFERRING \$13,000 WITHIN THE GENERAL CAPITAL IMPROVEMENT PROJECT FUND TO PROVIDE A SUPPLEMENTAL APPROPRIATION TO COMPLETE A PORTION OF THE WILMORE NEIGHBORHOOD ASSISTANCE PROJECT.

Upon motion of Councilman Gantt, seconded by Councilman Whittington, and unanimously carried, the subject ordinance was adopted and is recorded in full in Ordinance Book 24, at Page 53.

March 21, 1977
Minute Book 65 - Page 89

CONTRACT AWARDED T. L. HARRELL'S CONSTRUCTION COMPANY, INC., FOR DILWORTH-WILMORE NEIGHBORHOOD IMPROVEMENTS.

Motion was made by Councilwoman Locke, seconded by Councilman Withrow, awarding contract to the low bidder, T. L. Harrell's Construction Company, Inc., in the amount of \$151,926.50 on a unit price basis for Dilworth-Wilmore Neighborhood Improvements.

Councilman Whittington asked what the \$151,926.50 is going to be spent for?

Mr. Joe Michie, Community Development Department, replied it is primarily for sidewalks, curbs and gutters. Councilman Whittington asked if they are going to repair those that are already there? Using a map to illustrate, Mr. Michie replied it would be primarily patch and repair along Wilmore Drive and Wickford.

Councilman Whittington stated he said this last week, but he wants to say it again, that he thinks it is unfair for Council, the NAP program and the Department of Public Works to take areas like this who have some sidewalks on one side of the street or the other, have some kind of curb and gutter, and improve them; and then look at an area like Hoskins, or Thomasboro, who do not have any of these things at all except what they have forced institutions to do in order to get an occupancy permit. He stated we are just not doing a good job in this area. He realizes we are out of money for these improvements, but we ought not to come into an area like this and spend \$151,000 when there are areas that do not have any sidewalks, any curb and guttering. If they are talking about being responsive, if they are talking about providing these things, that is what they ought to do. That Hoskins certainly is an area that ought to get under the NAP program or some program under Community Development.

Councilman Gantt asked if these funds could be used in any other area than the Wilmore-Dilworth area. Mr. Burkhalter replied these funds are General Revenue Sharing money, but they are appropriated for the Dilworth-Wilmore area. Mr. Michie stated this is a commitment they already have. They have been working with it for several years; they have made a commitment to the area for certain improvements and certain sidewalks and this is a part of that program. It substantially completes the area, although they have asked in next year's budget process for some miscellaneous improvements.

Councilman Whittington stated that before Community Development comes back to Council with other projects in these areas, they ought to go where they have not done anything. We have been in this area for three or four years; it took two years to get Kingston Avenue approved; then when that was done they put a blockade up at the end of the street so you can't even get through.

Councilwoman Chafin stated that the improvements being made in Dilworth are encouraging homeowners to make improvements on their homes. Councilman Whittington stated he does not question that, but what about the little fellow who does not have sidewalks or any curbs - they ought to plant a rosebush out there and build a little sidewalk or give him a little mini-park. That would inspire some of those folks too. All he is saying is when you shake the bush, let's give everybody a little bit of it.

The vote was taken on the motion and carried unanimously.

The following bids were received:

T. L. Harrell's Construction Co., Inc.	\$151,926.50
Blythe Industries, Inc.	173,895.50
Crowder Construction Company	187,698.00
F. T. Williams Company	192,013.00
Lee Skidmore, Inc.	195,013.50
Cardinal Construction Company	204,121.00

March 21, 1977
Minute Book 65 - Page 90

COUNCILMAN WILLIAMS COMES INTO MEETING.

Councilman Williams came into the meeting at this point, and was present for the remainder of the session.

CHARLES GARRISON APPOINTED TO THE TRANSPORTATION TASK FORCE.

The following nominations were presented for consideration:

- (a) Councilman Gantt's nomination of L. C. Coleman.
- (b) Councilman Williams' nomination of Charles Garrison.

Councilman Gantt stated the reason he nominated Mr. Coleman is he is a grass roots person, and he feels that would be very helpful in the overall balance and composition of the Task Force, particularly as this will be dealing with transportation services for many of the Social Services programs which he is in contact with.

Councilman Gantt moved the appointment of Mr. L. C. Coleman. The motion was seconded by Councilwoman Chafin, and failed on the following vote:

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

Councilman Williams moved the appointment of Mr. Charles Garrison. The motion was seconded by Councilman Whittington.

Councilman Withrow stated the reason he is voting for Charles Garrison is that he is in the transportation business. There is no one on the Task Force who is in the transportation business. That is Mr. Garrison's full time job, otherwise he would not vote for him.

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

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

CONTRACT AWARDED DELLINGER, INC. FOR CONSTRUCTION OF SANITARY SEWER FOR CAMPBELL CREEK OUTFALL PHASE II.

Motion was made by Councilman Whittington, seconded by Councilwoman Locke, and unanimously carried, awarding contract to the low bidder, Dellinger, Inc. in the amount of \$106,237.85, on a unit price basis for sanitary sewer construction for Campbell Creek Outfall Phase II.

The following bids were received:

Dellinger, Inc.	\$106,237.85
Abernethy Construction	112,829.00
Dickerson, Inc.	113,268.40
Propst Construction Co., Inc.	116,852.55
Rand Construction Co., Inc.	118,884.44
Sanders Brothers, Inc.	139,407.00
Ben B. Propst Contractor, Inc.	139,498.28
Blythe Industries, Inc.	143,624.00
Breece & Burgess, Inc.	148,096.00
Hickory Sand, Inc.	166,197.00
George W. Sparks Construction Co.	168,120.00

RESOLUTION APPROVING A SUPPLEMENTAL MUNICIPAL AGREEMENT WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR CONSTRUCTION OF INDEPENDENCE FREEWAY, AND INSTALLATION OF TWO OVERHEAD SIGN STRUCTURES.

Motion was made by Councilman Whittington, seconded by Councilwoman Locke, and unanimously carried, adopting the resolution approving a supplemental municipal agreement with the North Carolina Department of Transportation to

March 21, 1977
Minute Book 65 - Page 91

update two previous agreements for the construction of Independence Freeway, and the installation of two overhead sign structures on Independence Boulevard, and to consolidate the two agreements under one project number.

The resolution is recorded in full in Resolutions Book 12, beginning at Page 331.

RESOLUTION AUTHORIZING THE REFUND OF CERTAIN TAXES.

Councilwoman Locke moved adoption of a resolution authorizing the refund of certain taxes in the total amount of \$15.00 which were levied and collected through clerical error against one tax account. The motion was seconded by Councilman Davis, and carried unanimously.

The resolution is recorded in full in Resolutions Book 12, beginning at Page 333.

ACQUISITION OF PROPERTY FOR BYRUM/WILMORE WIDENING PROJECT.

Councilman Whittington moved approval of the acquisition of 3.13 acres of vacant property on Byrum Drive, from C. Fred Brown and wife, Beatrice C., at \$7,000 for Byrum/Wilmore Widening Project. The motion was seconded by Councilman Withrow, and carried unanimously.

NOMINATION OF JANE MARLEY FOR REAPPOINTMENT TO PARADE PERMIT COMMITTEE.

Councilman Whittington placed in nomination the name of Ms. Jane Marley for reappointment to the Parade Permit Committee for a three year term.

MOTION TO CONSIDER NON-AGENDA ITEM.

Councilman Withrow moved that Council discuss the increase in cost of automobile tags for the City of Charlotte. The motion was seconded by Councilwoman Chafin, and carried unanimously.

COUNCIL TO REQUEST LOCAL DELEGATION FOR AUTHORIZATION TO INCREASE AUTOMOBILE STICKER FEE.

Councilman Withrow stated he had breakfast with about six members of the Local Delegation Saturday morning when they met with the health officials. It was their feeling if Council would say it wants the authority to go to \$5.00 on the City tag, but not right now, they might vote for the \$5.00 if Council would write them a letter and state that to them. They did not seem to want to go along with jumping from \$1.00 to \$5.00 all at once. Council may want to write the letter and say the intent is to go to \$2.00 or \$3.00, and then see how things look the next year.

Mayor Belk stated he had understood they were ready to go to \$3.00; that they had enough votes. Councilman Withrow stated they seem to think they would go to the whole \$5.00 if Council would tell them that it would not go to \$5.00 right away.

Councilwoman Chafin stated that is her feeling. That she sent copies of a letter to the Mayor and Council which she had written to Representative Economus, trying to communicate through him to the Delegation since he had written Council initially on this.

Councilwoman Chafin stated she plans to meet with the Delegation on Wednesday morning to present to them some information the City Manager is getting together for her so that we can further document the need for this. She stated the City Attorney plans to go with her, and if other members of Council can go she would like to have them.

March 21, 1977
Minute Book 65 - Page 92

Councilman Withrow stated if Ms. Chafin is going to the Delegation then she can relay the message that Council would like the legislation to go to \$5.00, but the intention is to go to only \$3.00 at the present time, until the other money is needed. Then at the time, the authority would be there without going back to the Delegation.

Councilman Williams stated he thinks the need is already there; but it is purely enabling legislation and he does not see any objections to saying we will go to \$3.00. Councilman Gantt asked if we are bound by any commitment such as that? Councilman Withrow replied it is merely giving the authority, and Mayor Belk stated this Council will not go beyond 1977.

Councilman Davis stated he understands there are about 250,000 vehicles in the City of Charlotte. The City Attorney replied that is in the County; there are approximately 150,000 vehicles in the City.

Councilman Davis stated he was in favor of this legislation. His thought was it would be an alternative source of revenue, and not an additional source of revenue. His position all along has been that we would not propose a tax increase at this time. In conversation with individual Councilmembers, he believes the majority of Council has the view expressed by staff that we need this revenue now. But he thinks this would be viewed by the public as a tax increase under another name. For this reason, he is going to withdraw his support of this proposal, and probably will contact the Chairman of the Mecklenburg Delegation, and he wants Council to be aware of this.

Councilman Williams stated the City has taken on a new liability in recent times of substantial support to be made of the subsidy for the operation of the bus system as the private company could no longer make a go of it. This runs in the neighborhood of \$1.5 million a year currently, of which the federal government pays half, leaving a local contribution of \$750,000 which almost coincides with the amount of revenue to be derived from the \$5.00 sticker. That money has to come from somewhere if there is to be no increase in the ad valorem tax. If the money does not come from here, it will come from other programs. It is a simple matter of supporting our overall transportation system. It is his feeling that the automobile does not support itself from personal property and gasoline taxes. Gasoline tax money may build a state road, and we may get a share to maintain a city road; but we do not get any of it to construct or improve existing city roads and new city roads, or any to pay the policeman who patrols and supervises traffic; we do not get any to buy traffic lights. He does not believe it is paying its own way, and the money that is going to the automobile right now is coming from some other source - ad valorem taxes, and real estate taxes. That it seems proper to him to use this additional source to help support the transportation system and the automobile.

Councilman Whittington stated he has spoken to members of the Delegation and written Mr. Economus, and said to them the same things Councilman Williams has said. That he also appreciates Councilman Davis' feelings; but Council was told by the citizens of this city to provide bus service - buy the bus system, but they denied the money to operate it. That the \$1.5 million has been mentioned, and that will increase. This is our responsibility now, and we have to have the funds to help defray that loss. That is the reason he does not think we should talk about tax deductions, but an expenditure to provide services for the citizens, where they have said they will give us no money to operate it.

Councilman Gantt stated, as he recalls, he and Councilman Davis and the Council have had discussions on other ways of defraying the tremendous cost of the automobile - everything from parking downtown to other issues Councilman Davis has requested the Planning Commission to get into, and he has said he supported this kind of assessment against the automobile owner. That if he was serious about these other contentions earlier, and that amounts to a tax (personally, he thinks it is a legitimate tax) he is not quite sure he understands why Councilman Davis is withdrawing his support. If he never intended to raise additional revenues to support the increase in the cost of the automobile, and what he is really trying to do is to transfer these costs to another category. He asked if he is suggesting, if we do get this legislation, to go back and decrease the property tax?

March 21, 1977
Minute Book 65 - Page 93

Councilman Davis replied without changing our budget this would put more of the burden of collecting this tax, or more of the burden of supporting automobiles, building roads, hiring policemen, cleaning up the pollution and smog and such on the automobile owner and take it off the backs of the low income homeowners; this would subsidize the bus system, which would make it more attractive to more people, and we would be accomplishing two things at one time.

Mayor Belk stated if you really want to turn this around, the City can take the sales tax collected in the city, and county take what is outside. Right now the county is taking about 57 percent of the sales tax, city and county; the city gets about 42 percent. Then the city would get more this way than what they are talking about on the automobiles.

After further comments, Councilman Withrow moved that Councilwoman Chafin meet with the Local Delegation, and request the \$5.00 limit but to tell them we will not go the limit, but will go to \$3.00 this year. The motion was seconded by Councilwoman Locke, and carried as follows:

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

Councilman Gantt changed his vote to vote in favor of the motion.

The recorded vote is as follows:

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

CITY MANAGER REQUESTED TO SEND LIST OF PROFESSIONAL PEOPLE EXEMPT FROM PRIVILEGE LICENSE TO LOCAL DELEGATION .

Councilman Withrow stated some years ago, Mr. Tom Sykes brought up the fact that a number of professional people do not have to buy a privilege license. The members of the Local Delegation he talked to asked if we would send this list to them. He requested the City Manager to send this list to the Local Delegation for their review. Mr. Burkhalter stated all this information is available through the League, as this is part of their program. Councilman Whittington requested that he ask the League to send it to them.

Councilman Whittington stated there are some 200 classifications pre-empted by the State.

MOTION TO CONSIDER NON-AGENDA ITEM.

Motion was made by Councilwoman Chafin, seconded by Councilman Gantt, and unanimously carried, to consider a non-agenda item.

PLANNING COMMISSION REQUESTED TO MAKE STUDY OF PLAZA-MIDWOOD AREA.

Councilwoman Chafin moved that the Planning Commission undertake a study of the Plaza-Midwood Area - the area bounded by Hawthorne Lane on the west, Country Club Road and Country Club Lane on the north, Charlotte Country Club property on the east, and Central Avenue on the south. The motion was seconded by Councilman Gantt.

Councilman Whittington asked if this is on zoning? Councilwoman Chafin replied primarily; but the Community Development people will also be looking at needs for public improvements.

Councilman Whittington stated when the Plaza re-zoning was done, Council requested the Planning Commission to make a study of Thomas Avenue, and that has never been brought back. Councilwoman Chafin replied that will be a part of this study.

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

CITY MANAGER REQUESTED TO HAVE A PROGRAM ON THE DESIGNATION OF THE GRAYSON PARK RECREATION CENTER FOR MRS. NAOMI DRENAN.

Councilman Whittington stated last year Council asked that the Recreation Center in Grayson Park, off Billingsley Road, be named for Mrs. Naomi Drenan. He understands the nameplate has been placed on the center, and the way Mrs. Drenan found it was there was when one of her nephews told her.

He stated he thought we would have a program and officially dedicate the center. He asked the City Manager to have a program set up for this.

DISCUSSION OF CCUNCIL/MANAGER RELATIONSHIP AND THE ROLE OF COMMUNITY FACILITIES COMMITTEE.

Councilman Davis stated he regrets very much it is necessary to have this type discussion, but for nine months he has tried several different ways to get this discussion before this Body properly, and to get the proper discussion of the role of the CFC. He had hoped that Staff would come up with what he is going to discuss today, and he thinks it would have been much easier that way.

He stated the following:

"Mr. Burkhalter, during the years that you have been in Charlotte, you have lead the City of Charlotte in accomplishing many good things. I think you have been recognized by the Mayor, by this Council, by the citizens, and by me, on several occasions, for your good work.

Many of my remarks today are going to be critical of the City Manager's role, and I say that to begin with, to keep things in perspective.

Four weeks ago, I requested a clarification of the role of the CFC. I requested a clarification, and did not say anything about any changes - never have wanted any changes. All I want to know is what the role of the CFC is so we can have some improvement on it between this Council and the Staff, and we can put this matter behind us, and go on to other things.

Now, as a result of my request, last week on March 14, this Agenda Item No. 22, with Attachment 17 appeared, which I have here in front of me. This Agenda Attachment represents, I think the poorest piece of staff work that I've seen since I've been on Council. And I say that for two basic reasons. Number 1, if the purpose of this was to clarify the role of the CFC, this material does not even include, nor does it refer to the basic document that set up the CFC and outlined the role, the duties and the functions. Secondly, in the Minutes of several Council Meetings, at least three members of this Council have discussed specifically their view on the role of the CFC. None of these Minutes were included in the Attachment; nor were they even referred to. Since the staff material presented, in my view, was totally inadequate, I have, during the past week, conducted a sort of staff study of my own. And, Mr. Mayor, I know that you have stated publicly you feel some Councilmembers are trying to do the City Manager's job. I would say during the last week my activity in preparing the study was doing the City Manager's job. And I will say, I don't ever intend to do it again. If I have occasion to do this type of staff work again, it will be for the purpose of gathering data to support a proposal to dismiss the City Manager.

Now, since the staff material is inadequate, I have materials I have gathered to discuss here with Council." (Councilman Davis passed around materials to the Mayor and each member of Council.)

"Now if you will just keep that document in front of you, I will refer to several items on it. This is the complete document which is attached

March 21, 1977
Minute Book 65 - Page 95

as No. 17 that we got last week. I have only copied the first page for you because the rest of it doesn't show much. Now, on this first page - and this document is an Agreement between the City of Charlotte and Mecklenburg County with respect to the establishment of a City-County Utility Department. It goes down to Section 1. 'The City-County Utility Department shall have the duties and responsibilities for planning construction, etc. Section 2. The Community Facilities Committee, the CFC, shall continue as presently constituted. The organization, function, responsibilities and activities of the Committee, and the appointment of its members shall continue as now, subject to change that may be made herein.'

I read through this document carefully. There are numerous references to the CFC, but in every case, it is to outline some specific duty. And, in no case, does it ever diminish the previously set about role of the CFC. Now, it seems incredible to me that to clarify the role of the CFC, we are presented a document that says 'the CFC shall continue as presently constituted the activities and responsibilities shall continue as now.'

What is 'as presently constituted'? What is 'as now'? To answer these questions, you have to refer to documents that were not included in that agenda material. If you will turn to Page 2 - we've got to go all the way back to August 18, 1969. This is Minute Book 52, Page 244. That should be the second page in front of you. Right in the middle of the page, the agenda item is 'Agreement between Mecklenburg County and the City of Charlotte with Respect to the Establishment of a CFC, Authorized.'

You will see in the next paragraph, I think the main item here - 'Councilman Short moved the approval of the Agreement between Mecklenburg County and the City of Charlotte with Respect to the Establishment of the CFC Committee. The motion was seconded by Councilman Whittington, and carried unanimously.' A couple pages over, it says 'the effective date to be from and after 1 August, 1969.'

What is the Agreement? Section 1. Composition. Let's skip over to the next page. Section 2. Organization and Procedure. Section 3. Duties and Responsibilities. Now this is the most important section. Under Section 3 there are outlined duties and responsibilities lettered (a) through (h). That (a) is to develop a Comprehensive Plan for the extension of water and sewer services; (b) Make periodic reviews of the Comprehensive Plan; (c) Develop a general water and sewer extension policy; (e) Develop standard specifications for the installation of water and sewer facilities; (f) Review all applications or proposals for major extensions of either water or sewer services in areas outside the city's boundaries; (g) Recommend to the City Council and the Board of Commissioners any reimbursement by the City to the County; and (h) is a catch-all item, which says - Make recommendations to the City Council and the Board of Commissioners on any other matter related to water and sewerage services.

This single item, I think, gives the broadest possible charge, duties and responsibilities to the CFC to look into most any area related to water and sewer services, that their inclination may take them to and if they feel this Council and the County Commission should be advised on. I think the Council that drafted that acted very wisely.

All right, let's skip over on the next page, at the bottom, that shows the effective date - 1 August 1969. Skipping over to the next page, that puts us up to Page No. 459, which is June 21, 1976, Minute Book 63, Page 459, at the bottom of the page. Charge of 1969 to the CFC, Reaffirmed. 'Councilman Neil Williams moved that Council reaffirm the charge to the CFC that appears in the minutes of the City Council Meeting on August 18, 1969, and requested that the CFC report to the Council on a quarterly basis. The motion was seconded by Councilwoman Locke, and carried unanimously.'

On the next page, August 9th, Informal Session. That is a whole page of discussion about the CFC. I think we'll just spotlight one paragraph in the middle there. 'Councilman Whittington replied that he did not mean to use the word operation. He just wants to make sure that this Board, that he thinks is an important function of local government, referring to CFC,

March 21, 1977
Minute Book 65 - Page 36

and a right arm to Council, as far as rates are concerned, and they will be given any information they need, work closely with, and anytime they want to come to Council, that they have the opportunity to do so.'

On the next page, from the August 9th Informal Session, Councilman Davis commented that as he understood it, the Council wanted to reaffirm the policy that originally set up this Committee, and they are asked to meet quarterly, and report to Council. One of the concerns of the Commission was that they just come into the picture at the time of a rate study or rate increase, or change, and they really are not any help in making a recommendation to Council because they should be involved continuously.

For example, in every expansion or new planned construction for which the city sells bonds to construct a new plant, we are building in the necessity perhaps for rate increases next year. And to bring them in at the time of the rate increase is no help. They should be involved in the decision of whether or not the plant should be built. And this requires continuous involvement. It would perhaps be a good idea for Council to go ahead and have this new procedure spelled out in writing for the Commission. Actually it is not a new procedure.

If you will go back for just a moment to the second legal size sheet, which is August 18, 1969, Page 24, Minute Book 52. I want to give you an example of one concrete example to illustrate there is, indeed, considerable confusion about the role of CFC. If you will hold that place and flip through to the next short page, which is next after my agenda item - the agenda of last week. This was from February 7. You will find Agenda Item No. 8, under Environmental Health and Protection, that the staff recommended to this Council approval of the Contract with the Town of Matthews, to attach to and to extend water system to serve Crestdale Community, that is an area outside the city boundaries of Charlotte. The estimated construction cost of the extension is \$75,000, and will be funded through a CD Grant received by Mecklenburg County.

Further down in the staff material presented, this water extension is a main of eight-inches in size, in diameter. If you will remember those two figures; that it is a \$75,000 estimated cost and involving the extension of an eight-inch line. Then, if you will go back to the second long sheet establishing the duties and responsibilities of the CFC; down at the bottom of the page, below Item (h) - the City Council has defined a major extension. This also refers back to duty (f) which says 'review all applications or proposals for major extensions.' It doesn't say part of them, or half of them - it says 'all' of them for major extensions. A major extension, according to the paragraph at the bottom of this page that requires review under the provisions of Paragraph (f) above is 'any extension of a water line eight inches or larger in size; a sewer line ten inches or larger in size, or a project involving extensions of any size when the estimated cost is \$75,000 or more.' Under both provisions by this ordinance, the item that we acted on February 7 required the prior approval of the Community Facilities Committee. This item passed by a 6-1 vote of this Council, and controvenes our own ordinance. The details of that action are in the last two pages, if you would like to read through it.

Now, Mr. Burkhalter, some few months ago I accused you of being irresponsible about some of your budget-making activities - budget preparation activities. Today, I have accused you of incredibly poor staff work. It is significant to note that I have never accused you of being incompetent. On the contrary, I have a very high opinion of your degree of competence. I think you are a highly competent City Manager. I think you know when you have acted irresponsibly. I think you recognize poor staff work when you see it. You and I both know it would take four votes to dismiss you, and I have no intention of making such a proposal, and don't know of anyone who does. If one came up today, I suspect you would be confirmed to remain the City Manager by a 7-0 vote.

So, where does this leave us now? I think since this response is totally inadequate - what does happen now? First, while it takes four votes to move to successfully dismiss the City Manager; it only takes one vote to require you to do your duties. In fact, it doesn't even take a vote, it takes one member to require you or me, or the Mayor, or anyone else to do our duty as outlined in the Charter of this City. And, I expect you to perform this duty completely as to the spirit and letter of the law. And, I expect you to serve this Council. I think this Council is entitled to your loyalty, and your support. I think we are entitled to the first call on that prior to the Mayor, except when he is acting as the presiding officer of this Body. I think we are entitled to your support prior to the Chamber of Commerce, prior to the business community, prior to citizen's groups, prior to your staff, prior to anyone. You are hired to serve this Council. I expect you to cease and desist in your habit of delaying and confusing the issues.

Council must not tolerate this sort of thing because not only does it not clarify the role of the CFC, but it actually serves to make any intelligent discussion unmeaningful. And, right away, two of the Councilmembers last week were confused about what we were trying to discuss, and understandably. Because what we are trying to do is obscured by the presentation of this material, the manner in which it was presented, and the ensuing discussion by the staff.

Now I think, Mr. Burkhalter, you must do two things. I think you must verify for yourself and for the remainder of this Council what the proper role of the CFC is, and which I just outlined to you. Number two, I think you should demonstrate by your performance in the future that you understand the role of the City Manager, and demonstrate this by your thought, words and deeds. Because, if we can't demand your loyalty and your total resources, then I don't think you can serve this Council. I don't believe you would tolerate any less from your employees, and I don't think Council should tolerate less from you.

Mr. Mayor, I appreciate the opportunity to have made these remarks uninterrupted, and I would like to hear any comments other Councilmembers may have, and I think Mr. Burkhalter is entitled to time to respond, either now or at a later date, if he wants to."

Councilman Williams replied he has not been a member of Council as long as some people. Since he has been on the Council, he has done a lot of thinking about the Council/Manager form of government. There was a time, about the turn of the century, when we did not have City Managers. Somehow, cities were governed in other ways that led to a lot of corruption, misdeeds, and wrongdoing. Then, all of a sudden, the cry went up that we should have a very honest and efficient government, and they wanted to take politics out of government. The way to do that was to hire a professional to run the operations of the city, and get the politically elected members removed a little bit from the day-to-day operations, with the goal in mind that this would make cities operate honestly, efficiently and cleaner.

It has done that all right in his opinion. But sometimes he thinks maybe it has made the operation of cities antiseptically clean. He stated he spoke to one group on this subject, and when he told them that City government had been almost too clean, they all laughed at him, and asked what he meant "too clean"? That is a problem, and it is inherent in the system, and he does not know what you do about it. He is not ready to get rid of the Council/Manager form of government; however, under our enabling legislation, our home rule legislation, he supposes we could do that by an ordinance of the Council, just like you can modify the form of government. But he does not think that is a wise move.

Somehow you have to realize the weaknesses in any system, and try to deal with them, and overcome them. Nothing is all black and white. For every advantage a system has, it is also going to have some disadvantages. Somehow you have to emphasize the advantages and minimize

March 21, 1977
 Minute Book 65 - Page 98

the disadvantages. He stated he feels that way about the Council/Manager form of government. He is not ready to throw the baby out with the bath water. He just hopes we all understand and keep in the back of our minds this problem that is inherent in the system. If we do that, then we will all understand each other better.

Councilman Whittington stated he does not think it is necessary, but he wants to defend David Burkhalter. Mr. Williams, on occasions when he introduces him, tells people how long he has been on the Council, and kind of laughs. But in this situation, he wants to defend the City Manager. He has had the opportunity to come down here when one City Manager had just retired, and two members of the Council prepared the budget, without a City Manager, with the help of the City Accountant, the late George Livingston. Then he, with six other Councilmembers, interviewed about twenty people, and hired Bill Veeder. The minute he was hired, people came to them and told them what a terrible job he had done in Fort Lauderdale, Florida. Bill stayed until he elected to retire, and two members of this Council helped to hire David Burkhalter.

To Mr. Davis he stated he has done a good job of documenting the work of the CFC, and the responsibilities of the CFC. Because a staff member made a report to the Council, he does not think Council should jump flatfooted on the City Manager who is responsible for over 3,000 employees and some 25 departments and department heads. We have to realize the City Manager is the general manager, just as others are to their office and their staff, and their companies. This Council is the Board of Directors and the Mayor is the presiding officer, and he has to run this business on a day-to-day basis, and tell Council what needs to be done, and if Council wants to tell him something they want done, that is a decision to be made by the policy making body, which is the City Council.

Councilman Whittington stated the last thing he wants to say in defending Mr. Burkhalter is what Mr. Davis said about communication. This is a job all of us have to work together on, and that is communication. The complaints do not come to him, they come to the Councilmembers or the person out in the field. It either comes up the ladder, or starts at the top of the ladder and goes back down.

He stated he is sure if Dave Burkhalter sees he has done a poor job, he would say that. If he thinks this report is not all that Mr. Davis wanted it to be, he would say that. What he is trying to say is that we should be here like a football team, or basketball team, all five people moving down the court together, and not four moving down, and one going off in another direction.

Councilman Whittington stated he appreciates how studious Mr. Davis is and how hard he works, and how receptive he is on complaints from individuals, but you cannot be all things to all people. And neither can he about this Council. If he did everything Mr. Davis said to do about CFC, how does Mr. Davis know that six members of the Council are not going to him, and saying "don't pay any attention to Lou Davis". Councilman Davis replied if that is the case, he expects Mr. Whittington to speak up in public session. Councilman Whittington stated he does not know that is the case; he is just telling him how some things work. Councilman Davis stated he does not know that. Councilman Whittington stated you cannot get a Board of Deacons in a church to agree there is not some politics going on in there. Councilman Davis stated on this Council if you do not vote, you are recorded as "yes". If the Manager receives instructions from a Councilmember in public session, and if another member disagrees with it, then that member is obligated to speak up.

Councilman Whittington stated he thinks enough has been said about this, and the City Manager can say whatever he wants to, or not say anything if he does not want to.

Mayor Belk stated he does not think the City Manager needs anyone to take up for him because he thinks he is an outstanding City Manager. That he disagrees with Mr. Williams; the finer you can have the City run, and the cleaner you can run a city, the better off the service to the people you represent.

Mayor Belk stated in reference to the CFC, the CFC as it clearly states is to advise the City Council and County Commission. It does not state any place that he knows of where it is suppose to run the Utility Department. There has been one major change in this operation since '69. That he is glad Mr. Burkhalter was here and had a part in doing it. That is one of the main reasons, and he will give credit to the County going broke in their Utility Department, and another thing is Chairman Pete Peterson was in favor of seeing the County increase the water and sewer outside the city, and their problem was it was too expensive to put it together.

That he thinks the CFC now really is still to be an advisory board to the County Commissioners as well as to City Council; but not one over the other. If they want some advice, he thinks they can very easily do that; but if they do not want to, they are not going to give much advice. He might have some different opinion of the people on CFC than he does. This is a matter of interpretation. But he thinks they have met, and nobody has ever tied their hands. Any kind of information they want they have been able to get, if they want it. He has never seen, and he has talked to the Chairman, and not each individual, but the Chairman tells him he can get any kind of information he wants; nothing is being hidden from them. If they do not want it, they are not going to do it anyway.

He stated Council voted six to one, and Mr. Davis was the only "nay" on the Town of Matthews. The County Commissioners had another point on it, the City Council did not have. But when the City Manager is told, six to one, to connect it with Matthews, he does not think, just because Mr. Davis did not think they should be connected with Matthews, it has anything to do with the CFC. But when the City Council tells the City Manager, on a six to one vote, he has to go with the six to one vote. That Mr. Davis might still be complaining because his "no" is a single "no". But he still thinks the Manager has to go with the majority of Council.

Mayor Belk stated he thinks the City Manager should always do that. If Mr. Davis wants to chastise somebody it is all right, but he thinks it belittles him a little more than it does the City Manager. He stated he thinks he has done a good job; this is a hard mayor and council to satisfy. For him to try to satisfy everyone is a very difficult thing. In place of trying to say something on some report which is in the record to be gotten up at any time, he does not see anything hidden in it; he thinks he should be complimented on the many good things he has done. Then if there is something he does disagree on because he is one vote against six, he should approach it a little differently.

Mayor Belk stated he thinks we have some fine people working for the City; he did not say they are perfect; but he is proud of what they are doing. In reference to what Mr. Williams said in having such a clean city, a lot of cities are not as good as Charlotte. It did not happen just with this council, it happened through the years.

Councilman Davis stated he would like to hear from the other Councilmembers but he would like to respond to comments already made, and it might direct this conversation on a more productive vein. He tried to say at the beginning that he had a very high regard for Mr. Burkhalter's competence. He just tried to center this discussion on the role of the CFC and the Manager/Council relationship. He does not think it is going to be productive to discuss Mr. Burkhalter's personal characteristics. He tried to say we all agree we have a highly competent City Manager. The most productive thing we can now focus on is the role of the Council/Manager form of government. Secondly, the Mayor mentioned the six-one vote. Yes, Mr. Burkhalter had no choice when he received a six to one vote, he has to go ahead and do what he has to do. Here again, he was not saying anything to Mr. Burkhalter, he was using that as an illustration that he thinks they would agree with if they followed along with the printed material that there is some misunderstanding about the role of the CFC. This Council's own ordinance passed in 1969 reaffirmed by unanimous vote on Mr. Williams' proposal, and Mrs. Locke's second, these duties. Paragraph (f) requires the CFC's advice on this. He stated

March 21, 1977
Minute Book 65 - Page 100

he asked for it and was denied the opportunity to seek it. He is saying Council acted in contravention to its own ordinance. Councilwoman Locke stated it is not an ordinance; it is an agreement written in 1969. Perhaps the communication problem is that we should re-write this agreement, and re-define the role. Councilman Davis stated if she wants to change the role, then she should bring that up in a separate proposal. But right now he is trying to clarify what the role is. He asked if she agrees the resolution, or whatever she wants to call it, does require CFC approval for this type of extension? Councilwoman Locke replied it says \$75,000 or more and it is an old agreement, and she would have to consult the City Attorney on that.

Councilman Davis asked the City Attorney if he can give Council an opinion on the validity of that agreement? Mr. Underhill replied he would rather not right on the spot; but he will be happy to give it later. That he can remember some of the background. Councilman Davis stated while he is looking he will ask Mr. Williams, as he and Mrs. Locke seconded the proposal to re-affirm the very same duties in June 1976 and we voted unanimously to re-affirm these duties. Councilman Williams replied his understanding was it was a ratification of the earlier document. Councilman Davis asked if it was his understanding that Paragraph (f) on the duty and responsibility of the CFC on this type of major extension, requires their review? That is all he is trying to say.

Mayor Belk stated if the CFC really bothers him, why not dissolve it? Councilman Davis stated we do not have that authority. Mayor Belk stated he does not want to see Mr. Davis troubled on something as small as the CFC. Let's just dissolve it. Councilman Davis asked if it does not bother him when Council acts contrary to its own resolution?

Councilman Withrow stated he thinks that probably all councils since this document was drawn up are guilty of a lot of things. That CFC has been asked to do a lot of things, and because of the complications and the time it takes, over the years we have gotten back from the CFC very little on a lot of these things, and it is our own fault. In looking over these proposals, they should be paid half salary to do this. He does not see how the CFC could perform this (a) through (h), and work at a regular job, and do the things we ask them to do. We have asked them to go over the rate structure. That he does not know what all we are reading into this for them to do; but we are reading in for them to do the same things Lee Dukes is doing, and we are paying him a salary of \$27,000 a year. It is impossible, and maybe it needs to be redone. It is impossible for the people to do if we go to the letter of the law of this agreement. It is all according to how you read the agreement and what you read into the agreement. That he thinks we have all been guilty through the years, and we have passed it off, and now it comes to a head.

Councilman Gantt stated he would like to hear Mr. Burkhalter's response to these charges. Probably more important in his mind is that the procedure or history behind this whole thing is made clear; that he was never familiar with the 1969 specifics of this agreement. He can appreciate Mr. Davis' researching this, and letting him become more aware. He has generally been aware of the CFC role, but that has been primarily by word of mouth. It seems to him when the resolution was voted in 1976 to reaffirm, he does not believe there were two members on Council familiar with the precise definition of that role. If he got into the specifics of this, he would agree with Mr. Withrow that it would be very difficult for that committee to do all the things that have been outlined here. He does not think it says we were required to do it, or that Council was required to get certain recommendations from the committee. In fact, it is an advisory committee. It also allows for that committee to have staff; it meets to prepare budgets to submit to the Manager on a yearly basis. He thinks they have done neither of these things over the years. One point might be made that the CFC may have assumed on its own a lesser role when the Council has not pushed it over the years. It seems if we want to deal with the CFC we should get into Mrs. Locke's position which is to re-define the role, or clarify the role. That Mr. Davis has a good point if the resolution states a certain role and that committee is not playing that role, then this is the proper time to re-define the role, and get that cleared.

Councilman Gantt stated more important to him is the subject related to this whole role of the City Manager to the Council. One of the biggest problems we have in being part time citizen-politicians is that we have so much time to absorb so much information. We depend very heavily on Mr. Burkhalter and his staff to provide us between Friday and Monday as much information as we can get. To a large extent we have gotten that information. He would hope he heard Mr. Whittington wrong a while ago that when in fact a member of Council requests from the only employee it is really directly responsible for Council some information, that six other Councilmen, or two other Councilmen, or one other Councilman, does not privately ask the City Manager not to take that seriously.

That would be a serious breach of the City Manager/Council form of Government. Councilman Whittington stated he did not say he knew that this sort of thing existed, and he does not think it does.

Councilman Gantt stated we put the City Manager on the spot when we try to play politics. Assuming there is not that kind of politicking going on, he has to be the most objective person sitting around this table, because he has to investigate issues that he may not personally care about, but he should do a thorough job of it. The most substantial point he thinks Mr. Davis makes is that the research on this particular issue was not good. There are other situations where he has commended the staff, but he can site other instances where he thinks the research was equally sloppy. That is the essential point we should be making, rather than whether the CFC is doing what it should be doing, and that is to the extent possible, Mr. Burkhalter ought to be, and he thinks he does, to the extent possible, evaluate everything that comes to Council on that document Council receives on Friday afternoon. He should be certain that Council is getting the best possible information to make policy decisions. The most serious charge he has heard Mr. Davis make is simply the research was not good, and we were not able to come to some proper decision on the CFC. If that system of communication - information, if you will - breaks down, we have a serious problem because no member of Council has the time, resources or ability to put in doing the kind of work that Mr. Davis did.

Councilman Gantt stated a lot of times he has to assume, unless he knows something about a particular issue and calls up a staff member and asks why some particular point was not covered, he has all the information necessary before him. A case in point is today Mr. Motto came before Council with the geographic base file. Sometimes he thinks Council gets too much information, something like 30 or 40 pages - he took one glance at that. It would have been much better if it had been written in prose, saying the essential things it needed to say. That is the opposite of what Mr. Davis point is, that he did not get enough information on the CFC. Sometimes we go too far in one direction, and are given a lot of minutia and boiler play, and on the other hand, sometimes he does not think we do all the research we can. On balance 95% of the work is good, but that other 5% becomes very critical when you have to deal with major issues.

Mr. Burkhalter stated to please seven Councilmembers and a Mayor is not the easiest thing to do, and it has been a task that he has enjoyed trying to do for a long time. The first Council he was ever elected by, he was elected by a vote of four to three. The first thing he told the four was that he could not work with them without working with the three; that the three would get the same information and same help that the four did; this is a policy he has never violated. Some may think he has, but he has not to himself. He does not think he would be here now if he had, and he should not be.

The one thing mentioned that is a very, very difficult problem is the depth of information Council gets. He does not have any problem with this as long as Council thinks he is not trying to do something to them. If Council does not think the information is all it needs, do not hesitate to ask him for it. When this material is made up, sometimes we take some out, and sometimes we

March 21, 1977
Minute Book 65 - Page 102

add some more because we try to figure how much is wanted, and how much is not wanted. This is always a problem, and it is a calculated judgment that we have to make.

He does not find any real problem with any Councilmember who brings up the subject and asks why a certain thing is not done. If they think he is trying to keep it from them, that is a real problem. But if they think it is an error in judgment, then we can work it out, and not have any problem.

Mr. Burkhalter stated he is sure Mr. Davis thinks he is trying to keep something back, but he does not know exactly what it is and he does not understand yet. But it has been a problem. He has spoken to Council on this no less than five or six times. In one special session he tried to explain it as clearly as he possibly could that our interpretation of the documents that created the CFC now is the last one, and is the only one. That is the one we have been operating on. He knows that is the intention because he was there. The Mayor was there and Mr. Peterson was there, and it was to wipe out the past and create the new. The only reference made to the old was the structure of the organization. That was the intent. He does not know whether this does that or not. He is not a lawyer and it was not written by a lawyer, and that is one of the problems. That it was the understanding of all the people involved that what the committee would do was what was spelled out in this agreement.

The reference to "out of the city limits" was put in there because that was the problem about who did the water extension outside the city limits. That was the big fight; that was why it was put in there. When he came here, there was a terrific fight. The City and County actually fought over the customers as to which one would serve which. The County would serve notice they were going to serve one, and the City would say that is ours. There was a great battle over each one, and the CFC was the one that refereed that and did a good job.

He stated he has no objection to giving the CFC any advisory capacity. He would just like for them to tell him. That he has given them every possible thing he thought they wanted. He tried not to hold anything from them. Very frankly, they were given sparse information on this subject because he thought Mr. Davis wanted to say what he felt these things were. He did not try to color the picture; he just gave Council this document to let Council decide whatever they wanted CFC to do, and tell him last week what Council wanted us to do and that is what we would do. There was no reason whatsoever to hold any of this information out.

He stated when you start to research, there is a difficulty of researching and giving everything except the one wanted. That is the danger, and that is the reason for giving the one document which is the legal document for this purpose. He stated as far as he is concerned, Council can assign them any advisory responsibility Council wants them to have. They have some very good ones. They have some that would help Council if they would use them. The biggest one is the rate study and the other is the Annual Report. The third one and major one is settling differences between the City and County, the policy functions they have done. He stated he can only do what Council tells him to do.

MOTION TO ADJOURN.

Councilman Whittington moved adjournment. The motion was seconded by Councilman Withrow, and carried unanimously.

MEETING RECONVENED.

Councilman Whittington moved that Council reconvene in order for the City Attorney to present an emergency item. The motion was seconded by Councilwoman Chafin, and carried unanimously.

March 21, 1977
Minute Book 65 - Page 103

MOTION TO CONSIDER NON-AGENDA ITEM, AUTHORIZED.

Motion was made by Councilman Whittington, seconded by Councilwoman Chafin, and unanimously carried, to consider a non-agenda item.

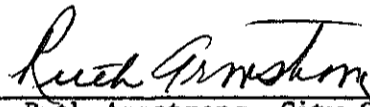
SETTLEMENT IN CASE OF CITY VS. MCALPINE CORPORATION FOR SANITARY SEWER EASEMENT, AUTHORIZED.

Mr. Underhill, City Attorney, requested Council action on a condemnation suit filed in October 1973, by the City against the McAlpine Corporation, for purposes of taking a 15-foot wide sanitary sewer easement running across their property for approximately 700 feet, cutting the property in half. The property is located off Matthews-Pineville Road, Highway 51. The City deposited \$5,400 and the landowner is now willing to settle for \$7,400, which requires an additional \$2,000, and includes interest, all expert witness fees, and the normal costs we pay in this kind of situation. He recommended the settlement to Council.

Motion was made by Councilman Whittington, seconded by Councilwoman Locke, and unanimously carried, approving the settlement as recommended.

ADJOURNMENT.

Upon motion of Councilman Withrow, seconded by Councilman Whittington, and unanimously carried, the meeting was adjourned.



Ruth Armstrong, City Clerk