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The City Council of the City of Charlotte, North Carolina, met in regular session on Monday, May 23, 1977, at 2:30 o'clock p. m., in the Council Chamber, City Hall, with Mayor John M. Belk presiding, and Councilmembers Louis M. Davis, Harvey B. Gantt, Pat Locke, James B. Whittington, Neil C. Williams and Joe D. Withrow present.

ABSENT: Councilwoman Betty Chafin.

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 Commissioners Broughton, Campbell, Ervin, Johnston, Jolly, Marrash and Ross.

ABSENT: Chairman Tate, and Commissioners Kirk and Royal.

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INVOCATION.

The invocation was given by Reverend Robert W. Rayburn, Minister of Christ Presbyterian Church.

APPROVAL OF MINUTES.

On motion of Councilwoman Locke, seconded by Councilman Whittington, and unanimously carried, minutes of the last meeting on Monday, May 16, 1977 were approved as submitted.

AGENDA ITEM NO. 21 CONSIDERED OUT OF TURN.

Councilwoman Locke requested that Agenda Item No. 21 on the amendment to the Smoking Ordinance be considered out of turn.

Councilman Whittington moved that Council consider Agenda Item No. 21 at this time. The motion was seconded by Councilman Withrow, and carried unanimously.

CONSIDERATION OF AN AMENDMENT TO SECTION 8-12 OF THE CITY CODE TO PROHIBIT SMOKING IN THE COLISEUM, DELAYED FOR TWO WEEKS.

Councilwoman Locke moved that the subject Agenda Item 21 be delayed for two weeks in order for the professional staff to come up with more information. The motion was seconded by Councilman Whittington.

Councilman Davis asked if there are people present who came to speak to that item? Councilwoman Locke replied Mr. McCracken is the only one.

The vote was taken on the motion and carried unanimously.

MAPS COMMEMORATING THE 50TH ANNIVERSARY OF THE CROWNING OF QUEEN CHARLOTTE AND HER HUSBAND AS KING AND QUEEN OF PRUSSIA PRESENTED TO THE CITY.

Mayor Belk recognized Mr. Maurice R. Smith who stated he and Mrs. Smith wished to make a presentation to the City of Charlotte in honor of her father, John M. Scott, who for fifty years was a leading merchant and banker here. The two maps of the Kingdom of Prussia were made in 1751 by King Louis XV's mapmaker in honor of the 50th Anniversary of the crowning of Queen Charlotte and her husband, King Frederick, as King and Queen of Prussia. Mr. Smith stated it is appropriate we have them in Charlotte because this city was founded the same year and was named for the Queen. He requested the maps be hung in the Mayor's office and later transferred to the new building.

Mayor Belk mentioned the many contributions Mr. and Mrs. Smith and their family have made to the City and thanked them for this gift.

ORDER OF AGENDA CHANGED, AND AGENDA ITEMS NO. 5 AND NO. 6 CHANGED TO ITEMS NO. 3 AND NO. 4.

Mr. Burkhalter, City Manager, stated he had a request from people concerned with Agenda Items 5 and 6 that these be heard first; that the City Attorney has ruled that the four zoning items can be heard in any order.

Motion was made by Councilman Withrow that No. 5 be moved to No. 3, seconded by Councilman Davis, and carried unanimously.

Motion was made by Councilman Withrow, seconded by Councilman Davis, and unanimously carried that Item 6 be moved to No. 4.

HEARING ON PETITION NO. 77-15 BY PUBLIC WORKS DEPARTMENT TO CONSIDER AN AMENDMENT TO THE ZONING ORDINANCE CONCERNING DRAINAGE PLANS FOR BUILDING DEVELOPMENT EXCEEDING 5,000 SQUARE FEET AND DETENTION OF STORM WATER RUN-OFF; AND AN AMENDMENT TO THE TEXT OF THE SUBDIVISION ORDINANCE AFFECTING MAINTENANCE OF STORM DRAINAGE PIPE SYSTEMS ON PRIVATE PROPERTY.

The public hearing was held on the subject petitions.

Mr. Robert Hopson, Public Works Director, stated in a continuing program of improving our storm water management program these two amendments to the City Code are being presented to Council. The past winter was very severe and our weather pattern seems to be changing over the years - an exceedingly cold winter and an exceedingly dry spring up to the present time. All must remember the floods of June 1974, May of 1975 and October of 1976. Widespread flooding from time to time continues.

These floods have brought about much public outcry from affected citizens about something that the City should be doing. As all of them know, many things have been done in the recent past. There are other things that can be done from time to time. These proposed ordinances are things they feel will help in our storm water management program. They will reduce local stop-ups, give preventive maintenance and will be in keeping with the recent street assessment policy. The enactment of the zoning amendment will prevent the continued public building of new drainage problems by proper engineering in the design stages of the project. So that the Irvin-Sugar Creek basins with another rainfall similar to that of last October the floodplains in Pineville will still get flooded, maybe not as much because the County has done quite a bit of work down in that area also.

It is the opinion of his professional staff and other experts in the field that these ordinances in the long run can at least help us maintain our status quo as we continue urbanization. There are other alternatives available for reducing the current problems and they will be presented at a future date.

Mr. Clark Readling, City Engineer, stated he would point out some of the items which have already taken place in the flood management program. Floodway regulations have been adopted that restrict development along floodplains of our major streams. This is probably the biggest single thing that has been done. A flood insurance program in cooperation with the Federal Insurance Administration has been adopted and provides low cost flood insurance to those in flood prone areas. A sedimentation control ordinance was adopted which is an attempt to control sediment and erosion from storm water runoff.

He stated a cooperative program with the U. S. Corps of Engineers to study the entire Sugar Creek drainage basin and identify the problems and solutions for that was conducted. The City has spent almost 1-1/4 million dollars in the last few years improving drainage systems in spot locations that were flooding private property. On January 24th of this year City Council adopted a petition assessment program that will provide a means for property owners who are willing to help themselves to participate with the City in eliminating the drainage problems on private property. Also, in January City Council authorized a contract with the Urban Institute at UNCC to study flood prone structures in Charlotte and make recommendations for relieving these problems.

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He stated today they are presenting proposed amendments to the subdivision ordinance and also the zoning ordinance. It is their belief that these ordinances, if they are adopted by Council, are two more positive steps that can be taken in the overall program in Charlotte.

The subdivision ordinance provides for public maintenance of all pipe storm drainage systems, whether they are on public property or private. With the current policy we maintain only drainage systems on city property or within a street right-of-way. Maintenance of all other systems are the responsibility of the property owner. This is where the problem is.

This ordinance will provide a means for land developers to secure public maintenance on systems that are designed and built to our standards in pipe systems so that the property owners will not have any problems in the future.

The proposed amendment to the zoning ordinance requires, for the first time, that all types of land development be reviewed by the City staff as far as storm drainage is concerned. This has not been the case in the past. Past commercial and business development has taken place with no public scrutiny or approval of the project's drainage plan. The result of this has been that there are many areas in Charlotte where upstream development has caused a severe impact on downstream property owners.

The meat of this ordinance is that it provides that storm water runoff after development be no greater than the runoff before development. This is for all storms up to ten years - a ten-year recurrent kind of storm. What this means in basic terms is that the larger storms occur less often and the low intensity storms occur at a greater frequency. In other words, they expect lighter rains more often.

This ordinance cannot address the major flooding problems that happened in Pineville and other areas along major streams, but they do feel that it can address the problem for smaller drainage basins in local areas for those storms up through ten years. The facilities that are constructed in accordance with the ordinance would be designed in such a manner that when a larger storm comes, according to design it would overflow the facility. Therefore, this ordinance does require that land developers control their increased runoff so that they do not damage their neighbor.

Mr. Readling pointed out that at this point they are firming up plans with UNCC to conduct a design seminar on storm water detention which would be directed toward engineers and land developers.

Mr. Robert Pressley of the Engineering Division showed slides to illustrate the current policy that the City operates under; followed by a sound film prepared by the Urban Land Institute, the American Society of Civil Engineers and the National Association of Homebuilders giving the new approach to storm water maintenance.

Mr. Fred Bryant, Assistant Planning Director, stated the Planning Commission has already held one informal public hearing on this matter, so they have already secured some information from interested individuals concerning it.

Dr. Herbert R. Malcolm, member of the Civil Engineering faculty of North Carolina State University, stated he is a registered professional engineer and has been engaged in research on the merits of the detention of storm water under the sponsorship of the Department of Interior. Some of the studies have been conducted in Charlotte. He stated he speaks in support of the proposed amendment.

He explained that storm water detention means the holding back of some storm water in the uplands temporarily to keep it from running so deep in the low lands. The concept has been adopted by many jurisdictions nationwide with one or both of two stated objectives. One is to reduce sedimentation associated with degrading stream channels by taking the control's peak flows which are said to attack stream banks. The other is to prevent flooding brought on by changes in watershed characteristics which accompany urbanization.

On the basis of their research which is now 80 percent complete, he has drawn four tentative conclusions which pertain to this ordinance. (1) The use of detention facilities for the purpose of reducing stream bank degradation is not productive. He believes this ordinance will have little or no effect on the degradation of Charlotte's streams such as Briar Creek, McMullen Creek and others. (2) Detention of storm water will have little or no effect on extreme floods such as that experienced last October estimated as a 200-year flood. (3) Detention will have little effect on flooding of large urban streams. For example, those having watersheds larger than five square miles in area. It will not, for instance, stop flooding on Briar Creek. (4) Detention of urban storm water will, however, be quite useful in avoiding increases in magnitude and frequency of floods just downstream at sites which have been rendered extremely impervious by changes in land use.

He stated the first three of these problem areas are frequently the reasons for instituting detention requirements in urban areas. That no significant benefits should be expected to be gained in controlling stream bank degradation in large urban floods as a result of the proposed amendment. The City Engineering staff, in requesting the amendment, is fully aware of the limitations on the use of detention as a storm water management tool. They propose it with the sole intent of protecting properties immediately downstream of radically changing land uses. The amendment as proposed provides a reasonable framework for insuring that the benefits of this effect will be attained. There is concern for economy and maintenance requirements. To achieve the most economical arrangement, the designer must be given maximum flexibility in suiting the design to the site. The proposed amendment specifies a performance standard which can be met in a variety of ways. It does not prescribe a particular kind of facility and that is good. To satisfy the detention objective does not necessarily require an ugly hole in a parking lot, or the sacrifice of potentially marketable lots to the construction of a facility which must be maintained forever. Many alternatives exist for incorporating detention in a drainage system without a significant increase in first cost and without incurring unusual maintenance expense.

He cited two examples which are typical of cases encountered by him, both in research and in professional practice. A shopping center can generally include a detention facility on a remote part of the parking lot such that the maximum depth of water is 8 inches or so in any storm and such that access is blocked by standing water once in five years for a period of two hours or so. Maintenance of such a facility includes the same sweeping as for any parking lot. The facility can be designed into the drainage system for a first cost equal to or less than a conventional system.

His study indicates that residential subdivisions can meet this ordinance by careful selection of culvert sizes and roadway grades. In other words, residential developers can frequently meet the ordinance requirements without special detention facilities as dikes, ponds, spillways, etc. Maintenance of the drainage system thus attained is no different from the present.

He stated the proposed ordinance can be expected to protect downstream owners from a sudden increase in flooding associated with land use changes. It provides sufficient flexibility to be adaptable to most sites without economic burden.

Mr. Robert Jordan, 2515 Belvedere Avenue, stated he is a landscape architect in Charlotte, and he is in favor of this proposed amendment. That storm water detention utilized with soil erosion control are very good and responsible practices. There are certain things he found in reading the ordinance which he has objections to. He would like to see it actually strengthened or increased. One is that he has the feeling to have this type of ordinance at this time would be too little and too late for a lot of residences. There are about 250 that are being flooded now. This ordinance would not help any of those people that are being flooded - it only affects new development. The City of Charlotte has pretty much been built; there is very little large tracts of undeveloped land. So, he does not feel that this ordinance will really benefit a tremendous number of people who are now endangered by storms. He would prefer this ordinance be

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applicable in some way to existing development as well as proposed development. In this way, he believes a storm management system could be developed for the entire city and not just for five or ten percent of the new development we can expect to have.

Another item concerns the flood plains. Presently the city does not own any of the floodplains, or owns only a small portion of them. It seems there is a tremendous amount of effort being made continually to obtain land for streets and for other public improvements, yet very seldom is land ever acquired for storm water management, particularly floodplains. The objective of a floodplain is basically storm water going at peak times over a short period and then released, very similar to what they are talking about. If the city in some way owned the floodplains they could then control the water throughout the whole city, and we would not be doing just a small piecemeal amount of storm water management.

He stated you cannot project the limits of storm water control, such as imaginary limits, such as city boundaries. He feels that storm water management should be considered in context with the overall flood plans that you have and not just within our city limits. Something like this should not have political jurisdiction; it should be worked out cooperatively with the county and other political units that share our watershed, so that you manage one complete watershed and not a little section of it.

Mr. Joseph S. Grygiel, Utilities Division Manager of the Carolinas Branch of Associated General Contractors of America, stated he is speaking on behalf of the construction industry; that he is a registered professional engineer. He would like to briefly speak on two recommendations. The first would directly affect the contractors and in turn would eliminate unnecessary costs and difficulties for the private and public builders. That in any drainage amendment Council chooses to adopt, they request that there be a specific requirement on competitive bid projects - such as project plans and specifications include an approved drainage plan at the time the project is bid. That in the interest of public health and safety, the project design including the drainage plans, should be prepared by persons qualified by training and experience in this type of work.

He stated the contractor's role of course is to build the project in accordance with plans and specifications - that is the basis on which he submits his bid - but we frequently bind in construction contracts just general provisions which state that the contractor shall comply with all federal, state, local laws and regulations and ordinances, etc. and further, that he will obtain all permits. If the contract documents do not include this maintenance plan, the contractor must have a contingency amount in his bid to cover unknown costs. This would result in unnecessary costs to the public. The requirements may not be mentioned in the contract document. If a contractor is from outside the area he may not find out about this requirement until he actually applies for the building permit; in which case his bid will not have covered the cost of preparing a plan and getting it approved. That means project delays and difficulties for all concerned.

His second recommendation does not affect the contractors directly. He appreciates that Council is considering a zoning ordinance and not a sedimentation control plan, but he would like to point out a similarity between Section E of the proposed ordinance and Section 8 of the rules and regulations of the State Act. Both deal with the complex problem of storm water maintenance. He quoted from the ordinance. "After the development of the site is calculated, peak rate of storm water runoff resulting from a ten-year frequency storm shall be no greater than that which would result from a ten-year frequency storm on the same site prior to development." In effect, Section E of the ordinance and Section 8 are identical, albeit for a different purpose. Storm water managed by a particular method will act the same way regardless of the intent of the proposed method. That Section 8 is the only section of the North Carolina Sedimentation Pollution Control Act of 1973 which has not been implemented. The main stumbling block has been this particular quoted provision.

He stated there have been studies by a technical advisory group in 1975 and 1976 and they could not agree on regulations to implement this particular section. So, the Commission extended the implementation date and appointed

another committee, composed of 14 highly qualified experts in a variety of fields to study the matter further. The committee has already held meetings and will meet again next week. As yet, this technical committee has been unable to agree upon and come up with regulations which would be reasonably cost effective and still meet the provisions of the Act. The committee has a deadline of October 1 to submit its formal report.

He suggested that it might be prudent to wait and take advantage of the data and findings of this highly qualified committee before adopting the storm water management provisions proposed by this ordinance. Such a postponement could lead to a less costly and more effective solution.

Mr. David M. Lucas, 1111 Linganore Place, stated he is a civil engineer in local practice. He was formerly with the City, starting about 20 years ago and left about 10 years ago. He administered the subdivision ordinances at one time and actively engaged in trying to set up floodplain regulations and designed storm drain management. Since then he has been active in designing under our existing codes and laws, storm drainage systems for developers of apartment sites. He is familiar with the problem.

He thinks it must gail home builders and developers to have it appear that they have been the culprit, that they have caused all this drainage; and that now suddenly they have discovered something new; that we have a reform center here. That reform center is the Public Works Department. The laws that he had to work under required him to cause this damage from floods. The ordinances are written this way. If you send your plan to be reviewed, they say "thou shalt" curb, "thou shalt" put this splice in, and "thou shalt" put these culverts in. They have not been allowed flexibility. This is fine; now we are all going to reform ourselves.

He stated the ordinance that has been designed to accomplish this reform is insufficient at this time; that proper staff work has not been done on it. He would like to be disputed by the people here; he would like them to tell him that there is a method of appeal right now. If he designs a plan and it is turned down, he does not think at this time there is any established way for him to appeal to the City Engineer. He would like to be corrected on this. He thinks Council should investigate this carefully.

This is also a huge step they are taking if they pass this ordinance. Experts like him, he thinks, have a duty to point out big steps. That the City Engineer now does not have a set of minimum standards that have been passed in an ordinance to get at the design. The ordinance is so written to give him discretion. It says that "the plans shall be reviewed by the City Engineer in accord with the manual of practice currently established by the City Engineer." This gives the City Engineer a lot of discretion. That they might think that he does not want the City Engineer to have that discretion, but they are exactly wrong. He wants him to have the discretion to act as an engineer, to be reasonable, to acknowledge what nature does. We are not fighting each other's laws; we are fighting God's ordained path on earth for the rain to fall to the lower regions. We need to work together on this. He wants the City Engineer to have discretion; this discretion will only come if he has a proper type of authority to make these decisions. This type of authority does not come from a written code; it comes from a careful and continuing review by his peers - by people able to judge the competency of his series of decisions that evolve into a manual.

Mr. Lucas recommended that Council ask the City Engineer to make recommendations to Council for a method of having a continued review of these manuals by people who are actually practicing. He thinks Council needs to ask the question, how can an appeal be made from an arbitrary decision and how can Council maintain the discretionary powers to see that we evolve an effective manual and effective working practice so that the thing will work; rather than just drift into a rigid code being applied indiscriminately by underlings who do not know what it is all about.

Mr. Mike Dhunjishah, President of the Southern Branch of the American Society of Civil Engineers, stated they consist of roughly 280 civil engineers who practice in the Charlotte area. Their expertise ranges all over the board; they have people who are experts in all areas, including storm

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water management. At the onset, when they heard about the plan for a storm water management system, they set up a committee to review it. However, they have not moved as fast as the Planning Commission has and they would like to propose the following three things be taken into consideration before voting on this ordinance: (1) As professionals, they endorse the concept of storm water management; (2) They would like to have input into a storm water management program, as civil engineers; and (3) They recommend that the Commission delay passing this ordinance until they have had a sufficient amount of time to fully study provisions of the storm water management ordinance and can make specific input into the ordinance.

Mr. Phil Forlidas, immediate past president of the Charlotte Home Builders Association, stated he has given the Clerk a position paper giving some views of the Association as a result of a study they engaged in. They are a group of 300 builders and associates and consider themselves the backbone of the home building industry in the City of Charlotte. He will point out some items of practical interest that will affect the home buying public in Charlotte when they go to buy a house that is built as a direct result of parts of this ordinance that is proposed.

Mr. William H. Trotter, Chairman of the Home Builders Study Committee, stated it is rather difficult to argue with the slide presentation, particularly when it is endorsed by the National Association of Home Builders. Of course, it was the intention of that presentation to imply this would save money for the homeowner; and this is their objective, to save money for the homeowner. That the speakers who have preceded him have expressed in many ways most of the points that he had to say. That it is not fair for them to have to declare they are in opposition. They do not flatly oppose the ordinance; they are certainly in favor of flood control and are in favor of the objectives of good ordinances like this. But they must point out some serious misgivings.

He had some comments on the slide presentation. He was listening very carefully and he understood Mr. Pressley to say that these ditches that were shown after they were finished, that they would be the responsibility of the developer to maintain. That must not be what he meant to say because the ordinance which is before Council does not say "a developer," it says the "property owner." It means the homeowner is responsible for maintaining these drainage situations, not some nebulous developer. The slides also implied the control of major flooding; two or three times it flashed on the screen the big flooding of a big area and certainly implies that this system that is proposed is going to cure this, or have some substantial effect on it. Yet, the man who the City Engineering Department and most people regard as the statewide expert or authority, Dr. Malcolm, flatly said that this ordinance as proposed would not improve the flooding on major streams. That what Dr. Malcolm said and what the picture said are the opposite. Both the slides and the film implied or stated that the job could be done with more cost by employing new techniques. That fits right in with the objective of the Home Builders Association; that is what they would like to do. They would like to have the help of city staff to show them how to save money. In the final analysis, if they disagree with the staff, and know it is going to cost them more money, then he thinks that his people know how to save money better than someone at City Hall.

He feels that Dr. Malcolm's conclusions were so important that they should be borne down on; he says there would be no effect on stream bank degradation, little or no effect on extreme floods, little effect on large streams such as Sugar or Briar Creeks. He believes this City Council's main objective in considering these matters has been the Pineville flooding, but what they are being told by the statewide expert is that this is not going to do Pineville any good. It might benefit small neighborhoods but not the large watershed. This is based on studies by someone who knows a lot more about it than he does, but it does stand to reason that if it rains long enough and hard enough, it is going to still flood, and these little puddles all over the place are merely going to delay the flood but when it really hits, it is still going to hit just as hard.

He referred to Dr. Malcolm's conclusion when he said the best thing that this ordinance would do would be to prevent downstream property from radically changing land use. Mr. Trotter stated that building one or two homes

is not a radically changing land use, but building one or two homes falls under the scope of this ordinance. That is very important.

Mr. Trotter stated they should also take note that this ordinance has been considered by the Planning Commission, but is not endorsed by the Planning Commission. It came to Council without recommendation from the Planning Commission. The legal implications - they are in effect changing a State law. The law that has been passed down from way back when, is that the downstream property has to receive the result of the rain that God gives us. They are, in effect, changing a state law of long standing. This step should not be lightly taken - it is a big step.

He stated that in previous City Council meetings leading up to this, Mr. Gantt expressed concern about the effect on low income people, of water standing on their property and not having been piped off properly; and the fact that they could not maintain these things, that their income does not provide for it. That one of these items before Council today addresses this problem and tends to solve the problem that Mr. Gantt was concerned about. The other one tends to make it worse. In other words, we are tending to keep water on private citizens' property longer; tending to give the low income citizen and every other citizen more to maintain. The water would hang around his property in puddles or ponds, or something, longer and give him more to maintain instead of less.

Mr. Jack Delaney stated he has been engaged in the development business in Charlotte and Mecklenburg for 25 years and thinks he has been able to produce some reasonably good subdivisions, none of which that he knows of has a flood problem. He stated there is already existing in our subdivision act a provision that streams have to be cleared and kept clean. The people for whom he works happen to have a considerable amount of land just over the Mecklenburg line and in conjunction with the County Commissioners and the County Engineer, they have been working out a plan to help in that sense to minimize the flooding that has taken place in Pineville. That some of them may have seen the presentation the other night where Ms. Hair dedicated a dike in a ditch. That is not the whole answer. The debris, car carcasses, timber, portions of houses, mattresses, springs, were all washed down through Pineville and gathered in places where there were shallow, sandy beaches and built up. A good part of the flooding was caused by the back-up resulting from this debris creating a dam. Fortunately, most all of the people in the 9-1/2 miles from Mecklenburg County on to the Catawba River, through York and Lancaster Counties, have agreed to participate in a clean-up program. This in itself is going to have a measurable effect upon future flooding in the Pineville area. He cites this because of the emphasis that was given earlier to the problem in Pineville which was very serious. There is no denying that.

He stated the ordinance proposed has been presented to Council without any indications, so far as he knows, of what the cost of administration may be. How many more people does it require? Who is going to review and set up and police? They think that the ordinance as written is unnecessary. They want it understood that they are not in opposition to control of storm water. They agree that it is necessary and it is helpful to their industry and to the community at large. But what are they going to have if the ordinance is passed? A single family house on a normal lot, which would run 90 x 160 feet, has 14,400 square feet. If it is agreed that a 1500 foot house would be relatively the average and a 600 foot carport, a 1500 foot driveway, 280 feet of sidewalk and 980 feet of impervious street - you have 5460 feet on a given lot, if there is no pre-existing street or sidewalk. If there is a pre-existing street or sidewalk, they are not counted in the calculation for the 1500. So, the 1500, as Mr. Trotter said, gets us down into the individual lot arrangement, to the man who is building eight, ten or twelve lot subdivisions and is going to put in the streets according to the way it is written he must calculate the impervious areas to be inclusive of the street. This seems to them not to be a wise thing.

There is also the possibility, and very likely probability, from what he is told by the Mecklenburg Health Commission, that these retention ponds will be mosquito breeders and which are likely to bring back to Charlotte and Mecklenburg the necessity for fogging or some other treatment for mosquito control if the provisions of the ordinance become prevalent throughout the major part of the city.

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The other possibility that is expressed and implied in the ordinance is that instead of curbs they might have recourse to open ditches to control the water. This is a complete switch. Presently the curb and gutter requirements either under the subdivision or the zoning act extend out as far as Four Mile Creek and in approximately that distance from the center of town. We have some subdivisions here in Charlotte, some of the better ones, that are still handling storm water by side ditches rather than curb and gutter. They are doing it effectively without flooding. But, these are effects that need to be weighed.

He suggested that this Council give serious consideration to remanding this ordinance for further study by professional and technical groups who are dealing with the problem everyday to work with the City Engineering Department and come up with something that can be palatable and at the same time reasonably effective.

Mr. Jim Bogan stated he is responsible for land development with the single-family subdivision builder, Ralph Squires Company. He stated his attitude is the same as the rest of the home builders group. He would cite Paragraph C of the proposed ordinance which says "The drainage plan shall be prepared and approved using the standards of the City Engineer as contained in the current editions of the Storm Drainage Design Manual, Land Development Standards Manual and any other standards of the City Engineer currently in effect."

He stated they interpret this paragraph to read that the City Engineer will have a blank check to design, redesign, change, enforce and interpret those proposed regulations at his discretion. They oppose such a blank check ordinance that allows such possibilities without necessarily receiving input from others - the City Council is even excluded from this. That this is a problem they would like to have some input on; they would like an opportunity to sit down and discuss it with the City Engineer and with members of the professional industry. They respectfully request that Council consider these factors before passing this legislation.

Mr. Jim Thomasson stated he is a single-family home builder in the Mecklenburg County area. He stated this ordinance will add at least \$500 to the cost of a house on a single lot - about \$200 for the engineering work required, \$100 for preparing the various exhibits that are required under the ordinance and at least \$200 to install these gold fish ponds or dry ponds that are going to hold the water. That the cost of housing is increasing much faster than people's income; they cannot afford decent housing now. They do not need another \$500 increase.

Another point he would make is the poor marketability of such homes. With all due respect to the national film, they will notice they did not show any goldfish ponds on a private lot. He does not want a goldfish pond in his yard; and he does not think anyone else does. Homeowners do not want water standing on their property; they want lots graded so that the water flows off and gets on downstream. In addition he thinks these goldfish ponds would be unsafe for small children; they would be difficult to maintain by the owner and very unsightly. They would be a mess and he does not think anyone would buy the house.

Council decision was deferred for a recommendation of the Planning Commission.

HEARING ON PETITION NO. 77-14 BY O. T. WAGGONER FOR CHANGE IN ZONING OF PROPERTY NEAR THE NORTHWEST CORNER OF THE INTERSECTION OF BRIAR CREEK DRIVE AND OLD MONROE ROAD, FRONTING ON BRIAR CREEK DRIVE AND ON COLONNADE DRIVE.

The scheduled hearing was held on the subject petition for a change in zoning from O-6 and B-1 to B-1 and B-2, and on which a protest petition has been filed and found sufficient to invoke the 3/4 Rule requiring six affirmative votes of the Mayor and City Council in order to rezone the property.

Mr. Fred Bryant, Assistant Planning Director, stated this petition involves property located on Briar Creek Road and Colonnade Drive. The request is to consider a change from a combination of what is now primarily office zoning with a small portion now zoned B-1, to B-2; that the portion of the

property which extends northerly up to Colonnade Drive which is now zoned O-6 be rezoned to B-1. In total it is a proposal to change primarily from office to a combination of B-1 and B-2.

He stated the property in question now has on it a couple of structures - one facing Briar Creek, one facing Colonnade, both of which are former residences but are now being advertised for rental as offices in accordance with the present zoning. In addition there is on Colonnade, adjacent to the subject property, a furniture store which has a frontage relationship back out to Colonnade. Then there is a series of commercial uses along Monroe Road. Near the intersection of Monroe and Briar Creek there is a lounge and a variety of other commercial establishments along Monroe Road. There are several houses in the immediate vicinity of the subject property. Three or four single family homes are located adjacent to the subject property on Briar Creek Road and two homes still located on the easterly side of Briar Creek.

Other than that, there is vacant land across from the property, on Colonnade. He pointed out the Merchandise Mart parking area which occasionally is also used for Coliseum parking purposes; and Chantilly School.

The zoning pattern in the area is predominately non-residential; it is all non-residential in the vicinity of the property; it is predominately commercial or business along Monroe Road. The area which is now the subject of the proposed rezoning as well as the area which is occupied by the homes along Briar Creek is now zoned in O-6 classification. The proposal is to change what is now predominately office zoning to a business category which would match the B-2 now on Monroe Road and the B-1 on Colonnade.

Mr. Harry Faggart, Attorney for the petitioner, provided Councilmembers with copies of a plat based on the tax map which showed the area involved, and explained the present zoning, stating that the property under consideration is just a little island of O-6 zoned property in a B-1 or B-2 zoned area. The property of the petitioner is presently used for business purposes. The multi-zoned portion behind this property is not being used; there is a duplex on the lot fronting on Colonnade; and a house on the lot fronting on Briar Creek Road. There are four other houses to the north of this property, on Briar Creek Road. He also provided photographs of all of the property on Monroe Road, Briar Creek and Colonnade adjoining the subject property.

He stated since acquiring the property the petitioner has tried to make some use of the property for office purposes without any success. It is his understanding that other than the home of Mr. Helms which is immediately adjacent to the property on the north, the other three property owners have had their houses for sale over the past two to five years. The intention of the petitioner if the zoning request is allowed would be not to make any substantial change in the improvements on the property as they are presently constituted, but to go ahead and use the houses, the buildings that are there, for some small type commercial purposes. He already has a commitment for the use of the house on Briar Creek Road. He has signed a lease with a woman who is in the business of quilting - a type of arts and crafts business in which other women prepare quilts and bring them to her establishment - she has several already around Charlotte - and they are sold. There are no major business uses that would be made of the property. It seems that all of the business zoning around there, with the heavy traffic between Independence Boulevard and Monroe Road - a lot of tractor trailers - that the best use for this property would appear to be for some type of business purposes. They fail to see how the adjoining property owners could consider themselves substantially damaged by this zoning change.

Mr. J. B. Helms, 521 Briar Creek Road, spoke in opposition to the petition. He stated they already have a beer lounge which causes a lot of trouble. This is the reason the petitioner cannot rent his house now. He stated he and his wife have lived at their location for thirty years, they like it and it is hard to move off and leave a place after you have it paid for. If

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this goes business, he cannot tell what kind of business is going in there or how long it is going to last, of what is going in there next. They can tell you one thing and do something else. It is a problem now getting in and out of the driveway.

Mrs. Helms stated everyone on the street is retired, except Mr. Helms, and the traffic does not bother them except at night, but the noise from the lounge does. She stated it would be difficult for them to pick up and start over again. Why does the petitioner have a right to rezone them out of their neighborhood? They have worked hard and paid for their home. There is a widow who lives next door to them who would not be able to go anywhere else. They do not need any more businesses around there. She stated the big house owned by the petitioner is perfectly all right to live in if it were not for the beer lounge and the night noise.

Council decision was deferred pending a recommendation from the Planning Commission.

HEARING ON PETITION NO. 77-13 BY BALLENGER AND BETTY TRAYNHAM FOR A CHANGE IN ZONING OF PROPERTY FRONTING ON THE EAST SIDE OF EASTWAY DRIVE, NORTH OF THE INTERSECTION OF EASTWAY DRIVE AND THE NORFOLK SOUTHERN AND AT & T RAILROAD LINES.

The public hearing was held on the subject petition for a change in zoning from R-6MF to O-6.

Mr. Fred Bryant, Assistant Planning Director, stated the subject property is a single lot and he indicated on the map its location in relationship to Eastway Drive and the railroad and to the intersection of The Plaza and Eastway, stating it is between The Plaza and the railroad. There is a single family residential structure on the property at the present time and there are single family existing structures on either side and for some distance up Eastway in the direction of The Plaza. There is also single family housing across the street. Down Commercial Avenue, which is an intersecting street, there are a number of office type facilities and a marble company. Generally, the pattern of land use in the vicinity of the subject property on Eastway itself is still single family residence. To the rear of the property is a golf course which has frontage on The Plaza.

The subject property is now zoned multi-family as is property to the north along both sides of Eastway Drive. There is existing office zoning from the subject property southward down to the railroad and there is existing O-6 property across the street directly in front of the subject property that also extends down to the railroad. The golf course is zoned R-9, so the property has multi-family zoning on the remaining two. The request is to change this one additional lot to an office classification.

Mr. Ballenger Traynham, the petitioner, stated after sitting through the previous hearings he can understand what Council goes through and he appreciates their willingness to listen to one individual's small request. He stated Mr. Bryant has explained his request very adequately. That his reasons for requesting this zoning change is that they have tried to sell this property for over a year for single family residence and the property is not suitable for a residence anymore. No real estate man he has talked with has quibbled about the price reaction. Among the residents who live there now, there is not one child. They have a nine year old who cannot ride a bicycle in that area. Within a block and a half, there is a topless night club and a theatre that is run as a strip-tease. No one will buy this property for a residence; they cannot get a fair price. As far as he knows, none of the neighbors object to this change in zoning. He stated there is no room to add on to the house and he cannot buy another one unless he sells this property.

No opposition was expressed to this petition.

Council decision was deferred pending a recommendation from the Planning Commission.

Mr. Underhill, City Attorney, replied what Mr. Fogarty has said is correct to a point. The facility they propose to construct with toilets does comply with the State code; it does comply with what OSHA requires for facilities of its type. What it does not comply with, as he understands the situation, is the local building code under which sub-paragraph (f)(2) requires that any facility that is so constructed include an installed water closet. Sub-paragraph (7) provides the building superintendent with some discretion to waive not only that requirement but any of the others, and there are five others in addition to that. In three instances as he reads it, it is in the discretion of the superintendent and those three instances are: (1) When the building is infrequently occupied; (2) When satisfactory arrangements for sanitary facilities are provided elsewhere on the same property; (3) When satisfactory arrangements have been made on adjacent property under the same ownership.

Mr. Underhill stated he thinks the superintendent can waive any of these requirements if he is satisfied that those conditions are met; but it is a discretionary thing with the superintendent. If he feels, and has some sound, rational bases for feeling that he should not waive those requirements, he is given that discretion, under the building code as it is presently written, to not waive, or choose to waive, these mandatory requirements.

Councilman Davis asked if he would agree the petitioner meets the letter of the law here up to the point where the superintendent has discretion? Mr. Underhill replied he would agree that the petitioner has submitted satisfactory proof he intends to make sufficient arrangements for sanitary facilities elsewhere on the same property, if you view a shopping center as being part of all one tract of property. He has submitted satisfactory proof to allow the superintendent, if he so chose, to waive this requirement. The superintendent in this instance has chosen not to waive the requirement and has submitted to both the Building Standards Board and to this Council his reasons for that.

Councilman Gantt asked if it would not be a better way to state the last phrase of that Section (7) by using "and/or" because if you read it the way Mr. Underhill read it - "adjacent property under the same ownership" the second provision "provided elsewhere on the same property" does not state the business of ownership.

Mr. Underhill stated he agrees with what Councilman Gantt is saying and he tried to say the same thing. He does not think the property has to be under the ownership of the applicant. That he can make satisfactory and suitable arrangements on the same property, such as Mr. Fogarty's corporation has attempted to do at FoodTown.

Councilman Davis requested Mr. Jamison to summarize the reasons in his judgment even though this meets the minimum legal qualification, why he chooses to deny this one and perhaps might have approved another one.

Mr. Jamison replied up until about 1952 they tried what Mr. Davis is talking about - permitting businesses to make arrangements down the street at service stations, drug stores, to provide sanitary facilities for their employees. It just did not work out; it was an administrative burden. The contracts or the agreements would fall by the wayside and they would wind up with employees at these particular facilities using places behind the buildings, behind trucks and things of that sort. It just does not work out for employees to have to go through a parking lot, 200 to 300 feet away, in the rain or on icy ground. The policy was changed about 1962 to require toilet facilities in all businesses other than accessory type structures. He has adhered to that since then.

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

CARLOS VICENTE CABRERIZO ESTRADA, DEPUTY MAYOR OF AREQUIPA, PERU, WELCOMED AND PRESENTED WITH KEY TO CITY OF CHARLOTTE.

Mayor Belk welcomed Deputy Mayor Carlos Vicente Cabrerizo Estrada, of Charlotte's Sister City - Arequipa, Peru and presented him with the Key to the City. Mayor Belk stated Mayor Cabrerizo studied in Lima and received a Master's Degree in London, and is Manager of a commercial bank in Arequipa.

Mayor Cabrerizo responded saying he is very glad to be in Charlotte; it is a great occasion for him, and thanked all for the greetings they have given him. He presented the Mayor with a symbol of Arequipa which he pinned in his label.

CONFEDERATE MEMORIAL SOCIETY'S REQUEST TO PERMANENTLY LOCATE A MONUMENT IN FRONT OF CITY HALL, APPROVED.

Motion was made by Councilman Withrow, and seconded by Councilman Whittington to approve the placement of a monument in front of City Hall by the Confederate Memorial Society.

Mr. Larry Walker, President of the Society, recognized a number of people who had contributed to the monument and who were in the audience. He stated it is obvious to the people in this community that no citizen could come over here and tell the City - "We want to put a monument up", without first getting approval. He referred to a letter which he had read at a previous meeting of Council. That Mr. McDermott has verified this by saying his crew put up a cement slab and he had worked out the details with him on the suggestion of Mr. Bobo. He stated he has a letter dated April 27 verifying his conversation with Mr. Bobo on that day.

Mr. Walker stated since last Monday he has received about 35 calls from people who fully support his project. Twenty five of these people he has never met. Each person stated they were also going to call City Council. He has two copies of letter that were sent to Council and the Mayor's office also supporting the monument. On Saturday morning about a hundred people attended the dedication. They all consider this monument to represent nothing more or less than freedom of speech and recognition of a historical fact and cultural heritage; the same right that has been accorded the supporters of the Martin Luther King monument. The most vocal support they have received is a letter from 75 junior high school students from Quail Hollow Junior High School. He read the letter and stated it appeared in both Charlotte newspapers.

Mr. Walker stated fifty percent of the students who signed this letter are black, and this was indicated on the copies of the letters which were sent to councilmembers. This letter from the children of this city, black and white, speaks to the whole principle of cultural diversification we all are guaranteed in this nation. These children realize that no matter how much you may agree or disagree with what a person or a culture says about their particular heritage, you are obligated as an American citizen to respect their right to say it in words or on stone.

Council's decision will deeply affect the opinion of these children at an impressionable age, besides the feelings of the majority of this community.

Councilman Williams asked who authored the inscription on the monument? Mr. Walker replied he did and passed it around for suggestions. No one disagreed; everyone considered it appropriate. Councilman Williams asked if anyone from the City had any input in to what went on it? Mr. Walker replied no one asked to have input; it was never questioned from the very beginning; it was given full support.

Mr. Mike Ridge, Enfield Road, stated this past year we have celebrated our Nation's Bicentennial, and he finds it interesting that our ancestors fought against Britain in 1776 to preserve a way of life which included the institution of slavery. Just as our ancestors in 1861 struggled over that same cause, yet we do not deny or discourage that Revolutionary heritage.

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Mr. Ridge stated a part of America's greatness is that many diversified cultures are allowed by the Constitution to live side by side. He personally does not agree with the ideals of the Communist Party or the Hari Krishna, yet these exist in our country today. The War between the States was fought by Americans on both sides. To say this is not the time or the place for such a monument is to deny what has gone before.

"That war was America's most tragic experience but like all truly great tragedies, it carries with it an enduring lesson and a profound inspiration. It was a demonstration of heroism and sacrifice by men and women of both sides who valued principle above life itself and whose devotion to duty is a proud part of our national heritage. That a transcending sense of unity and a larger common purpose could in the end cause the men and women who had suffered severely to close ranks once the contest ended and go on together to build a greater, freer and happier America must be a source of inspiration as long as our country lasts." This is taken from a Civil War centennial proclamation, signed December 6, 1960 by Dwight D. Eisenhower.

He stated 1960 will be remembered as the year when one, Dr. Martin Luther King, made great progress in the long fight for black equality and pride in a heritage too long suppressed. He stated he feels this country is still big enough to embrace all of us - our culture, our heritage, our common destiny - yes, even our monument. He will leave them with a thought as to what this monument means to him personally. War is punishment of God; it is the result of men's sins against his Maker and his neighbor. Jesus once said of men such as we seek to remember - "Greater love has no man than this, that a man lay down his life for his friends."

Mr. Jim Richardson, 7400F, Old Well Court, stated this monument represents a part of the heritage of Mecklenburg County that nobody can deny. No racial slur was intended in any way. In 1860 there were 17,000 people in Mecklenburg County; 2,700 of those are memorialized by this monument.

Mr. Spero Calos, 1151 Andover Road, stated he is President of a local Retired Officers Association, which is a military officers association of all the armed services. Their purposes and objectives are strictly civic-minded. One of the projects they performed most recently was to give a medal, a certificate and a plaque to the outstanding ROTC student of each of the high schools. They also gave a bigger plaque to the most outstanding of all the students, who was a Cadet Major James Barnes from Independence High School. He is a black student and an outstanding student who was given two invitations to academies, both the Air Force at Colorado Springs and the Naval Academy.

The second civic minded effort they were able to do was to make a donation to Larry Walker's pushing of this Confederate Memorial which his organization felt was their privilege to give a small contribution towards. They fully support this monument because it is another link in the chain of this glorious history of this country of ours.

Mr. Harry Simmons, Shoreham Drive, stated he is here as a result of seeing the televised Council meeting last week.

He stated he was incensed and angered by the reports that have been in the press and the stories that have traveled around this community in the last two weeks. It is really amazing when we can turn out the news media for something as insignificant as the discussion on a monument when we have more important things in our community.

Mr. Simmons stated he is also a contributor to the Martin Luther King memorial

and he participated in a protest against segregation in the 1960's. He is tired of hearing about slavery in the South. In the past two weeks we have seen more information and ignorance passed around by people in this community than we have on many other subjects.

He stated he is the great-grandson of a Confederate veteran and is Past Commander of Camp 1270, Sons of Confederate Veterans. He contributed to the Confederate memorial that stands on the front lawn of City Hall. In 1860 North Carolina was made up of small farms and farmers who worked trying to struggle to make a living. When South Carolina and six other states of the South seceded from the Union, North Carolina, Virginia and other states held firm to the Union cause. It was not until Abraham Lincoln called for 75,000 troops to suppress the secession and called on North Carolina to send 10,000 troops to fight against their Southern brothers that North Carolina decided to secede. It was the same with Robert E. Lee, the greatest general of the Union, who was offered command of the Union forces when he was 54 years old and decided he could not fight against his Virginia. He resigned his commission. The Union officer in charge, General Grant, was a slave owner.

He stated our problem is education. It was really seen on Friday at the Memorial Services to Mecklenburg's Declaration of Independence when there were about 100 people out on the lawn. There were also about 20 or 30 spectators sitting around on the steps. When the National Anthem was played, these people did not rise; when the invocation was given, they did not rise; people generally walked back and forth during the whole process. To say that the Confederacy represents slavery is to accept the same type of bias that branded "the only good Indian is a dead Indian." Or that the soldiers who fought in Vietnam were only there to "rape, pillage and destroy." That we need guidance for a more lofty cause in our country and our society and he feels historical records will show that the cause of the Confederacy and your fathers and grandfathers is all the same.

Mrs. Carson Sims stated she is District Director for the United Daughters of the Confederacy, which consists of Hickory, Shelby, Gastonia, Charlotte and surrounding counties. She stated she participated in the program Saturday and her Chapter contributed to the monument. She was amazed by the difference between last Saturday and the Saturday previous, when she was in Raleigh to dedicate the North Carolina National State Headquarters of the UDC. They were next door to the Governor and Governor Hunt was not ashamed, or afraid, to wish them well, welcome them with favors, nor was Thad Eure, nor many other statesmen in Raleigh and each one commented on the good work they had done historically and for the preservation of history and for education.

That it seems the height of silliness about this - the Confederate War has been; it is there; our people have fought in it. Most of the monuments they had have been torn down with progress. They had a monument at the Naval Depot, the Civic Center; it was torn down. They had a monument on North Tryon, where the last meeting of the Confederacy was held before it was disbanded - it is gone - the building is gone. They wanted a monument where people could see it so they contributed to this monument and now they have had all this faction and trouble over a 'tempest in a teapot.'

She stated their guest from Peru gave the Mayor an emblem - a historical emblem. One to remind his country of his Spanish heritage - this is an emblem, just as his was, to remind them of their heritage; the war was not fought for slavery, the war was fought for States Rights, a thing which many of them still believe in, who do not want a large federal government, but it is something that is historical and cannot be hidden. She feels it is only right that it should exist on the County Courthouse lawn so all the participants who belong to it can remember it.

Mayor Belk stated he was out of town during the dedication ceremonies and was sorry that he could not attend.

Councilman Gantt stated first of all he would really like to acknowledge all of the phone calls and letters he received regarding this monument. That he has been quite enlightened by both sides of this question. The eighth grade class, which the gentleman referred to earlier, apparently has a view of history that he did not get while he was growing up and he was enlightened by that. There were a number of calls and letters referring to his interest in denying history and he was enlightened by that also; the most ironical of all were the charges of racism and bias on his part, which was indeed enlightening to him.

He stated he told Larry Walker last week that someone once stated "history is what you say it is and what I say it is and then what the historians ultimately write." That he disagrees with him and he feels this is what is so great about this country - that he feels the war that was fought a hundred years ago had everything to do with a way of life; had everything to do with a way of life that subjugated him and subjugated a number of Americans and he shudders to think that even with those brave men who fought and fought for what they believed in, what this country would have been like, had they won. So you cannot expect him - and he finds it remarkable that people expect - that in 1977, with kinds of efforts that he has given and others have given, to right what he thinks is one of the darkest periods in American History, in terms of having first class citizenship for all citizens. He finds it remarkable that people expected that he should want to, in fact, glorify that war - not deny those men, not deny those people who, as some say, slave owners. There is no way now that he can forget that history. In fact, he thinks that history has made an indelible impression on the South for years to come and maybe this nation, and they have spent any large sums of money and a tremendous amount of their energy and resources in the last 20 years, most recently, to do much about some of the injustices perpetuated in founding of this entire country that goes back 200 years.

Councilman Gantt stated we cannot deny history. He is sorry that we have citizens that think his opinion is biased against their grandfathers, great grandfathers and others. He also feels that we have, in history, paid great attention to the Confederate war dead, or the Union war dead.

That he grew up in Charleston and all his life he has viewed Confederate monuments and other symbolisms of the South that used to exist and that does not change his impression of what the war was essentially fought for. Yes, States Rights - that's the question - but that question was central only because of a way of life itself was being sought to be perpetuated and that way of life had as it's central focus an economic system that depended on the work of slaves. Maybe this is not a very nice thing to think about, but that was what it was all about in his opinion.

Councilman Gantt stated a number of people have made statements regarding the diversity in this country - the freedom, the ability for a number of different cultural styles, and most recently, the reference to the Martin Luther King monument. He does not think there is an analogist situation existing here. He really believes that the very kinds of things that Dr. King fought for cannot be defined along the lines of race - he sought to fulfill the Constitution that was never fulfilled over 200 years and he sought for whites and blacks and it was a great day, in his opinion, when this City Council did say that we ought to allow the monument to Dr. King. It was just so representative of a kind of New South - a kind of new healing mechanism that was generated within this Council and he had the feeling it was going to spread throughout Charlotte.

He stated he knows that a lot of things we do here and a lot of things we do in life relate to symbols and to substance. You might say this whole question of the monument is a 'silly' thing, as the lady said earlier, but it is symbolic. It is symbolic in the sense that we need to do things that will heal the community - that will pull the community together. In 1923, it might have been just a matter of course to put a monument out on the lawn of City Hall, but you did not have black citizens in this community voting, they were not participants as first class citizens and he does not think anybody would deny that. In 1977, we say to the world that all of our citizens are first class and the symbolic effect of a 1977 Council that, in fact, glorifies a war fought 100 years ago to defend a system that would deny first class citizenship to a substantial portion of its citizenry, is very important - it cuts deeply.

Councilman Gantt stated he is afraid he is going to have to vote against this motion because he does not think it will be healing.

Councilman Davis stated he would like to say to Mr. Walker that he does not know about the other members of Council - there is some diversity even last week, but he had never heard of this monument before last Monday night and never received an invitation to the dedication, unless his remark last Monday night which seemed to be after the fact, was the invitation to attend and coming when it did, it came too late for him to make arrangements to be there.

Mr. Walker stated he would be glad to read the first paragraph of a letter of invitation to Mr. Davis and Mr. Davis asked the date of the letter. Mr. Walker replied on April 27, he wrote Mr. Paul Bobo, Assistant City Manager, the following:

"Dear Sir:

In reference to our conversation of today on the telephone, the following represents a tentative schedule and itinerary for dedication of the Confederate Veterans' monument. The tablet itself I would like to erect on May 10 and will coordinate the details with Mr. McDermott as you have suggested."

Councilman Davis stated he is willing to accept that he did invite all of them. He stated he would apologize for being part of the bureaucratic mix-up because he was unaware that he had been invited and having knowledge of it last Monday night, it was too late for him to make arrangements to attend. The only thing he would like to say is that he intends to leave the monument where it is and he would like to borrow some words from Abe Lincoln to say to Harvey Gantt and to the citizens of Charlotte that "this vote is cast with malice toward none and charity for all."

Councilman Williams stated he really appreciates Councilman Gantt's remarks. When he asked Mr. Walker about the inscription on the monument, he was getting a little bit at maybe suggesting that the language be changed or should have been something else in the beginning. That he particularly listened to what Harvey Gantt said about actions of Council in 1977 should be healing, rather than divisive and should be for the purpose of bringing people together instead of driving them apart. It is interesting that in so many of the letters and statements that he has read about this, people are talking about this is a monument to everyone who fought in the war, even the letter from the school children mentioned something to that effect, but he cannot quote exactly what it was and he thinks that in 1977, in a state like North Carolina, which was one of the last states to secede from the Union and did so only after its neighbors did, we ought to be concerned in this state about trying to bring about that kind of healing any way we can, while at the same time, recognizing our heritage.

He stated it may be a little presumptuous on his part to design the inscription to go on the monument, but he thinks what should have gone on this monument was some of what is on there now. He does not know how many have seen the actual monument and seen the language on it but there is a Confederate flag chiseled into the stone in the upper portion of it with the large letters CSA, standing for the Confederate States of America, and if we had been designing a monument to remember the past and also to reconcile ourselves, he feels we should have put an American, as it existed at that time, on the same stone in the top right hand corner, with the large letters "USA" and we would have had an inscription which would have read something to the effect "in honor of all those who fought for their convictions - 1861 to 1865." That being a Republican, which he is, he would have wanted a quote from Abraham Lincoln on that monument, but he would have run out of room before he could quote all he wanted to quote.

He stated Louis Davis had already stolen his thunder but he brought a book along to read a little material because the Mayor is fond of saying "if Booth hadn't shot Lincoln, such and such might have happened" and a lot of people speculate on what might have happened to the South if Booth had not shot Lincoln. That it is interesting to get a clue to what might have

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happened from a speech Lincoln made three months before he was killed, which was in his second Inaugural Address and Mr. Davis quoted the middle part of it, and he would like to add a few more words from the closing paragraph.

He stated it says "with malice toward none and charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in, to bind up the nation's wounds, to care for him who shall have borne the battle and for his widow and his orphan, and to do all which we may achieve and cherish a just and lasting peace among ourselves and with all nations." That kind of attitude as manifested by those beautiful words is the kind of thing that would help us today to bring ourselves together. He stated it is interesting to see he concludes by talking about a just peace among ourselves and with all nations - a task which today we are still trying to achieve, at least so far as in our international relations.

Councilman Williams stated he would like to offer a substitute to this motion to leave the monument but to change the inscription on it in accordance with what he has suggested. Councilman Gantt seconded the motion.

A vote was taken on the substitute motion, and failed to carry by the following:

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

A vote was taken on the original motion, and carried as follows:

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

ORDINANCE NO. 523 AMENDING THE CITY CODE RELATING TO PEDDLING IN THE CONGESTED BUSINESS DISTRICT.

Council was advised of a request from First Union National Bank and Central Charlotte Association for the use of traffic lanes on Third Street and College Street for the Farmer's Market, on Saturday, from 7:00 a.m. til Noon.

Councilman Gantt moved adoption of an ordinance amending the City Code relating to peddling in the congested business district to allow this request. The motion was seconded by Councilman Withrow.

Councilman Davis stated he would like to inform Council that Mr. Jim Crockett of the Charlotte Orioles Baseball Team has generally offered the use of Clark Griffith Stadium on Saturday mornings for the Farmer's Market if this other does not work out. He stated he would like for either the Mayor or the City Manager to acknowledge Mr. Crockett's offer and thank him for it whether or not the City accepts it. Mayor Belk stated he did not mind writing the letter, but this is under the County and has nothing to do with the City - that this is the County's Market.

Mr. Burkhalter asked if the County officials were aware of the offer from Mr. Crockett and Mayor Belk replied they know the ball park is available, but he does not know the details. They voted to have it at Third Street and College.

Councilwoman Locke asked why did they decide to use the First Union Building if there were offered the ball park and Mayor Belk replied for two reasons. One is because it is located downtown and the other is because it is under a covering, whereas the ball park would have been out in the open.

Councilman Gantt stated we need this motion because he thinks, notwithstanding an objection by Mr. Corbett, we could probably use that kind of activity in the downtown area on Saturday morning. It might help to do some things down there.

Councilman Whittington asked if it was the plans of the Farmer's Market to allow vehicles and trucks to park on the street and sell from there? That he was under the impression that all of these vehicles would be put under the covering and Mrs. Ferrari, of First Union National Bank, replied most of the vehicles will be inside but not the very large trucks which do not traditionally unload.

Councilman Whittington stated he was the one who made the motion to put this on the agenda today because he thought it was the thing to do but the Traffic Engineer wrote one of the strongest letters he has ever written to this Council, objecting to these trucks on the street, peddling, and the City Attorney say this is in violation of the present ordinance and has offered Council an alternative. He stated he wants this to go downtown because it will be good for downtown, but it seems to him that the Market ought to cooperate by putting these vans over in the parking lot and let the people go there and purchase rather than putting them on the street. He says this because for over five years the lane of College Street from Second Street to Trade and from Trade to the Square has been blocked off and now that we finally have it open, we are coming right back again. That he does not want to vote against the approval of this for downtown but he would like to suggest to their organization that they try putting the trucks in the parking lot across the street and not leave them on the street and transfer the goods back and forth. We have to prevent the possibility of a child being hit there or a person running out from behind a truck and we have to work in some form or cooperation to accomplish this.

Mrs. Ferrari stated the parking lot is not available because the adjacent parking lot onto the Civic Center has been promised to Paul Buck for Saturday Afternoon. Councilman Whittington stated this might be one time a year.

Mrs. Ferrari stated Mr. Corbett did not have any traffic problems a week and a half ago when he spoke with her. It seemed to be the peddling problem, not the traffic or the safety aspect. That it would be safer adjacent to the building.

Councilman Whittington asked if Mrs. Ferrari and her Board would move the trucks across the street on the parking lot, rather than leaving them on the street and Mrs. Ferrari stated they would be delighted to if Mr. Lew Davis, who manages and owns that lot, will allow them to.

Mr. Burkhalter stated he feels compelled to inform Council of one thing even though where they put the Market is certainly within their prerogative but they are passing an ordinance for a very special case and he is surprised the downtown merchants asked Council to do it because they are the ones who gripe the most about peddling on the streets and somebody will be in here within 30 days, asking Council for the same privilege. He can assure Council of this because he has had too many people trying to do this and he just hopes Council has a good reason for doing this and not ever doing another one, or else just open it up.

Councilman Gantt stated the City Attorney made it very plain in the ordinance that this would be allowed only for festivals and Farmer's Market and Mr. Underhill stated the amendment to the ordinance is rather narrowly drawn and applies only to produce or merchandise which a person has grown, or manufactured themselves, or has had manufactured, or grown, by members of their own immediate family and which is peddling in connection with a Market or festival or some other similar event that is part of an activity which is sponsored by a City or County Government. This is as narrow as he could make it and permit the Farmer's Market to operate in the fashion it has in the past and yet not permit peddling on a wholesale basis.

Councilwoman Locke stated she thought we ought to go ahead and try it and see what happens.

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Mrs. Ferrari stated we all want the same thing and if it does not work out, then we can change it.

Councilman Whittington stated before a vote is taken, he would like for Mrs. Ferrari to state to the Council that she will try to get those trucks off the street and Mrs. Ferrari replied indeed they will.

Councilman Davis stated he wanted to vote for this because he feels it is a government-sponsored function but would like to know what would happen, for example, if someone came forward 30 days hence and asked for an exception under this revised ordinance and Mr. Burkhalter replied he just noticed an ad in the paper this week that if you wanted to buy shrimp half-price, you can do it by going out to a certain place and these people are compelled now to go and get a private place. That he is not proposing that the Farmer's Market go elsewhere, he is just trying to warn Council about the aftermath of providing an ordinance for peddling on the streets because he knows how the merchants feel down there and there are some other areas of using the streets that are not peddling, who we have a lot of difficulties with, such as certain political parties who want to carry on certain functions on the public right of way, and want to go to court about violating their civil rights and even knocked on the Mayor's door one night at 11:00 o'clock.

Councilman Davis asked if shrimp could be sold in the Farmer's Market and Mrs. Ferrari replied not unless he caught it somewhere within a reasonable distance; if he went to Charleston and got it, he could not.

Mr. Burkhalter stated he does not question the ordinance. That Mr. Underhill has done a good job because it will not let anything but that do it, but his warning is that someone will want Council to let them do it now and possibly challenge us.

Mayor Belk stated First Union Bank should be congratulated for doing this.

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

The ordinance is recorded in full in Ordinance Book 24, Page 177.

CONTRACT WITH THE BETHLEHEM CENTER OF CHARLOTTE FOR A SPECIAL SUMMER ACTIVITIES PROGRAM FOR YOUTH IN THE SOUTHSIDE COMMUNITY DEVELOPMENT AREA, AND THE WEST BOULEVARD COMMUNITY DEVELOPMENT AREA, APPROVED.

Upon motion of Councilman Whittington, seconded by Councilwoman Locke, and unanimously carried, subject contract was approved with the Bethlehem Center of Charlotte for a Special Summer Activities Program for youth in the Southside Community Development Area and the West Boulevard Development Area, in the amount of \$29,668.00.

CONTRACT WITH THE MCCROREY YMCA FOR A SUMMER DAY CAMP PROGRAM FOR YOUTH IN THE WEST BOULEVARD COMMUNITY DEVELOPMENT AREA, APPROVED.

Councilwoman Locke moved approval of subject contract with the McCrorey YMCA for a Summer Day Camp Program for 500 youth in the West Boulevard Community Development Area, in the amount of \$45,920.00, which motion was seconded by Councilman Whittington, and unanimously carried.

CONTRACT WITH JOHNSON C. SMITH UNIVERSITY FOR A SPECIAL SUMMER ACTIVITIES PROGRAM FOR GRIER HEIGHTS AND CHERRY COMMUNITY DEVELOPMENT AREA YOUTH, APPROVED.

Councilman Whittington moved approval of a contract with Johnson C. Smith University for a Special Summer Activities Program for 200 Grier Heights and Cherry Community Development Area youth, in the amount of \$23,418. The motion was seconded by Councilman Williams and unanimously carried.

CONTRACT WITH HOUSING AUTHORITY OF THE CITY OF CHARLOTTE, APPROVED.

Motion was made by Councilman Whittington, seconded by Councilman Gantt, and unanimously carried, approving a contract with the Housing Authority of the City of Charlotte for furnishing and installing recreation equipment for Southside Homes, at a total cost of \$32,000.00.

RESOLUTION APPROVING AND PROVIDING FOR THE EXECUTION OF A CONTRACT AMENDING LOAN AND GRANT CONTRACT NO. N. C. R-43, BETWEEN THE CITY OF CHARLOTTE AND THE UNITED STATES OF AMERICA.

Councilman Whittington moved adoption of a Resolution approving and providing for the execution of a contract amending Loan and Grant Contract No. N. C. R-43, between the City of Charlotte and the United States of America, which motion was seconded by Councilman Gantt, and unanimously carried.

The resolution is recorded in full in Resolutions Book 12, at Page 379.

PROJECT COMPLETION AGREEMENT WITH HUD FOR PROJECT NO. N. C. R-43, APPROVED.

Upon motion of Councilwoman Locke, seconded by Councilman Gantt, and unanimously carried, subject Project Completion Agreement with HUD for Project No. N. C. R-43, was approved.

RESOLUTIONS CALLING FOR PUBLIC HEARINGS ON MONDAY, JUNE 13, AT 3:00 P.M., ON AMENDMENTS TO THE REDEVELOPMENT PLANS FOR GRIER HEIGHTS AND SOUTHSIDE PARK REDEVELOPMENT AREAS.

Councilman Gantt moved adoption of subject resolutions calling for public hearings on Monday, June 13, at 3:00 o'clock p.m., on amendments to the Redevelopment Plans for Grier Heights and Southside Park Redevelopment Areas. The motion was seconded by Councilman Whittington and unanimously carried.

The resolutions are recorded in full in Resolutions Book 12, beginning on Page 380.

COUNCILMAN WITHROW EXCUSED FROM MEETING DURING CONSIDERATION OF ITEM NO. 16.

Councilman Withrow asked to be excused from the meeting during the consideration of Agenda Item No. 16.

Councilman Whittington made a motion to allow Councilman Withrow to be excused from the meeting during the consideration of Item No. 16, which motion was seconded by Councilwoman Locke, and unanimously carried.

ORDINANCE APPROPRIATING FUNDS FOR CONSTRUCTION OF A WATER MAIN IN THE PINEVILLE-MATTHEWS ROAD, FROM BLUE HERON DRIVE WEST, DEFERRED FOR TWO WEEKS.

Motion was made by Councilman Whittington and seconded by Councilwoman Locke, to adopt a ordinance appropriating \$100,000 for construction of a 16-inch water main in Pineville-Matthews Road (NC 51), from Blue Heron Drive west approximately 4,000 feet.

Councilman Davis stated in matters of this nature, he would like for the Community Facilities Committee to at least have the opportunity to review a major expansion of this nature. Earlier Mr. Burkhalter stated Council can ask the Community Facilities Committee to review anything they wanted them to and on major expansions of this type, he would like to have the CFC have the opportunity to review and give Council a recommendation.

He stated he is going to vote against this appropriation in the absence of any recommendation from the CFC.

Councilman Whittington stated about every week something comes up about the CFC and he surely wishes we could get it resolved because Council adopted the 1972 Agreement last week and said that was it. He has no objection as far as his motion is concerned, if anyone wants to amend it, to let the CFC have some say-so provided they do not wait until August 1st. If they can give us an answer by next week, then he would accept that, but to just leave it open-end, when the development of that area is so critical, and they want it, and it is county money, he sees no real problem with it. He stated if Councilman Davis can give him an answer as to when the CFC can give Council an answer, he will accept that as part of the substitute.

Councilman Davis stated he does not see any problem with this and he assumes the CFC would not either, but on a major expansion, he would like to at least let them have the opportunity to review it if they choose because they may know of some areas where we would have a problem.

Councilman Whittington asked if his amendment would state how long it would take and Councilman Davis replied only the CFC could answer that question. Councilman Whittington asked if he would agree to ask them for a reply in two weeks and Councilman Davis replied he would.

Mr. Burkhalter asked if Council is approving the ordinance subject to the approval of the CFC and members of Council replied no, they are deferring approval of the ordinance for two weeks and let the CFC look at it.

Councilwoman Locke stated she would agree with this, but not subject to the approval of the CFC, but only that they review it and give a recommendation to Council.

A vote was taken on the motion to defer consideration of the ordinance for two weeks to give the CFC time to review it, and carried unanimously.

Councilman Davis stated he would like to ask Mr. Burkhalter, just as a matter of course, to notify the Utilities Department to routinely refer these matters on major expansions to the CFC so they can advise Council if they want to.

Councilman Whittington stated this is not the agreement which Council voted on last week.

Mr. Burkhalter stated Council has a policy on how expansions are made and if Council wants the CFC to review everything that he brings to Council on expansions before they vote on it, then Council should instruct him to do so and they will all be referred to them.

LEAA SUBGRANT AWARD CONTRACT BETWEEN THE CITY OF CHARLOTTE AND THE STATE OF NORTH CAROLINA DEPARTMENT OF CRIME CONTROL FOR FUNDS FOR CRIME PREVENTION PROJECT, APPROVED.

Councilman Whittington stated before the vote is taken on this, he would like to ask the City Manager about a memo he sent to Council about an up-date on the LEAA Program and asked if it had anything to do with this \$26,873 and Mr. Burkhalter replied part of the program has already been approved and he was trying to tell Council about the plans at the request of Councilman Gantt.

Councilman Whittington asked if this was just material and not people and Mr. Burkhalter replied this is true. Councilman Gantt stated he appreciates the memorandum from Mr. Burkhalter.

Councilman Whittington moved approval of the LEAA Subgrant Award in the amount of \$26,873, which motion was seconded by Councilwoman Locke, and unanimously carried.

RESOLUTION APPROVING AN LEAA GRANT BETWEEN THE CITY OF CHARLOTTE AND THE NORTH CAROLINA DEPARTMENT OF CRIME CONTROL TO PAY THE SALARY OF A RESEARCH ASSISTANT IN THE PLANNING SECTION OF THE POLICE DEPARTMENT.

Upon motion of Councilman Whittington, seconded by Councilman Withrow, and unanimously carried, subject resolution was adopted, in the amount of \$13,333, to pay the salary of a Research Assistant in the Planning Section of the Police Department.

The resolution is recorded in full in Resolutions Book 12, at Page 386.

PUBLIC HEARING SCHEDULED FOR MONDAY, JUNE 6, ON THE 1977-78 PROPOSED BUDGET AND PLANS FOR THE USE OF GENERAL REVENUE SHARING FUNDS.

Councilwoman Locke moved approval of a Public Hearing on Monday, June 6, at 3:00 o'clock p.m., in the Council Chamber, on the 1977-78 Proposed Budget and plans for the use of General Revenue Sharing Funds. The motion was seconded by Councilman Withrow, and unanimously carried.

REPORT ON FINANCING OF THE PROPOSED COUNCIL CHAMBER AND MUNICIPAL OFFICE BUILDING, POSTPONED.

Councilman Whittington stated he would like to respectfully move that this item be postponed because it is after 5:00 o'clock and there is a lot of information in here that is going to take a long time. The motion was seconded by Councilwoman Locke, and unanimously carried.

APPOINTMENTS MADE TO THE SPIRIT SQUARE ASSOCIATES BOARD OF DIRECTORS.

Councilman Davis asked the Clerk to read the terms of office he suggested for the nominations which were made last week since it was not clear on the agenda.

The Clerk advised Councilman Davis had suggested that Mrs. Cockinos (nominated by Councilman Whittington) be appointed for a term of three years, Mr. Willie Stratford, Jr. (nominated by Councilman Gantt) be appointed for a term of three years, Mrs. Shirley Kennedy (nominated by Councilman Gantt) be appointed for a term of two years, Mrs. Marjorie Crane (nominated by Councilman Davis) be appointed for a term of two years, Mr. Edgar Love (nominated by Councilman Davis) be appointed for a term of one year and Mrs. Pat Locke (nominated by Councilman Davis) be appointed for a term of one year.

Councilman Gantt moved the above appointments for the Spirit Square Associates Board of Directors, which motion was seconded by Councilman Davis, and unanimously carried.

ONE YEAR RETIREMENT EXTENSIONS GRANTED TO SIX CITY EMPLOYEES.

Councilman Whittington moved approval of granting one year retirement extensions to the seven (7) city employees who are 65 years of age or older on June 30, 1977, as recommended by the Personnel Director. The motion was seconded by Councilman Withrow.

Councilman Davis stated this is the second time a request for retirement extensions has been recommended since he has been a member of Council. Last year, among those recommended for extensions was a Department Head, Mr. Herman Hoose, and this year, Mr. Hoose is again on the list for a one year extension. Also a Chief Staff Member, Mr. Dave Burkhalter, the City Manager, is on the list.

He stated last year he voted against the extension of service to the Department Head and said at that time that Department Heads and Chief Staff Members should not be subject to extension beyond the normal retirement age of 65. That within the departments of City Government we have checked the balances and work standards that automatically show when an employee can 'no longer cut the mustard', but with Department Heads and Chief Staff, this presents a rather delicate personnel situation. It is difficult for someone to tell the Boss when it is time for him to retire, particularly people who are in position of influence, such as Department Heads and Chief Staff, and he is thinking primarily of City Council employees. They are in position of influence; they influence the flow of tax money; they are in a position to influence Councilmembers to the extent that they can help us do a good job or they can present stumbling blocks to Council. That it is just an unsound personnel procedure to have, on a casual basis like this, because Council never knows when a key staff person is actually going to retire.

Councilman Davis stated this presents a second and practical problem from a planning standpoint. If extensions are routinely available to Department Heads and key staff, Council has no way of knowing when these people are actually going to retire and cannot make orderly and timely provisions for replacement if they cannot say, within five years, when the retirement is going to take place. Someone may ask for five one-year extensions or may, at age 65, 66 or 66½, get fed up and say "well, this is it, I'm going to retire, effective immediately." This presents a real personnel problem that Council should deal with and he would suggest, as he did last year, that Council amend our personnel policy to make Department Heads and City Council employees not subject to extension beyond the normal retirement age.

He stated to give Council an idea of what type of problems Council is in for the next few years that of our twenty-seven (27) Department Heads, nine (9) are age 60 or over and these are Department Heads that may be leaving anywhere from one to five years; we have no way of anticipating which ones will ask for extensions and which ones will not. That this is just not a sound way to run a business.

Councilman Withrow stated he agrees with a lot of what Councilman Davis has said but just because a man is 65 years old, he does not think he has necessarily lost all his marbles, or that he is not even better than when he was 64. He feels the City has some good Department Heads. That he looks at some of the men on the Supreme Court and feels like what Councilman Davis has just said - they ought to get some of them off but he does not know that this applies to everyone; he does not know how you could apply this to everyone 65 years old.

He asked how the City's retirement worked in these cases; does it cost the City any money for their retirement; that it seems to him if a man gets 100% of his retirement at age 65, he should quit anyway on his own volition unless he thinks it is a good city and he wants to work on and he believes he can be of more service to the City and Council wants him to stay on. He asked if the employee would get any more retirement if he continued to stay on for another year or two and Mr. Burkhalter replied the employee could not make more than 100% of his retirement.

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Mayor pro tem Whittington asked if there was a second to the incidental motion of Councilman Williams and there was no reply.

Mayor pro tem Whittington called for a vote on the original motion, which carried as follows:

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

Later in the meeting Councilman Davis stated when Councilman Williams made his incidental motion, he understood the Chair to say that this was the same as the basic motion and Mayor pro tem Whittington replied this is incorrect - that Mr. Williams's motion did not receive a second.

Councilman Davis stated then he misunderstood the remark and, on that basis, since he voted against it, he cannot move to reconsider, but he would like to get reconsideration of this item in order that he could second Councilman Williams's motion which would be to vote on the items individually. That he would not want to be recorded as voting against all seven employees.

Mr. Underhill, City Attorney, stated someone who voted with the majority on the motion would have to move to reconsider it.

Councilman Gantt moved to reconsider Agenda Item 23, which motion was seconded by Councilwoman Locke, and unanimously carried.

Councilman Davis asked Councilman Williams to explain his motion again.

Councilman Williams stated his motion is based on procedure and it is to vote on each of the candidates separately.

The motion was seconded by Councilwoman Locke, and carried unanimously.

Councilman Davis asked if we are now voting on extending the service of each of the employees individually for one year, which will require four affirmative votes and Mr. Underhill replied that is correct.

Councilman Williams moved to grant a one year's extension of service to the City Manager, Mr. David Burkhalter, which motion was seconded by Councilwoman Locke.

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

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

Councilwoman Locke moved approval of the extension of service for one year to Mr. Joseph N. Clark, Sr., which motion was seconded by Councilman Withrow, and carried unanimously.

Councilman Withrow moved approval of the extension of service for one year to Mr. Herman J. Hoose, which motion was seconded by Councilwoman Locke.

A vote was taken on the motion and failed, as follows:

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

(The motion failed to carry for lack of four affirmative votes.)

Councilman Williams stated since this is an important vote and since we are two Councilmembers short, he feels we should wait for this vote until all the Councilmembers can vote.

Councilman Withrow moved to reconsider approval of the extension of service for one year to Mr. Herman J. Hoose, which motion was seconded by Councilman Williams, and carried unanimously.

Councilman Withrow moved to reconsider the extension of service for one year to Mr. Herman H. Hoose at the next meeting of Council, which motion was seconded by Councilman Williams and carried unanimously.

Councilwoman Locke moved approval of the extension of service to Mr. James E. Lowe for one year. The motion was seconded by Councilman Davis and carried unanimously.

Councilman Withrow moved approval of the extension of service for one year to Mr. Elwood Phillips. The motion was seconded by Councilman Williams and unanimously carried.

Councilwoman Locke moved approval of the extension of service for one year to Mr. John M. Sutton, which motion was seconded by Councilman Withrow, and unanimously carried.

Councilman Withrow moved approval of the extension of service for one year to Mr. Clarence Stratford, which motion was seconded by Councilman Gantt, and unanimously carried.

CONTRACT AWRADED MARTIN MARIETTA AGGREGATES FOR CRUSHED STONE.

Councilman Gantt moved award of contract to the low bidder, Martin Marietta Aggregates, in the amount of \$279,100, on a unit price basis, for crushed stone. The motion was seconded by Councilwoman Locke, and carried unanimously.

The following bids were received:

Martin Marietta Aggregates	\$279,100.00
Vulcan Materials Company	279,350.00

CONTRACT AWARDED CASWELL EQUIPMENT CO., INC. FOR FIRING RANGE EQUIPMENT FOR THE POLICE AND FIRE TRAINING ACADEMY.

Councilman Withrow moved award of contract to the only bidder, Caswell Equipment Co., Inc., in the amount of \$10,471, on a unit price basis, for firing range equipment, for the Police and Fire Training Academy, which motion was seconded by Councilman Gantt.

Councilman Gantt asked how much money has been spent on the Police and Fire Training Academy up to this point and Mr. Burkhalter replied he did not have the figures at this time. He asked how much more money is budgeted and Mr. Hopson, Public Works Director, replied we will have approximately \$30,000 to \$40,000 left after today.

Mayor pro tem Whittington asked the Purchasing Director if, under Attachment No. 18, at the back of the agenda, it says: "the range equipment must be compatible to existing range equipment now in use and originally provided by Caswell Equipment." That it looks to him from that statement that the Purchasing Director is saying that is all he can buy. Mr. Brown replied that is pretty well the situation - the equipment was installed during the original construction.

Mayor pro tem Whittington asked if Mr. Brown was aware of this when he recommended the original equipment and the Purchasing Director replied no, but in order not to spend any more money that what we are spending today, they are having to match up the equipment.

Councilwoman Locke asked if he wrote the bid so we would get only one bid and Mr. Brown replied no, they left it open and asked them to quote

substitutes and they wrote back and said they could not handle it because they did not have that type of equipment. That what they had would not work with what the City already had purchased.

The vote was taken on the motion and carried unanimously.

CONTRACT AWARDED DRIGGERS ELECTRIC & CONTROL COMPANY, INC. FOR ELECTRICAL WORK FOR THE POLICE AND FIRE TRAINING ACADEMY.

Upon motion of Councilman Withrow, seconded by Councilman Williams and unanimously carried, subject contract was awarded to the low bidder, Driggers Electric and Control Co., Inc., in the amount of \$11,406, for electrical work for the Police and Fire Training Academy.

The following bids were received:

Driggers Electric & Control Co., Inc.	\$11,406.00
Port City Electric Company	11,667.00
Ross Electric Company	12,894.00
Reid Electric Co., Inc.	14,958.00
Watson Electric Co., Inc.	15,373.00

CONTRACT AWARDED BLYTHE INDUSTRIES, INC. FOR DRAINAGE AND SIDEWALK IMPROVEMENTS FOR THE POLICE AND FIRE TRAINING ACADEMY.

Motion was made by Councilman Withrow, seconded by Councilwoman Locke, and unanimously carried, awarding contract to Blythe Industries, Inc. on a negotiated bid of \$61,339, on a unit price basis, for drainage and sidewalk improvements for the Police and Fire Training Academy.

The following bids were received:

Base Bid

Blythe Industries, Inc.	\$66,249.00
F. T. Williams Company	74,122.00
Lee Skidmore, Inc.	74,693.00

Negotiated Low Bid

Blythe Industries, Inc.	\$61,339.00
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PURCHASE OF ANNEXATION EQUIPMENT, APPROVED.

Councilman Gantt moved approval of the purchase of Items No. 1 through 11, under 24(e) for annexation equipment on present contracts, which motion was seconded by Councilwoman Locke.

Councilman Williams made a substitute motion to approve the first ten items under 24(e), but not the eleventh item. He stated he made a decision some time ago that the only way to cut down the number of automobiles is not to buy any more. The motion was seconded by Councilman Davis.

Mr. Bill Stuart, Budget and Evaluation Director, stated these automobiles are tied in with the additional employees that are tentatively set aside in the proposed annexation budget. One of the vehicles relates to providing transportation for engineering aides who will be working in Traffic Engineering to provide traffic engineering studies in the annexation areas and the other would be for a foreman in the commercial operations of the Sanitation Division.

The vote was taken on the motion to approve all items under 24(e) except No. 11, and failed to carry by the following:

YEAS: Councilmembers Withrow, Williams and Davis.

NAYS: Councilmembers Gantt and Locke.

(Motion failed to carry for lack of four affirmative votes.)

The vote was taken on the main motion to approve all eleven items under 24(e), and carried unanimously.

The items are as follows:

- 1.) Purchase of nine trucks from GMC Truck & Coach Division, at \$45,202.85
- 2.) Purchase of 17 trucks from International Harvester Company, at \$239,996.08.
- 3.) Purchase of two trucks from Tar Heel Ford Truck Sales, at \$18,402.62
- 4.) Purchase of one truck body from Cook Body Company, at \$2,599.
- 5.) Purchase of three truck bodies from Twin States Equipment Company, Inc., at \$7,946.82.
- 6.) Purchase of 13 truck bodies from Worth Keeter, Inc., at \$78,552.
- 7.) Purchase of one portable air compressor, from Contractors Service and Rentals, at \$6,135.
- 8.) Purchase of one tractor with flail mower from McClure Tractor Company, at \$11,858.97.
- 9.) Purchase of 46 radios from Motorola Comm. & Electric, Inc., at \$49,614.
- 10.) Purchase of nine police cars from Harrelson Ford, Inc., at \$46,282.46.
- 11.) Purchase of two four-door sedans from Town & Country Ford, Inc., at \$7,797.94.

MAYOR PRO TEM RECOGNIZES MR. LEE DUKES, DIRECTOR OF UTILITIES.

Mayor pro tem Whittington stated he would like to recognize Mr. Lee Dukes, Director of Utilities, who has been away due to illness for the past few weeks. He stated Council has been concerned about him, missed him and welcomes him back.

He stated Mr. Campbell has done a terrific job in Mr. Dukes' absence and Council thanks him for what he has done in Mr. Dukes' behalf and on behalf of the Department and that he hopes Mr. Dukes will remain well.

Mr. Dukes thanked members of Council and stated he is glad to be back.

CONSENT AGENDA, APPROVED.

Councilwoman Locke moved approval of the following Consent Agenda items, which motion was seconded by Councilman Withrow:

- 1.) Settlement in City of Charlotte v. Dodo, Incorporated, in the amount of \$20,900, for Parcel 4, in the Kings Drive Relocation.
- 2.) Settlement in City of Charlotte v. James P. Kaperonis, et al, in the amount of \$1,750.00, for Parcel 1, Sanitary Sewer to serve Country Manor.
- 3.) Approval of the following ordinances ordering the removal of weeds, grass, trash and rubbish:
 - a.) Ordinance No. 524-X ordering the removal of trash and rubbish from 2217 Statesville Avenue.
 - b.) Ordinance No. 525-X ordering the removal of trash and rubbish from vacant lot at 1121 Fairmont Avenue.
 - c.) Ordinance No. 526-X ordering the removal of trash and rubbish from 1519 Montgomery Street.
 - d.) Ordinance No. 527-X ordering the removal of trash and rubbish from 1515 Montgomery Street.
 - e.) Ordinance No. 528-X ordering the removal of weeds and grass from 6337 Park Road.
 - f.) Ordinance No. 529-X ordering the removal of weeds and grass from vacant lot at 813 West Fifth Street.
 - g.) Ordinance No. 530-X ordering the removal of weeds and grass from vacant lot at 817 West Fifth Street.
 - h.) Ordinance No. 531-X ordering the removal of weeds and grass from vacant lot at rear of 1724 Hawthorne Lane.

The ordinances are recorded in full in Ordinance Book 24, beginning on Page 178.

- 4.) Adoption of a Resolution approving a Municipal Agreement with the North Carolina Department of Transportation for improvements to the Beatties Ford Road/LaSalle Street Intersection, at an estimated cost to the City of \$3,600.00 for right of way and \$5,000 for sidewalks.

The resolution is recorded in full in Resolutions Book 12, on Pages 387 and 388.

- 5.) Approval of the following contracts for the extension of sanitary sewer lines:
- a.) Contract with Carolina-Connecticut Properties, Inc., for the construction of 5,592 l.f. of 8-inch line to serve Johnston's Bluff of Walden, outside the city, at an estimated cost of \$83,880.00.
 - b.) Contract with Carolina-Connecticut Properties, Inc., for the construction of 1,382 l.f. of 8-inch sewer to serve Carmel Ridge Village of Walden, outside the city, at an estimated cost of \$20,730.00.
 - c.) Contract with Westminister Company for the construction of 3,365 l.f. of 8-inch sewer line to serve Eastwoods, Section 3, outside the city, at an estimated cost of \$50,475.00.
- 6.) Approval of the following Encroachment Agreements:
- a.) Agreement for construction of a 16-inch water main within the right of way of N. C. Highway 51 for Blue Heron Road to Little Sugar Creek.
 - b.) Agreement for the construction of Torrence Creek Outfall, Phase III, within the right of way of U. S. Highway 21, with two locations and along north margin of Mt. Holly-Huntersville Road (SR 2004).
- 7.) Approval of the following property transactions:
- a.) Acquisition of 30' x 390.83' of easement from Joe Ann B. Morrow and Daniel E. Morrow, at 14036 Ervin Cooke Road, at \$690.00, for McDowell Creek Outfall, Phase II.
 - b.) Acquisition of 30' x 1,949.94' of easement from C. B. Stillwell, ux, Lucy B. Stillwell and R. James Hubbard, at 7900 Babe Stillwell Farm Road, at \$3,407.00, for McDowell Creek Outfall, Phase II.
 - c.) Acquisition of 30' x 305.90' of easement from Clyde M. Cashion and wife, Kate K., at westside of I-77, north of Westmoreland Road, at \$420.00, for McDowell Creek Outfall, Phase III.
 - d.) Acquisition of 30' x 229.78' of easement from Wanda L. Hall, on the east side of U. S. Highway 21, near its intersection with N. C. Highway 73, at \$330.00, for McDowell Creek Outfall, Phase III.
 - e.) Acquisition of 15' x 1,568.39' of easement from W. Calvin Kenley and wife, Betty W., at 4944 York Road, at \$3,200.00, for sanitary sewer to serve 5100 South Tryon Street.
 - f.) Acquisition of 15' x 348.40' of easement plus temporary construction easement, from Ernie L. Lambert and wife, Rena C., at 4701 Carousel Drive, at \$1,000.00, for sanitary sewer to serve Carousel Drive, Idlewild Road North and Maple Knoll Drive.
 - g.) Acquisition of 7.5' x 14.04' of easement plus construction easement, from Glenn A. Copp, III and wife, Carole J., at 4700 Carousel Drive, at \$50.00, for sanitary sewer to serve Carousel Drive, Idlewild Road North and Maple Knoll Drive.
 - h.) Acquisition of 15' x 979.82' of easement from Westminister Company, at southside of Albemarle Road at Dwightware Boulevard, at \$1.00, for sanitary sewer to serve Eastwoods Section 3.

A vote was taken on the motion and carried unanimously.

JOINT MEETING OF CITY COUNCIL AND COUNTY COMMISSIONERS SCHEDULED FOR
JUNE 20, 1977.

Mr. Burkhalter, City Manager, stated he would like to remind Councilmembers that on June 20, 1977, at 9:30 o'clock a.m., the County Commissioners have asked for a Joint Meeting to have a hearing on Arrowood Road Boulevard.

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PUBLIC HEARING TO BE HELD BY THE COMMUNITY FACILITIES COMMITTEE ON
MAY 27, 1977 RELATIVE TO PROPOSED WATER RATE STRUCTURE.

Mr. Burkhalter stated the CFC will hold a public hearing in the Council Chamber at 9:30 o'clock a.m., Friday, May 27, on the proposal they are going to make to Council on the new rate structure. He stated some of the members of Council might want to come to this hearing.

DISCUSSION OF STATE LAW REGARDING PURCHASING OF REDEVELOPMENT PROPERTY
BY COUNCILMEMBER TO BE ON NEXT AGENDA.

Councilman Gantt stated he would like to make a disclosure to Council of something that he did personally that apparently has run into the 'long arm of the law' and it may affect his position on the City Council.

He stated on April 28, 1977, he purchased some property at 517 North Poplar Street in the area called Fourth Ward; a piece of land 49 ft. wide by 189 ft. deep, for the purpose of eventually, one day when he gets the money, of constructing a residence for himself and his family. He was informed last Wednesday, May 18th, by the City Attorney that on a technicality in violation of Section 160A-511, that by purchasing the property, he committed an act of misconduct for a public official and he was totally unaware at the time that by purchasing the property in a Redevelopment Area, even from the private owner, that this constituted, by State Law, misconduct. He stated misconduct is punishable by the Governing Body that sits at that time; they can either vote him off the Council or a number of other things.

Councilman Gantt stated he felt he ought to say a couple of things to Council. One; that he is very much interested in Fourth Ward and he would have purchased this property whether Council had cleared it as Redevelopment Area or not. That he had already felt that the development of Fourth Ward was substantially different from redevelopment that we had gone into before. He stated he did purchase the property innocently in the sense he did not realize at the time of the purchase that he was in violation of the State Law regarding that and he would ask that Council bear this in mind during their consideration.

Councilman Gantt stated he would also hope that Council will not ask him to give the property up because that would be a very tough decision for him to have to make since he is dearly committed to that. He would offer, however, that in such a circumstance, finding that there is, in effect, a conflict of interest, that on all items affecting appropriations to Fourth Ward for capital improvements, he will abstain from voting or participating in any decisions.

Councilman Withrow asked the City Attorney if they could waiver this and allow Councilman Gantt to go ahead and keep the lot and Mr. Underhill replied he read in the newspaper that Mr. Gantt had purchased this property and then one of his assistants happened to remember there was a conflict of interest section in the Redevelopment Law that Mr. Gantt alluded to and called this to his attention and then he had to tell Mr. Gantt about the State Law.

Mr. Underhill stated the State Law says any member of a Commission (Council in this case) who acquires any interest in property in a Redevelopment Area, that such action constitutes misconduct in office. That another Statute which is a part of the Redevelopment Law says a Commissioner (Councilmember) may be removed by the Governing Body for misconduct in office. Mr. Underhill stated Council should notice the word may; but if Council desires to remove that person, they can only be removed after a hearing, after being informed of the charges and not until after he has had an opportunity to be heard or represented.

He stated when this first came up, he checked with the Institute of Government and with the Attorney General's Office and finds the Governing Body has a full range of options - the most extreme being removal of that Councilmember who has violated the Statute; the other extreme would be to do nothing and then Council could certainly do something in between there.

He stated Councilman Gantt has identified one of the in-betweens; that he would not be allowed to vote on any matter coming before this Council during his term which affected in any way the Fourth Ward Project area because of his now-interest in the property.

Councilman Withrow moved that Council waive the Statute and that Councilman Gantt will not have the privilege of voting on anything in the Fourth Ward Area while he is a member of Council. The motion was seconded by Councilwoman Locke.

Mr. Burkhalter, City Manager, stated Council may want to make a motion to put this item on the next agenda for consideration.

Councilman Withrow moved that this item be placed on the agenda for Council action at their next meeting. The motion was seconded by Councilman Davis.

Councilman Davis stated he is in sympathy with what Council wants to do but he does not want to vote on this until next week.

A vote was taken on the motion and carried unanimously.

COMMENTS BY COUNCILMEMBER DAVIS REGARDING ACCUSATIONS AGAINST CHIEF GOODMAN BY THE CHARLOTTE OBSERVER.

Councilman Davis stated there has been a series of articles in the Charlotte Observer suggesting that the City is not doing everything it should regarding their accusation that the Police Chief was involved in illegal wire taps and further accused him of destroying, or covering up, the evidence of this crime.

He stated Chief Goodman has denied these charges publicly, and he has no reason to doubt this, but certainly it does appear that we have some problems in our Police Department as there are two major investigations underway; one by the FBI and one by the Federal Grand Jury. He stated he does not plan to take any action until he has proper information available to him. He really does not think Council has the authority to do anything without this information.

Councilman Davis stated he shares the Charlotte Observer's desire, which was not stated exactly this way, to have police officers of outstanding character and moral fiber, however, he does not think Council has the authority to require a police officer, or any other employee, to forfeit his right to citizenship as a condition for employment by the City. That certainly due process under the law is one of our fundamental rights of citizenship.

He stated he feels if the Charlotte Observer has evidence that a crime has been committed by Chief Goodman, then they should come forward with it and if they choose to bring it to City Council, and certainly if it comes to his attention, he would act upon it promptly and aggressively. He is sure the other members of Council would also; to do otherwise is a disservice to Chief Goodman and to the Observer readers.

MR. A. J. THORNHILL, JR. NOMINATED FOR VACANCY ON CIVIL SERVICE BOARD.

Councilman Williams stated he understands there are two vacancies on the Civil Service Board and he would like to propose for consideration next week the name of Mr. A. J. Thornhill, Jr. He stated he will get Mr. Thornhill's resume to members of Council in the next day or so.

Mayor pro tem Whittington asked if he was placing Mr. Thornhill's name in nomination in place of someone else; that there are two appointments to be made - Mrs. Rogers and Mr. Thomas's terms have both expired.

Councilman Withrow stated Council has not done anything about Mr. Thomas's term expiration; they extended his service until he could be replaced.

Councilman Williams stated the terms expired May 15 and asked if these people had served two consecutive terms and Mayor pro tem Whittington replied Mr. Thomas has served two consecutive terms.

Councilman Williams stated he would like to offer the name of Mr. Thornhill to fill the vacancy created by the expiration of Mr. Thomas's term.

Mayor pro tem Whittington stated when Mr. Thomas's term expired, he asked Council, at the request of many members of the Commission because of his seniority on the Commission and the workload, to leave him on there for awhile and that he was going to make a nomination for his successor and he would like to let Council know that he is going to do that, even in light of this nomination.

Councilman Williams stated it is alright with him just to hold his nomination until Mr. Whittington is ready with his nomination and put them on the same agenda.

Mayor pro tem Whittington stated Mr. Thornhill is a good friend of his and he may place his name in nomination but he has to talk to some others first.

CITY MANAGER REQUESTED TO MEET WITH THE COUNTY AND REPORT TO COUNCIL ON WHETHER OR NOT THE COUNTY WILL PARTICIPATE IN THE NEW CHAMBER AND OFFICE STRUCTURE.

Councilwoman Locke stated before the City Manager comes back to City Council with the new Chamber and the new office structure, she would like for him to give Council some specific recommendations, after having talked to the County. That he has talked informally with the County, but she would hope he would talk with them and see just exactly what they want to do. If they want to go into this building with us, or if they do not, and let Council know. They may want to go into it with some sort of joint funding, or they may not want to, but Council needs to know that before formally adopting, or not adopting, or voting this up or down. She asked that Mr. Burkhalter meet with the County and get an official answer.

Councilman Withrow stated he read where the County is going to remodel one of the courtrooms to hold their meetings. He asked if the City has had any contact with them to see if the City Council can go in with them on this? Mr. Burkhalter replied he has been in contact and he has received a very nice letter from them. That Council will have to take action on this real soon.

Councilwoman Locke stated she wants the County's recommendation to the City on what they plan to do about the joint funding of the new structures.

CITY MANAGER REQUESTED TO INVESTIGATE COMPLAINT FILED BY LEE REA IN INFORMAL SESSION CONCERNING PROCEDURES FOR SIGNING WARRANT AGAINST OFF-DUTY POLICE OFFICER AND REPORT BACK TO COUNCIL AND TO MR. REA.

Councilman Gantt stated in connection with the complaint from Mr. Lee Rea, Jr., in the Informal Session, he would like the City Manager and Chief Goodman to clarify whether or not there is a policy existing that does not allow an officer, when he is off-duty, to have charges brought against him. He wants to know if there is a policy that exists. Even if we do not have any control over it and this is something the Criminal Justice System says, in effect, that Council should at least be aware of it.

Mayor pro tem Whittington stated he asked that the City Attorney's Staff get with Mr. Rea and get this information so if he wanted to pursue it further, he could. The point Mr. Rea made, and which Mr. Gantt alluded to, is that

if you are off-duty, as a policeman, and you get into fisticuffs with someone else over an arrest, or anything else, you cannot prefer charges against him. These are the things Council wants to get straightened out.

Mr. Burkhalter stated every time anyone is arrested, they get mad. That it is his understanding from the conversation that the Magistrates were instructed by the Courts not to issue a warrant to arrest a policeman until there was some investigative work done. That the City cannot tell the Magistrates what to do. That he will find out the procedures.

Councilman Davis stated it does not seem right if you want to make a charge against a police officer you have to go down and deal with the policeman in Internal Affairs. Mayor pro tem Whittington stated he does not either, and Mr. Rae should have an answer to his questions, and so should Council.

STAFF REQUESTED TO CONTACT STATE AND FEDERAL GOVERNMENTS CONCERNING PARTICIPATION IN CONSTRUCTION OF AN OVERHEAD PEDESTRIAN WALKWAY ACROSS INDEPENDENCE BOULEVARD AT BRIAR CREEK ROAD.

Mayor pro tem Whittington stated the ladies came to Council in the Informal Session about a pedestrian bridge over Independence to Chantilly School and Council needs some information, and perhaps a request to the State, if they would participate in such a bridge at this location. The school has been there and has had these problems for years, but a bridge does not seem to be so impossible when you have Chantilly Baptist Church on the northeast corner of the Boulevard, and a vacant lot on the SW corner owned by the Pure Oil Company.

He stated he does not know why we cannot get some facts for an overhead pedestrian bridge at that location. This is the only way to separate these children from the vehicular traffic on the street. He stated he would like some information on whether or not the State and Federal Governments would participate in this. He thinks that is the answer to what we have to do down the road, regardless of what you do to Independence Boulevard. If it is widened two more lanes, then you have to make the bridge wider.

COUNCIL REQUESTED TO CONSIDER A LIASION COMMITTEE BETWEEN CITY, COUNTY, BOARD OF EDUCATION AND PLANNING COMMISSION AT A CONFERENCE SESSION.

Mayor pro tem Whittington stated Mrs. Locke said something to him today and Council talked a minute about what is the County going to do about being involved with and participating in a new office building. He thought about something he brought up eight years ago about a liasion committee between the County Commissioners, City Council, Board of Education and perhaps the Planning Commission.

He thinks this is very, very important today because of such items as the office building; the City is planning to build some more public housing in Greenville which is going to cause the School Board to provide more transportation, which will cost the City-County residents. There was an article in the morning paper about Mr. Gantt's neighborhood. Decisions we make independently of each other, affect each other.

He stated he would like for Council to agree to put this on a Conference Agenda for discussion. A Liasion Committee would keep each other in touch.

No objections were expressed by the Councilmembers on the request.

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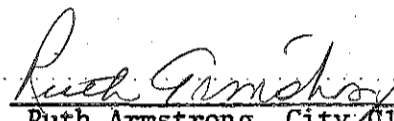
CITY MANAGER REQUESTED TO INVESTIGATE STORY CONCERNING ACCIDENT ON FRIDAY AND THE HANDLING OF THE CALLS TO LIFE SAVING CREW AND EMERGENCY AMBULANCE SERVICE.

Mayor pro tem Whittington stated another item the City Council should have facts on is that on Friday of last week, a man was injured on a motorcycle. According to the article, both the News and Observer, the Life Saving Crew was dispatched to the scene of the accident first as requested by the Fire Department. Then the Police received a call for emergency ambulance service, and they made a call for an ambulance which was dispatched at 7:48, eighteen minutes after the accident.

He stated the thing that concerns him about this is there is \$8,200 in the budget for the Life Saving Crew, and the city residents pay 70% of all the Charlotte-Mecklenburg Emergency Service. His concern is that we are paying for both, and the Emergency Ambulance Service is charged with providing ambulance service by the County for all the citizens; they are supposed to be called first. He thinks this should be straightened out.

ADJOURNMENT.

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



Ruth Armstrong, City Clerk