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The City Council of the City of Charlotte, North Carolina met in a tele-vised session on Monday, November 21, 1977, at 7:30 o'clock p. m., in the Board Room of the Education Center, with Mayor pro tem James B. Whittington presiding and Councilmembers Betty Chafin, Louis M. Davis, Harvey B. Gantt, Pat Locke, and Neil C. Williams present.

ABSENT: Mayor John M. Belk and Councilmember Joe D. Withrow.

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INVOCATION.

The invocation was given by the Reverend Robert Walton, member of the Board of County Commissioners.

APPROVAL OF MINUTES.

Councilwoman Locke moved approval of the minutes of the last regular meeting on Monday, November 14, 1977, as submitted. The motion was seconded by Councilman Williams and unanimously carried.

MOTION TO SUSPEND THE RULES AND ALLOW CERTAIN ITEMS TO BE CONSIDERED OUT OF ORDER.

A motion was made by Councilwoman Locke, seconded by Councilwoman Chafin, and unanimously carried, suspending the rules and allowing Agenda Items 7, 8 and 22 to be acted on at the beginning of the session.

DECISION ON PETITION NO. 77-16 BY JOHN DWELLE FOR A CHANGE IN ZONING FROM R-9 AND R-6MF TO B-2 SEVERAL PARCELS OF LAND FRONTING ON THE EAST SIDE OF BALDWIN AVENUE, FRONTING ON BOTH SIDES OF WACO STREET, LOCATED NORTHEAST FROM KINGS DRIVE, DEFERRED UNTIL NOVEMBER 28.

Councilman Gantt moved that the subject petition be deferred until November 28. The motion was seconded by Councilwoman Chafin and carried unanimously.

DECISION ON PETITION NO. 77-17 BY JOHN DWELLE FOR A CHANGE IN ZONING FROM R-6MF TO B-2 SEVERAL PARCELS OF LAND FRONTING ON THE EAST SIDE OF CHERRY STREET, LOCATED BETWEEN THE INTERSECTION OF EAST FIRST STREET AND CHERRY STREET, AND THE INTERSECTION OF LUTHER STREET AND CHERRY STREET, DEFERRED UNTIL NOVEMBER 28.

Councilman Gantt moved that the subject petition be deferred until November 28. The motion was seconded by Councilwoman Locke and carried unanimously.

Councilwoman Chafin explained for the benefit of those in the audience who are interested in these two petitions and who were not present for the citizens' hearing earlier, that in that session the Council did express an interest in deferring these items until such time as the Cherry Community Development plan is approved. That Council wants to formally take action on that next week so that the City Attorney can provide them with some additional information as to whether another hearing would have to be scheduled.

DECISION ON PETITION NO. 77-52 BY HORACE E. HALL FOR A CHANGE IN ZONING FROM R-6MF TO I-1(CD) WITH CONDITIONAL CONSIDERATION TO PERMIT PETROLEUM STORAGE IN EXCESS OF 100,000 GALLONS FOR PROPERTY BEGINNING ABOUT 95 FEET WEST FROM THE INTERSECTION OF EAST SEVENTH STREET AND EAST FIFTH STREET, FRONTING ABOUT 144 FEET ON THE SOUTH SIDE OF EAST FIFTH STREET, DEFERRED UNTIL NOVEMBER 28.

Councilwoman Locke moved deferral of the subject petition until November 28. The motion was seconded by Councilwoman Chafin and unanimously carried.

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RESOLUTION CLOSING THE CHERRY STREET ALLEYWAY IN THE CITY OF CHARLOTTE.

The scheduled public hearing was held on a petition of Mrs. Frances A. Parrish to close Cherry Street Alleyway.

The petitioner was not represented at the hearing but Council was advised that the request had been investigated by all City Departments concerned with street rights-of-way and there were no objections to the closing.

There was no objection from citizens to the closing.

Councilman Gantt moved adoption of the subject resolution, seconded by Councilwoman Locke and carried unanimously.

The resolution is recorded in full in Resolutions Book 13, at Pages 116 & 117.

ORDINANCE NO. 832-X DESIGNATING THE EXTERIOR OF "SUGAW CREEK SCHOOL HOUSE" LOCATED ON THE GROUNDS OF THE SUGAR CREEK PRESBYTERIAN CHURCH AS HISTORIC PROPERTY; AND ORDINANCE NO. 833-X DESIGNATING THE STRUCTURE AND REAL PROPERTY KNOWN AS "THE VANLANDINGHAM ESTATE" AS HISTORIC PROPERTY.

The scheduled public hearing was held on the question of designating as Historic Property the "Sugaw Creek School House" exterior, located on the grounds of Sugaw Creek Presbyterian Church, 101 Sugar Creek Road West; and the residential and real property (excluding the outbuildings) known as "The VanLandingham Estate," located at 2010 The Plaza.

Ms. Barbara Casstevens, Chairman of the Charlotte-Mecklenburg Historic Properties Commission, stated designation of the subject properties as historic would have the following consequences:

1. The owner must provide the Historic Properties Commission 90 days written notice of his intention to demolish, remove, remodel or materially alter all or any portion of the historic property. The Commission may waive the requirements of notification upon the written request of the owner.
2. The owner may apply annually for an automatic deferral of 50 percent of the rate upon which the ad valorem taxes on historic property are calculated. Such deferral is continuous as long as the property retains its status as historic property. Should Council subsequently remove such designation, the owner is required to pay the full property tax plus interest for any of the three previous years in which he applied for the tax deferral.
3. With Council's approval the Commission has the authority to require fee simple for any lesser, including interest, in historic property.
4. The Commission will erect a plaque declaring the property to be historic property. The plaque is placed on the property, or if the owner objects, on a nearby public right-of-way.

Ms. Casstevens gave a brief history of the Sugaw Creek School House, stating it is of historical significance because of its association with the early educational efforts of one of the oldest Presbyterian churches in Mecklenburg County. Today the building houses the Sugaw Creek Historical Museum. She stated the owner of the property, and the North Carolina Division of Archives and History have both endorsed this designation.

She also gave the history of the VanLandingham Estate, stating the house was built in 1914; that the architectural style is Mansion Bungalow. That the estate is of historical significance because of this architectural style and because of its association with individuals of local, regional and statewide significance. That the grounds contain one of the most noteworthy gardens in the City. The owner and prospective owners of the property, and the North Carolina Division of Archives and History, have endorsed the designation.

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Ms. Mary Ann Hammond, 1915 Ashland Avenue, spoke on the VanLandingham Estate reminding Council of its significance to the entire Plaza-Midwood Area. She stated this estate was one of the first houses built in that neighborhood. Then as now it served as the anchor or cornerstone of the neighborhood. She referred to two other homes which were also outstanding landmarks and which have both been destroyed, seriously damaging the historic fabric of Charlotte and of Plaza-Midwood.

She stated that Mr. VanLandingham and his family were outstanding citizens of Charlotte; they made significant contributions to the cultural and economic growth of the City. This is verified by the treasury of letters and memorabilia contained in the attic of the house. She stated that the future of the VanLandingham Estate has already been seriously threatened this year. If Charlotte's inner-city neighborhoods are to survive, we must take whatever steps are necessary to preserve what is left of their history. She urged Council to designate the VanLandingham Estate as a historical landmark to help secure its place in Charlotte's history and its place in the history of Plaza-Midwood.

There was no objection expressed to these historic designations.

On motion of Councilwoman Locke, seconded by Councilwoman Chafin, and unanimously carried, ordinances were adopted designating the exterior of Sugaw Creek School House and the residential and real property known as The VanLandingham Estate as Historic Properties.

The ordinances are recorded in full in Ordinance Book 25, at Pages 100-106

HEARING ON UTILITY RATE STRUCTURE; COMMUNITY FACILITIES COMMITTEE INSTRUCTED TO ADDRESS STUDY OF EXTENSION POLICY AND ADVISABILITY OF CONTRACTING OUT INSPECTION AND PLAN REVIEWS AT SOME FUTURE DATE.

A public hearing on the proposed utility rate structure was held as scheduled.

Mr. James R. Sheridan, Chairman of the Community Facilities Committee, stated that Council charged this committee in June of 1976 to hire a consultant to make a cost study of water and sewer rates to determine the projected charge to make by class of user. Arthur Young Associates was selected from the four proposals that were submitted. They were selected based on their expertise in the field and their knowledge of EPA requirements. They also happened to be the low bidder for the contract although this was not really one of the criteria the committee set out as being the primary one.

He stated members of the City staff, members of the Charlotte-Mecklenburg Utilities Department and the Community Facilities Committee have worked during the past year and a half on this study. As in any cost accounting procedures there have been differences of opinion, but at this point he believes they have all been reconciled.

Mr. Sheridan stated, as Chairman of the Committee, it has been his objective to present a report to Council which would accomplish the following:

1. Preserve the enterprise aspect of the Charlotte-Mecklenburg Utilities Department and insure that it remains self-supporting.
2. Be fair and equitable to all users.
3. Be free from all political judgments. This is a cost accounting product. Give the City a cost accounting model to determine cost by passive users so that rate setting becomes a more scientific exercise.
4. Provide services at cost.

He stated his objective is to present to Council a report which would be a joint recommendation of the Community Facilities Committee, the Charlotte-Mecklenburg Utilities Department and the Staff. That after a false start or two he believes they have been able to accomplish this last objective. He stated he is deeply grateful to his committee members who have given up

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many evenings, work days and week-ends to work on this project. That he feels that Arthur Young has gone way beyond their contract requirements to put this report together. That Mr. Fennell and Mr. Dukes have spent untold hours overtime; their staffs have spent a tremendous amount of time working with the committee.

He stated that a public hearing was held on the Arthur Young report, and they have made their formal presentation to City Council. His purpose tonight is to present to Council and to the public the final report on this study; he solicits approval of Council of this cost determination methodology and rate structure.

At this point, and at the request of the Mayor pro tem, he introduced members of the Community Facilities Committee - Robert Beck, William Harward, Walter Hendricks, Milton Short (who served on the Committee before his election to City Council), and John Houston (former member).

Mr. Harold Wilson, representing Arthur Young & Company, stated since they have already had a presentation to Council on July 18 and talked in a fair amount of detail about the basis for the recommendations and the principles underlying the system that was developed, he will take a few minutes just to "touch base" on a few of the key points. He emphasize a few of the major aspects of the rate structure recommendations.

There are five things that they see as being the key factors relating to water and sewer study.

1. The Utility Department is an enterprise operation. This is in the Charter. That means that it is self-sustaining, that it produces enough revenues from its rate base to off-set all of its cost. There will be a couple of key issues in the report where there will be the opportunity not to treat the Utility as an enterprise operation, but to have some flow of monies between the General Fund and the Utility Fund that would be in violation of what they are looking at as the enterprise concept.
2. Specific service charges. This means that where services are incurred for items such as meter turn-ons, those costs be determined for those services and that billing occur so that those costs can be recovered from the customers who consume those services. Presently, in the system, there are some specific service charges. This would speak to expanding those and changing the method of cost determination.
3. There is a recommendation for a Rate Setting System. Every year, almost, we have to go through a rate hearing process so that we can identify how the Utility Department will recover its cost. What they are trying to accomplish with this system is to identify an appropriate methodology which will have consistency year after year, so that as costs change - and they will because our system is increasing at a fairly fast rate as we are in a growth environment - the Council will have a consistent methodology in order to identify how those costs associate themselves with services so that they can understand from year to year the impact of the increases in cost and how they affect the various classes of users of the system. They feel that is a key thing so that Council will have a mechanism to identify how they do pass on these increasing costs that are going to occur.
4. Included are some concepts such as "Fixed and Variable" which is a costing technology, which would require a lot of detail to explain. Basically, what they are saying is that there are some costs that relate themselves to accounts, and there are some costs which more closely relate to the quantity of the user's consumption. If those costs are separated and treated in that way in the rate recovery process they should have more equity in that kind of system.
5. All of the basics of this system have been analyzed and they have tried to develop these in the perspective of having an approved system. The Environmental Protection Agency will have to approve the user charge

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and industrial cost recovery system that is in place in this municipality in 1979. The reason for that is that we have taken grant money to expand and to improve our sewer facilities and the condition of accepting that grant was identifying that we will install a system which is approvable by the EPA.

Mr. George Raft, of Arthur Young & Company, described the concept of their cost determination model. He stated a lot of work was done in trying to focus in on and identify those costs which relate to the utility operation; to find those costs that are performed by the City departments that benefit C-MUD and that have not been recouped through the rate base, plus budgeted costs which come through the operational budget annually. They have isolated those costs which could be identified with a specific service, to a specific user or class of user.

The second type of cost they have identified would be "customer cost," which would become a fixed component of the actual user charge system, for both water and sewer.

Lastly, would be the sewer operation and water operation costs, the most familiar ones, that vary according to volume or capacity. The C-MUD budgeted costs are broken down into the specific service charges which are identified as turn-on/turn-off fees, connection (including water and sewer), inspection fees, approval fees, construction (meaning water and sewer main construction on the C-MUD system or for applicants desiring the service), late payment charge (a new charge), and an IWC charge which relates to monitoring and sampling industrial users and reporting these results to appropriate state or federal levels.

The customer cost is identified into a customer service charge although actually it is a cost that is associated with account related activities - customer service items, water and sewer accounts items, and billing and collection. These have been allocated to a fixed cost per water and sewer account.

The other two pieces of the diagram relate to separating sewer and water operations costs into, in the case of water, pumping, treatment and distribution, and debt service, allocated into a cost per ccf. of water and a cost for fire protection (to be consistent with the enterprise concept they felt this particular cost should be identified).

Sewer operations would be divided into O and M, and debt service, as was the case in water, except that in the case of sewer they have to really identify the different wastewater treatment perimeters, and provide a charge for that particular pollutant.

Mr. Raft stated they have summarized in the model what this methodology would generate in terms of actual specific services, in terms of fixed charges and in terms of variable charges. They have adjusted 1977 numbers to interpolate into 1978 and identified several turn-on/turn-off functions. First would be the new service turn-ons which is currently not being charged. This would relate to new customers coming in and requesting service and having to pay an initial charge for this service. The turn-on/turn-off delinquent charge - there is such a charge now, something like \$4.00. They are recommending that it be increased to \$8.57 which is really recovering full cost. It included an overhead factor. Down the list is meter removal which is another cost charge that currently exists and relates to delinquent meter removal. That charge is currently \$12.00. The only removal is very similar to the meter removal; then the turn-off at the main, which is actually having to go through the concrete and turning the customer's service off at the main, or interceptor, itself.

The late payment charges which he referred to earlier would be composed of a fixed charge of 63¢ for each time a customer is delinquent, and it would approximate the actual cost of providing the delinquency service, then 1-1/2 percent service charge that would be variable, based upon the amount of the particular delinquency. Then there are the water and sewer connection charges - the 3/4" water connection and the paid sewer connection are

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represented in the model, but there are many, many more connections - about five or six more. The percentage is approximately the same as far as an increase over FY77 charges - about 20 percent. The other charges would be increased by approximately that much.

A final type of service cost would be engineering services. Currently there are three basic types of engineering service charges - one that would go to CIP projects which are currently not absorbing full overhead. They are identifying an overhead multiplier with each specific activity within the engineering section to recover overheads that would relate to that particular service.

A second type would be applicant related projects which are also currently being charged for but again the overhead multiplier would be applied to those particular charges.

Lastly, two charges which are not currently being administered would be that of inspection and that of engineering approval. These would relate to inspecting applicant related projects that are not funded under CIP monies and also, approval of specific designs that are currently not costed under CIP projects.

The water user charge would be really composed of two components - a fixed charge and a variable charge. In the model, they have broken out inside city customers and outside city customers. The fixed charge relating to a user's bill would, of course, be related to account function and would be a fixed charge. The variable charge would relate to consumption. On the model it was shown as 83¢ for the fixed charge plus 30¢ per ccf. for the inside city customer; the same fixed charge plus 60¢ per ccf. for the outside city customer - a doubling of the variable rate.

The sewer user charge has been handled basically the same way. There are two types of customer - inside city and outside city. The charge would be based upon a fixed charge plus a variable charge. In this case, the fixed charge would be 80¢ per customer and the variable charge of 42¢ per ccf. for inside city customers and 84¢ per ccf. for outside city customers. There is another part of the sewer user charge which would relate to industrial customers, both monitored customers as well as non-monitored customers. This charge would relate to BOD and suspended solids. The charge would be \$47.32 every thousand pounds of BOD above the domestic level, and \$44.69 of every thousand pounds of suspended solids above the domestic level.

The charge shown on the model as "Industrial Waste Control Charge" would relate to monitoring, sampling and testing industrial users, and reporting these results to different regulatory agencies. They have spread this cost of approximately \$82,000 over all industrial users that would be subject to Industrial Cost Recovery and the High Strength User surcharge. This is a new charge that was not in their original report.

To get a feel of what the impact is going to be of this rate recommendation against FY78, he referred Councilmembers to Page 10 of the report, and entertained questions from them.

Councilman Gantt stated that much of what has been said sounds exactly like what they said two or three months ago, and there has been some criticism of this by the Staff. That he understood from what Mr. Sheridan said that this is now endorsed by the Staff and he would like to know exactly where the differences have occurred and have been resolved. Are these differences in the actual text, or are they in the concept?

Mr. Wilson stated that basically the changes are in the methods of cost allocations themselves. They have looked at the basic principles underlying the recommendation and they have not changed. The changes that have occurred are, when they looked at specific service charges, for instance, the methodology - the way you determine the basis upon which allocations would be made, among the various cost services, some of those have been re-evaluated, based on the concerns that the Staff expressed. There were some

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modifications made and the impact of that can be seen in the report. That the turn-on is now down at \$12.35; originally, the recommendation was something like \$15.06.

Councilman Gantt stated those changes are primarily technical; a large number of the comments were on conceptions. Do we have the systems presently in place to carry out the degree of cost accounting and determination of rates, as they have described it?

Mr. Wilson replied that the system to change to a different rate structure entirely is not in place. It would take several months in time for the personnel in the City to do the computer programming to change to a new method. Councilman Gantt stated, then the rates themselves could not be affected until such time as that system is in place? Mr. Wilson replied that is correct. That at this point in time, what the CFC is asking Council to do is to identify that an appropriate cost determination system and a structure be established as the basis on which the future rate determination will be made, and that recognizing that it would take several months of time to implement such a system, it would probably be next fiscal year before rates could be put in under this kind of system. They are asking for approval of the cost determination methodology and the structure of the system, but not specifically the rates themselves. It would be the 1979 budgeted amounts that should go into that structure.

Councilman Gantt asked the cost of putting such a system into place? Mr. Wilson replied they have not priced that out; they have estimated that it would take approximately five or six months of time on the part of several people in the Data Processing and in the City Finance Departments. It would primarily be related to programming time, within the City.

Councilman Gantt asked Mr. Burkhalter if he anticipates that requiring additional people? Mr. Burkhalter replied he really does not know at this time. It could be that they would do it by contract; not adding anyone and maybe doing it quicker.

Mayor pro tem Whittington asked if they are not talking about a new water rate some time after July 1, 1978; and that what they are talking about here tonight is a system or a proposed utility rate structure? That he thinks what they ought to do is to go ahead with their presentation, let the folks in the audience who have asked to speak do so, and let Council have any input they want, then, according to the City Attorney, this has to be referred back to CFC for them to make a recommendation to Council; then Council can adopt it anytime they are ready.

Mr. Raft stated there is one other thing in keeping with the enterprise concept, and that is they need to have cost that is incurred by the utility paid for by the utility. They have identified that there are some \$450,000 worth of services from the General Fund that the City provides to the utility that, in effect, the utility should purchase. In addition, the fire protection function is now being provided by the utility and that should be sold to the General Fund. This would be a swapping of costs that would need to occur to be true to the enterprise concept. However, the dollars going each way are approximately the same. What they have said in one of the concerns that was expressed before is the question of fire protection services. If the Council elects not to do that swapping, certainly that is within their purview to do that. The impact would be negligible. Looking at water, instead of 83¢ it would be 81¢ on fixed; and the 30¢ would stay the same.

Mr. Wilson stated that the actual fixed charge of the outside user has also been doubled in this particular impact to reflect true double rates for the outside city user, for the variable and the fixed portion. This was not in the other recommendation. What they are saying is - if they decide to have an absolute double outside rate, and if they decide not to have fire protection and city benefits included in the system, this would be the net impact of not doing those three things. They could have different combinations of this particular situation.

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Councilman Williams asked how you get away with having an absolute double outside rate for sewer, faced with the EPA guideline?

Mr. Wilson replied you may not get away with it. They do not know that is approved. What they have said is that they do know that if they go to the system which was discussed earlier, which does not double the fixed fee but does in effect double the variable fee by using the justification that debt service, capital improvements, is a place where you cannot have a disproportionate amount of monies charged. If they leave the operation and maintenance and the fixed fees alone and double up on the debt service fees, then the indication is that that is approved; if they try to do anything with the fixed fees or with the operation and maintenance fees, then it is not going to get approval.

Mr. Raft stated EPA has not ruled on whether the doubling of the fixed charge would be allowable. They have contacted them to get their feeling, but there has been no commitment on their part either way.

Councilman Gantt referred to Page 10 of the Blue Book and asked a question related to the fact that under the proposed system for a customer using one ccf. of water, the minimum charge is going to be \$2.35; for two ccf., \$3.07 as opposed to \$2.00 in that range. This gets into the whole question now of who will be impacted by this water rate. It appears to him that the small water user, who are not necessarily low-income people at all, but people who have using very small amounts of water, will in fact incur increases in some cases, one at least, of a little over 100 percent.

Councilman Williams asked what the average household uses? The reply was 8.2 ccf. They will realize very little change.

Councilman Gantt stated he wanted to know the number of people. How many people do we have in the first four rate classes - up to 4 ccf. of water? The reply was approximately 8,000 accounts would be affected by the \$2.00 minimum. Councilman Gantt stated if he had one drop of water, he would pay \$2.35? Mr. Raft replied it would have to register 100 cubic feet, or 1 ccf. Councilman Gantt asked if many of these 8,000 accounts are businesses and Mr. Raft replied that is correct.

Councilman Gantt stated the dollar amounts in the situation where one uses 1 ccf. is not significant, but the types of accounts is significant. Mr. Wilson stated they have not done a detailed analysis of the types of accounts; they did explore somewhat at the outset of the study the question as to whether a "lifeline" rate should be in place so that the economically disadvantaged users, the elderly and the poor, that needed some assistance would be looked at. At that point in time, they tried to take a quick look at the composition of those 8,000 accounts and they found a large number of businesses who have a very small consumption rate. There were residences in there, but they did not look to see what the economic status of those residences were.

Mr. Frank Cockinos stated he is a consulting engineer in Charlotte and also represents the Professional Engineers of North Carolina, the South Piedmont Chapter. That he wants to speak against part of the report that was presented. He stated the C-MUD policy for extending the sewer lines is a program that penalizes the first person who builds in an area. The first person who opens a future development is expected to pay the entire cost of extending the water and sewer lines into the drainage basin to his point of need. All other bystanders along the way to connect to the system pay only the tap fee. The word "developer" is taken to be a subdivision realty firm which can normally pass the cost of the water and sewer extension to the many houses in the subdivision. The fallacy of this definition is that the small businessman, the industrialist, or the shopping center builder, because of competition of the nearby similar businesses, cannot overcharge to recoup his investment for the water and sewer line addition.

He stated a very good example is an existing industry that has received approval from the North Carolina Division of Environmental Management, located in Mooresville, to construct either an on-site wastewater treatment facility or to connect to the C-MUD sewer collection system. The cost of the on-site facility is estimated at \$58,320; the sewer system extension is estimated at

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\$85,225, roughly a \$25,000 difference. The industry would like to tie into the City system. If so, one Charlotte-Mecklenburg school, 21 residential units, 4 industrial areas - which have had For Sale signs on them since the start of this project seven months ago and have not been sold because of sewers; also three competitive industries, side by side; would pay a premium of \$25,000 as a penalty for making the service available. The other 28 users could tap on for approximately \$300 tapping fees.

The proposed system suggested by the Arthur Young & Company report would now require the developer to also pay for engineering approval and for the plans and specifications and also the engineering inspection. This seems to be asking for too much of a good thing. If the sewer user is going to benefit from the installation of a sewer line, then the sewer user should be willing to pay for the engineering approval and inspection. If industry is willing to pay the \$85,225 for the installation of the sewer line which will benefit 29 additional sewer users, the C-MUD system should be willing to pay the approximately \$6,000 for engineering approval and inspection. In this particular case, it is \$6,000; on any other sewer or water project it would run about 47 percent.

It is requested by the Professional Engineers of the joint Associated Contractors of America and the Homebuilders and Professional Engineers of North Carolina committee that the recommendations of Arthur Young & Company's report be accepted with the exception that the requirement that the developer pay for engineering approval and inspection.

He stated the second request offered by the above committee is that C-MUD reduce its design for new engineering projects and limit activities to review reports, inspection and approvals. New water and sewer systems should be designed by consulting engineering firms in Charlotte; inspection of these facilities should also be completed by the state licensed contractors who submit the lowest bid.

He stated this matter was taken up with C-MUD in October of 1975. Progress has been made but the solution to the problem seems to be a long time in the future.

Councilman Gantt stated he is not sure he understands why Mr. Cockinos thinks it is necessary that the C-MUD, if it is an enterprise operation, pay for services that the developer needs in order to get his sewer line.

Mr. Cockinos replied it goes back to the old system of profit and loss. If the user is not willing to put up any money, why should the user immediately reap an income, because when this developer pays an \$85,000 to go on the system, the very next day 29 taps will be made that will produce income to all the users on the system. Why should not the user, as a whole, help pay for some of the service? If a man and woman put \$85,000 in it, it seems as though C-MUD should put up \$6,000. It is adding insult to injury is what it amounts to. This particular thing that he is talking about, they were given to permit the project to proceed in the C-MUD system. About two weeks ago they were called and told to hold up, that they wanted to look at the on-site proposal again. They have to quit saying a developer is a whole subdivision person, because he can pass on to the houses "X" amount of dollars per unit and recoup. But this is a regulated instance. Each one of these four competitors - you probably will not find this anywhere else in Charlotte - are side by side, on Sunset Road, right off of I-77. You cannot tell one of them to put in \$85,000 worth of cost and let the other three tap on for \$300, and tell the other man to go up on his product and recoup \$85,000. First of all, he cannot go up a dollar a pound on his product - federal regulations do not allow it and competition will not allow it.

Councilman Gantt stated what Mr. Cockinos is saying is the developer pays the money to bring the line in he also pays to have the line designed by C-MUD; the line is put in and then the minute the line is in anybody who abuts that line can tap onto it by simply paying \$300 or whatever the tapping fee is and the developer is trapped with the \$85,000.

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Councilman Gantt asked Mr. Dukes, Utility Director, if this is how it works? Mr. Dukes replied that in some instances that is correct. In other instances, they have in the past refunded it if the project is on the Capital Improvement program.

Mr. Beck stated that what Mr. Cockinos was addressing is not the rate structure that the CFC and the Arthur Young Company submitted, except to the extent that they were talking about the charge for designing and engineering the program. What he is talking about is some of the apparent inequities in C-MUD's extension policy. C-MUD's extension policy was virtually rewritten two years ago because of some other problems encountered, those problems being that virtually anyone at that time, if the developer wanted a line, if he was willing to pay for it, put up the money for it, C-MUD would put the line in and reimburse him for his construction costs out of revenues from that line up to a period of ten years. What they wound up with, in effect, was that the department was being told to put lines in wherever anyone was willing to finance the construction, because the out-of-pocket cost would come back; it was only the finance cost that were absorbed by the person initiating it. There are some problems with this, but the committee feels that the problems are less now than they were before.

Mr. Beck stated they would like very much to isolate this hearing to the rate structure and if there is substantial concern as to the extension policies of C-MUD, then City Council could charge the committee and C-MUD with a study of the extension policies in order to remedy whatever inequities might be left. He stated that of the comments that were made, the only one he feels is pertinent to what is before Council tonight is simply the charge for the design and the approval, or inspection.

Mayor pro tem Whittington requested that Mr. Beck meet with Mr. Cockinos and get this grievance to the Community Facilities Committee, as far as the design cost is concerned, for their consideration before they bring it back before Council. Mr. Beck stated he is not the chairman, but they can really only hear a complaint if they are asked to do so by either the City Council or the County Commission.

The Mayor pro tem stated he hoped Council would concur with this as Mr. Cockinos is not talking about rate structure; he is talking about extension policies; that he thinks he ought to have some input with the Community Facilities Committee. Councilwoman Locke stated she thinks Council should charge the Committee with that responsibility, but they should deal with one thing at a time.

Mr. Joe Griegal, Utilities Division Manager of the Carolinas Branch of Associated General Contractors of America, stated he is afraid his remarks will relate more or less to Mr. Cockinos' remarks, but he will make them very brief. He stated it is apparent that the C-MUD intends to continue the design and construction of water and sewer projects, particularly on private developments, using public employees, equipment and materials purchased by the City. This practice is commonly known as "force account" work. He does not question the honest belief of the department's officials that this is the best and least expensive way of doing this type of work. However, they respectfully but strongly contend that they are mistaken. From studies and years of experience in development, and the evolution of federal and state laws clearly testify, that design by private engineers and construction under the open, competitive bid system produce high quality projects at the least cost to the public. When the work is performed by private firms the scope, cost and time of completion are known by the public before the work is started, and are guaranteed by bonding and penalties of the contract. The quality of the work is similarly guaranteed with bonding. Professional inspection services of the consulting engineer are provided and they merely need to be verified by public inspection. The contractor is an expert in his field and his very survival depends on his ability to deliver services at a low cost and to do so profitably in keen competition with his peers.

He stated that in force account work the competitive incentive and the drive of the profit motive are lacking. Force account work tends to build up public payrolls and public ownership of expensive construction equipment.

Both are difficult to reduce and result in increased public budgets and higher taxes. Every project done by force account is lost to private firms, to the free enterprise system, and to the tax base which supports public payrolls and prices. In work done by private firms, money returns to public coffers through various taxes and fees. He stated it has been proven nationwide that work done by private firms under the competitive bid system on construction will result in quality projects at the least cost to the public. Therefore, his association requests that contractors, duly licensed by the State of North Carolina be allowed to install water and sewer services on private development to the City of Charlotte standards and subject to the City of Charlotte inspection.

Councilman Williams stated while they are on this subject, he would like to hear from Mr. Dukes about this. That he has heard from several other people on this same point. As he understands what Mr. Griegal is saying, it is the Utility Department does not allow the private contractor to make the actual tap onto the main line; that they instead insist on doing that themselves. He stated he is sure there must be some reason for it, but he would like to hear from Mr. Dukes.

Councilman Davis stated that this too is not really germane to the rate structure. Mayor pro tem Whittington replied that he agrees that it is not germane to the rate structure, but there are other people in the audience who have spoken to members of Council that this is their concern. Since they are here and Council is here, he thinks they might as well go ahead and hear it out. Councilman Davis stated it is not fair to the people who came here for this subject, and this could go on all night.

Councilman Williams stated he wonders whether or not it is related because if you deprive the system of this income, then that means the income has to be made up from some place else.

Mr. Lee Dukes, Utility Director, stated he thinks this question is a speck rather than a camel, because the City, for all practical purposes, has the same number of construction crews now as it has had for the past ten years. Our construction crews are mainly used for emergency repairs and activities like a street widening. When they have to raise or lower the main or move it to one side, their construction crews go out and do this sort of thing. The reason they want to do this is that they cannot allow others to operate our water system - they want to operate it; they want to be in control of it. Last year, practically every bit of work they did was handed out to a private contractor - it was in the millions of dollars - all of the annexation work, all of the grant program, everything else is done by private contractors. His department does none of this whatsoever. Last year they had a total in his forces of \$338,000 worth of construction work out of a budget of nearly \$19.0 million. Out of this only 21 or 22 percent of that, or \$100,000, was funded by applicants, when a private developer came in and asked them to do work. They have gotten completely out of the business because they do not have the time or the crew.

Councilman Gantt asked if the City does the tap ons to main lines? Mr. Dukes replied they do all tap ons; they feel like the Health Department and the protection of our citizens in the City of Charlotte require that no one be allowed to mess with hooking on and taking off of our system. He does not want somebody to hook a water line to a sewer.

Councilman Gantt asked if there is something technically unusual about that connection? Mr. Dukes replied there is nothing technically unusual, but when they are watching it they can be responsible and control who goes on it; they can control who takes it. He stated when his department took over the private developer's system in the last annexation, they found over 3,000 services that had not made application to come into our system. They way they found it was out knocking on doors, putting smoke in the sewers and seeing if the smoke came out of the stack on top of people's houses. They will not tell them; they get lost when they allow just everybody to connect to our system. They need this control.

Mr. John Crosland stated he is speaking on the same things but they feel very strongly about this. That maybe if they say some of these things over and over again they will get Council's attention and get these changes to the report as it is drawn. One of them is the part where the developer, or subdivider, is having to pay for the inspection and also is requested to pay for the plan review which is a kind of open end contract which they have no control over. They feel very strongly that to put this burden on the homeowner at a time when he is having, particularly young families, such a difficult time affording new homes, is unnecessary. They feel as though when they are donating and giving to the utility system all the water mains, the sewer mains, in the community, and also paying for the water taps and the sewer laterals; that the City will start getting revenue the minute someone moves into that home, the least the City could do is pick up the cost of the inspection fees and for the plan review. That is the very least that could be expected of the Utility system. No other utility requires the user to pay for the distribution line. But, the new homeowner, since the City has changed to not reimbursing for water and sewer lines, has been having to do it since 1969. He is not only carrying that burden but he is also carrying the burden of any bonds that were floated prior to that time for other people who had connected onto the system prior to 1969.

Mr. Crosland stated he has another point, regarding the water and sewer connection charges. He questions whether this is the appropriate time to talk about it, but as far as their ability to put in the water taps and the sewer laterals, they used to do it outside of the perimeter and these lines later on were annexed. He thinks they can do it very satisfactorily. They have had problems with the City regarding their installations because they do not inspect their own lines when they put in their water taps and sewer laterals. They have had numerous cases where the street has sank and they have an argument about who is going to pay for repairing the street. This has occurred over and over again. He thinks, under City inspection, the developer could do a better job. They certainly have no problem as far as anybody's health is concerned because they are able to pick up where the sewer lateral starts, the plumber picks it up from there; what is the difference from connecting it at the sewer main? If it is just the control item, they surely can figure out some way to take the control of who is on to the sewer system and who is not, and who is connected to the water system and who is not connected.

He stated he does hope that Council will also, at some point, instruct CFC to study the extension policy. There are some problems with it. There have been some rate changes from the old proposal to the new proposal - he will not speak to those, but generally he thinks the developers are in favor of them although he thinks the rates have changed in a direction they were not in favor of. He really cannot discuss that as he only read it today and did not get into the details. That on the inspection fees, on the review costs and the permission for putting in water taps and sewer laterals by licensed contractors, they will be permitted to do that.

Mr. Jim Thomasson stated he represents the Homeowners Association of Charlotte. That much of his information has already been covered. They also object to these hourly rates. They are trying to give the citizens of Charlotte housing at the cheapest possible cost. It just seems to keep adding. With the open-end hourly rate, they have to pass on these costs to the home buyer and the price of housing everybody says is too high now. They are increasing the tap-on fee. They say they can do it cheaper. If they can do it cheaper than the City can, why not let them do it? They can then sell a house at a cheaper price.

Councilman Gantt stated if he read the report correctly, it is possible in a typical engineering review that the specific figure could be subsidized. He has heard two people say "open-end" when, in fact, they can be more definite about that.

Mr. Thomasson referred to Page 14 of the modification report and quoted "even though the inspection costs have been translated into an hourly charge, CMUD should be allowed to convert these costs into a charge per linear

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foot." That at least if the developer-contractor knows how much would be involved the open-end idea would go away. They would still hope they could adhere to full cost recovery however, and that the cost for providing this inspection service might be passed along to the user.

He stated that since Duke Power, Piedmont Gas and Southern Bell put in their own lines and the developers are putting in the lines and giving them to the City, the least the City can do is inspect them.

Councilman Gantt stated he would like to clarify the point Mayor pro tem Whittington made a little earlier. The procedure now is that having had this presentation to Council, which in effect sounded much like a public hearing, they are now to turn this back to the CFC for a recommendation again to Council?

Mayor pro tem Whittington stated he had asked Mr. Underhill to inform him what he should present to the audience after this hearing - this was advertised as a hearing on the proposed rate structure. He then quoted from Mr. Underhill's instructions:

"According to Section III of the 1972 Agreement between the City and the County which established the City-County Utility Department, a public hearing must be held before the City Council and the CFC, when any change is proposed in the schedule of water and sewer rates. These changes are penalties. According to the 1972 Agreement, the CFC has up to 30 days to give advice to the Council, following the public hearing. Therefore, in accordance with the Agreement, this matter will be referred to the CFC for their recommendations after this hearing."

Councilman Gantt stated then this will actually be acted on by the new Council? Mayor pro tem Whittington stated it will have to be acted on by the new Council and, as he understands Mr. Burkhalter, it would be effective sometime in the next fiscal year.

The Mayor pro tem thanked Mr. Sheridan and the Community Facilities Committee, Mr. Fennell, Mr. Dukes and the gentlemen from the Engineering societies and the building industries for their input into the hearing.

Councilman Davis stated it was his understanding previously that the schedule had been set up in order that the present Council would dispense of this matter. That the only conflict is that the CFC is authorized to take up to 30 days - they do not have to take the 30 days.

Mayor pro tem Whittington stated he would hope that the CFC could report back to Council tomorrow and this Council could approve this rate on the 28th. That is what Council had asked them to do.

Councilman Davis stated he would like to hear from the CFC now to see if that was not, in fact, their understanding. It was generally agreed among other Councilmembers that this was the understanding from the beginning.

Mr. Sheridan stated the CFC is making the recommendation that Council approve the methodology tonight. The Mayor pro tem stated he believes Council would prefer to do this on the 28th when the Mayor will be present and hopefully all seven members of the Council. Councilmembers agreed.

A motion was made by Councilwoman Locke that the Community Facilities Committee be instructed to address the study of the extension policy in some manner and some form at some future time. Councilman Davis stated if in that motion she will included the advisability of contracting out inspection and plan reviews, he will second the motion. Councilwoman Locke agreed. The motion carried unanimously.

Mr. Burkhalter, City Manager, stated there are some alternates in this rate structure that Council is going to have to make decisions on. That on one of the subjects that was just brought up, he thinks they will find that those in the Utility Department might readily agree not to charge inspection fees for this work. It is one of those areas that can be either

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way. That this is an area where they think the protection of the water system is a cost that everybody ought to bear. They would not like to limit it to one paid inspection of one of these lines; that they should be inspected regularly and often, not just for a paid inspection.

MAYOR PRO TEM WELCOMES TWO PERSONAL FRIENDS TO COUNCIL MEETING.

Mrs. Cathy Harris and Mr. Graham Wright were recognized by Mayor pro tem Whittington as two good friends who were present tonight to observe how local government works.

PETITION NO. 77-15 BY THE PUBLIC WORKS DEPARTMENT TO AMEND THE TEXT OF THE ZONING ORDINANCE TO REGULATE DRAINAGE AND EXCESS STORM WATER RUN-OFF GENERATED BY BUILDING DEVELOPMENT, DEFERRED UNTIL NOVEMBER 28, 1977.

Councilwoman Locke moved that Petition No. 77-15 by the Public Works Department be deferred. She stated, in response to questions from other Councilmembers, that her purpose in asking for deferral is the many requests they have had that it be deferred; that she thinks it is incumbent on Council to defer it back to the committee for further study.

Mayor pro tem Whittington stated he would be in favor of deferring it until the 28th and let the present Council get rid of it.

Councilwoman Chafin stated she agrees; that certainly since this Council has been involved in this and appointed the committee it should take action on it. That clearly from the letters they have received, the Civil Engineering community in Charlotte feels that it has not had adequate input. She would pose the question to the chairman, Mr. Short, as to whether this input can be obtained by the 28th, given the Thanksgiving holiday coming up?

Mr. Short stated that one of the two representatives of the Civil Engineers never functioned on the committee. Councilwoman Chafin stated that he apparently moved out of town. Mr. Short stated another individual, Mr. Phelps, represented the Engineers on the committee. It is his belief that the Engineering community and all pertinent groups were represented on this committee.

The motion was seconded by Councilman Davis.

Councilman Gantt stated he would like to have a specific time placed in the motion. He really thinks that the 28th is a reasonable amount of time. There are some things that give him some concern: (1) There is a big change in the minimum amount of impervious surface required from 7,000 square feet to 20,000. The Planning Commission made this change which differs from Mr. Short's committee's recommendation; (2) The complaint regarding the Civil Engineers' representative has been answered with Mr. Short contending that they did have a Civil Engineer as a member of the committee who he assumes is a member of the Society; (3) He understands that there is a pending State law related to this that is to come up sometime next year. That he would simply like to have the staff get Council any information related to that.

He stated he would like to have some discussion from the Public Works group and Mr. Short's committee as to the opinion given by the Planning Commission regarding the 20,000 square feet, and the status of the State's proposed ordinance, if indeed there is one.

Mr. Short stated the Planning Commission indicated that if the potential amount of impervious coverage was 7,000 square feet, this might produce considerable work for our City Engineering Department. The Planning Commission did not deny that a 7,000 square foot parking lot, for example, might very well create a problem for the nextdoor neighborhood. In fact, it could flood them considerably and they would look like Noah's Ark. The Planning Commission took the viewpoint that the 7,000 square foot threshold would be a considerable job of administration for the Engineering Department and the larger threshold would reduce the work of that department.

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Mr. Short stated his comment to that is that the Engineering Department is the best judge of the work load for the Engineering Department, not the Planning Commission. The Engineering Department instigated this zoning petition themselves and the City Engineer served as a member of a sub-committee of his committee, which set the 7,000 square foot threshold. If the only objection is the one stated by the Planning Commission that there would be some work load on the City Engineering staff, that Council should think twice about putting this aside because there is no question but that a lot of citizens in this City and in this County are harmed and have no remedy as it now stands from the building of large parking lots and other impervious structures next door to them.

Mayor pro tem Whittington stated he hopes Council will go ahead and put this on the agenda for the 28th and direct staff to get this information. That the citizens who spoke at the Citizens' Hearing tonight would not have been here with their problem, if we had this ordinance. He does not know of anything that is more important, from a zoning standpoint and an orderly growth standpoint, than Council trying to come up with some way to handle storm-water run-off.

Councilman Gantt stated he thinks all of the Councilmembers are concerned with this issue. He is not even sure that had we had the ordinance those two citizens' problems would have been resolved because the ordinance clearly exempts subdivisions. In fact, it still requires them to do precisely the same kinds of things they have been doing all along, which means to get the water out of the area as quickly as possible and into the streams. This is contrary to what they are trying to do now. That is one of the issues he would like to address.

Mayor pro tem Whittington stated the subdivision portion of the ordinance gives them an option - they can do either. They can either provide the detention pool or they can get rid of the water as quickly as possible. One way or the other they have to protect the neighbors from this problem.

Councilman Gantt asked Mr. Short if this is each individual property owner or for the entire subdivision?

Mr. Short replied it is the original developer of the subdivision. One way or the other he has to account for the run-off of his subdivision.

Councilman Williams stated Councilman Gantt is getting at something that troubles him a little bit. He has not been able to get a handle on it in connection with the discussion about this ordinance. That is whether or not there is any relationship between the impervious area and the amount of ground that is being developed. For example, an acre might have 40,000 square feet in it. That suppose you are taking the 20,000 square foot threshold. In that situation, if a fellow is covering half of his acre with impervious material, he can see where he would have more need to do something with the water than if he had a five-acre tract and he was only putting 20,000 impervious square feet in the middle of it.

Mr. Short stated Councilman Williams has posed a situation where the person being flooded out is the developer himself. In other words, someone is putting impervious surface in such a position that he is going to cause flooding on his own land. His committee's advice from the Planning Commission office was that the Zoning Board of Adjustment already has full authority to deal with those situations and make exceptions.

Councilwoman Locke stated Council needs staff to identify some of these problems and also to tell them what the future of the legislation is on a statewide basis; then let Council make a decision on what they are going to do with this petition next week.

Councilwoman Chafin stated one week should allow sufficient time for the AFCE to review this and comment.

Councilman Davis stated he does not see how the number of questions he has in his mind and the information he has received in letters and phone calls could possibly be resolved in one week. They are talking about State law

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which does not yet exist; they are talking about serious differences of opinion between 7,000 and 20,000 square feet; that this would also be conflict, it appears to him, with an existing ordinance. That these things are going to take time to iron out. That he does not believe he could possibly get enough information to vote by the 28th.

Councilwoman Locke stated she thinks they could make some kind of decision - to defer it or whatever by that time.

Mayor pro tem Whittington stated what he wants Council to remember is that Mr. Charles Lamb, who is in the audience, appeared on the petition Council had on Milton Road and he was asked by the Mayor "Do you object to this home for the elderly?" and he thinks his answer was "I don't know, but I believe I would approve it if this stormwater run-off ordinance was adopted." If Council does not do this, they are doing to Mr. Lamb what they are all trying to prevent and get to. He stated that last year we had a flash flood and some families called him to Amity Gardens and the Dodge dealership out on East Independence Boulevard, the water hit that parking lot and you could have driven a Mack truck between two residences all the way to Monroe Road because the water did not have anywhere to go except out into this area. That was maybe an unusual case, but he thinks this present Council owes it to the citizens to try and set this up on the 28th and get it out of the way.

Councilman Davis stated that professional opinions have been expressed that what they are doing would be counter-productive and he just does not think they should resolve that kind of issue.

The vote was taken on the motion to defer Petition No. 77-15 to the meeting of November 28 and carried as follows:

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

At the suggestion of Mr. Short, Mayor pro tem Whittington read the names of the Committee on Storm Drainage - Richard Phelps, Walter Hendricks, Ken Hoffman, Nelson Nunally, Margaret Marrash and Clark Reading. Mr. Short served as chairman.

ORDINANCE NO. 834-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE OF THE CITY OF CHARLOTTE BY AMENDING THE ZONING MAP CHANGING THE ZONING FROM R-6MF TO B-1(CD) OF PROPERTY LOCATED ON THE SOUTH SIDE OF WILMONT ROAD AT THE INTERSECTION OF OLD STEELE CREEK ROAD WITH WILMONT ROAD, AS PETITIONED BY WILMONT BAPTIST CHURCH.

Councilwoman Chafin moved adoption of subject ordinance changing the zoning from R-6MF to B-1(CD) of property generally located on the south side of Wilmont Road at the intersection of Steele Creek Road with Wilmont Road, as recommended by the Planning Commission. The motion was seconded by Councilwoman Locke, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 25, at Page 107

PETITION NO. 77-38 BY HTL ENTERPRISES, INC. FOR A CHANGE IN ZONING FROM B-1 TO B-2 OF PROPERTY GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF WOODLAWN ROAD AND MONTFORD DRIVE, DENIED.

Upon motion of Councilman Gantt, seconded by Councilwoman Chafin, and unanimously carried, subject petition was denied, as recommended by the Planning Commission.

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PETITION NO. 77-40 BY CHARLOTTE CITY COUNCIL TO CHANGE ZONING FROM I-1 AND I-2 TO R-6MF OF PROPERTY LOCATED ALONG THE EAST SIDE OF HAWTHORNE LANE, FROM ABOUT 450 FEET SOUTH OF CHESTNUT AVENUE TO ABOUT 400 FEET NORTH OF CHESTNUT AVENUE, AND EXTENDED EASTERLY TO HAYWOOD COURT, DEFERRED.

Councilman Gantt stated he would like to point out to the audience that Agenda Item Nos. 11 through 20 all deal with the Plaza Midwood area and it might be helpful if Mr. Bryant, Assistant Planning Director, explained to Council how the Planning Commission reached these decisions.

Councilwoman Chafin moved that on Agenda Item No. 11 (77-40), Council go back to the originally proposed zoning, R-6MF, in lieu of the Commission's recommendation. She stated it is a much more appropriate land use for that particular property.

Mayor pro tem Whittington stated Agenda Item Nos. 11 through 20 relate to the area in east Charlotte between Hawthorne Lane, on the west, Central Avenue, on the south, to Parkwood Avenue, on the north, back down the Plaza to Mecklenburg Avenue and out Mecklenburg, including that area along Belvedere, Nassau Boulevard, Kennon, Thomas, Haywood Court and many of those streets. That this is a petition presented by the residents of that community, asking for up-grading of their neighborhood.

He stated he would like to say that Agenda Item Nos. 11, 19 and 20 concern the heirs of the late Mr. Lee Heath, who expired last week and it would be his opinion that Council ought not to make a decision on those three petitions until some member of that family has had the opportunity to come and rebut it, now that Mr. Heath is no longer in our midst.

Councilwoman Chafin asked if that was permissible and Mayor pro tem Whittington replied he did not know if it was permissible or not, but if he had the opportunity to vote on this, he would give this family that opportunity if they wanted it. That members of Council received a letter from his son, objecting to the very thing that is being proposed here.

Councilwoman Locke stated the Planning Commission unanimously recommended the zoning not be R-6MF but be approved for B-D. Councilwoman Chafin stated she would disagree with the Planning Commission's recommendation.

Mr. Fred Bryant, Assistant Planning Director, stated Agenda Item No. 11 is identified as Petition No. 77-40 and consists of property along Hawthorne Lane and is presently zoned I-1, with some I-2, across from the Junior High School and from a church, on the easterly side of Hawthorne Lane.

Councilman Gantt seconded the motion to change the zoning to R-6MF as proposed by the petitioner for discussion.

Councilwoman Chafin asked the Assistant Planning Director to explain the B-D zoning designation and Mr. Bryant replied B-D is a specialized zoning district that was established a number of years ago to meet a particular need. That it is a distributive business district and is a district that is basically one encouraging wholesaling, warehousing, distribution types of activities as opposed to any type of industrial activities that might involve outside storage or manufacturing, etc. It allows very few uses by right; most of the uses that are allowed in it are special use permit uses, which means they could be established only after specific consideration of the proposal by a property owner. It is basically a district that falls roughly between industrial and business classification and is slanted toward the distribution aspect of commercial activity.

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Councilman Gantt stated he tends to agree, having looked at the site, that there might be some difficulty in expecting that the use might go to R-6MF, and giving the special use characteristics of the B-D area, it would seem we would have some oversight as to whatever development might occur; on the other hand, he is sensitive to the needs this community has in the kind of gateway we have in the Plaza-Midwood area along Hawthorne Lane. Looking at the zoning pattern, if Council were to make that area R-6MF, it totally buffers what might ultimately become single family. For that reason he seconded the motion.

Councilwoman Chafin stated she does not pretend to be an architect, planner or a realtor but in talking with people who are in those various professions about this particular piece of property, it is their opinion that the most probable development of this property would be the existing industrial because of its proximity to the existing industrial area but this would be in opposition to the objectives of the City Council's own petition to preserve and strengthen the Plaza-Midwood area as a residential area. She stated the alternative use of this property might very well be, because of its location in a residential area and close to the school, perhaps a park, but this Council cannot zone this area as a park. That she would submit if Council zones it R-6MF, that perhaps this might be the kind of property that the City at some point in the future might want to purpose for some multi-family development. It is a very crucial buffer area in this whole set of petitions.

Councilwoman Locke made a substitute motion to approve the Planning Commission recommendation that it be changed to B-D zoning. The motion was seconded by Councilman Williams.

Mayor pro tem Whittington asked if all members received a copy of a letter from Mr. Lee Heath's son. That both Item No. 11 and 12 are Heath properties, bordered by McKesson Robbins, across the street from the church going towards Thomas Avenue. He asked if Council wanted to wait until they hear from the family and Mr. Bryant replied Mr. Heath filed a letter with Council on this particular piece of property before he died. That it was on Petition No. 77-49, the R-6MFH, that the son filed a letter after his death.

Councilman Williams asked Mr. Bryant to discuss the land use surrounding this parcel and the proposed land use surrounding it.

In response to a question from Councilman Davis regarding Council's discretion in the case of a death of a petitioner, Mr. Underhill, City Attorney, replied the rule provides that after a public hearing, it cannot be discussed by the petitioner or by the opposition and that means they cannot appear at a regular meeting and speak further in support or opposition to a change in zoning.

Mr. Bryant stated the letter he received from Mr. Lee Heath himself, before he died, was in reference to the multi-family zoned area 77-49. That the letter is dated November 4 and indicates that he did prefer it to retain the R-6MFH classification. He stated it was a letter from Mr. Heath's son that applied to the property which is now industrial. Mr. Bryant stated he had a conversation with Mr. Heath on Thursday, before he passed away on the next Monday, and at that time he was still debating with him as to the merits of the R-6MF zoning versus the industrial zoning. That Mr. Heath's son indicated in his letter that they would prefer to retain the industrial zoning on the property.

Councilman Williams stated he felt Items 11 and 12 were tied together and he would like to hear Mr. Bryant discuss the other property (Item No. 12) and discuss the recommendation from the Planning Commission with respect to it.

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Mr. Bryant stated Agenda Item No. 12, which is Petition No. 77-41, is a single parcel of land which is just north of and adjacent to the property involved in Petition No. 77-40. It is a parcel that is now zoned an office classification and someone appeared at the hearing indicating they owned the property and wanted to place an architect's office on the site. That the Planning Commission's recommendation on the two parcels are tied together because obviously if Petition No. 77-40 retains some non-residential zoning then obviously the office classification would continue to serve as a buffer, or as a transition. so he would think the two are definitely tied together to that extent.

He stated just to the east of both of these parcels, Council will have 77-42 to consider and that is all the land directly east of these two parcels and is now zoned an R-6MF classification and if Council acts favorably on 77-42, then all of this will be changed to single family. Then we would have a single family zoning relationship to the property which is the subject of both 77-40 and 77-41.

Councilman Williams asked the Planning Commission's recommendation on 77-42 and Mr. Bryant replied it was for approval.

Councilman Gantt stated this is the thing that gives him some concern and the only reason he would have felt that the Planning Commission admits that their decision was compromised and the only thing that tells some merit to him was the special use permit portion of it would allow for development of that type plan in such a way Council could require a substantial buffer between the single family. He stated in looking at the general pattern here, it would certainly be much better if all of that were in fact multi-family. That we do not have much precedence for industrial land abutting single family residential, which is why he seconded the motion.

The vote was taken on the substitute motion to change the zoning to B-D as recommended by the Planning Commission, and failed to carry as follows:

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

A vote was taken on the original motion to change the zoning to R-6MF, as petitioned, and failed to carry, as follows:

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

Mr. Underhill, City Attorney, advised that under the City Charter, it takes four affirmative votes to take any action and that it automatically goes back on the Agenda next week if Council does not take any action.

DECISION ON PETITION NO. 77-41 BY CHARLOTTE CITY COUNCIL TO CHANGE ZONING FROM O-6 TO R-6MF PROPERTY FRONTING ON THE EAST SIDE OF HAWTHORNE LANE LOCATED ABOUT 400 FEET NORTH OF THE INTERSECTION OF HAWTHORNE LANE AND CHESTNUT AVENUE, DEFERRED.

Councilwoman Locke moved that the subject petition be denied as recommended by the Planning Commission. The motion was seconded by Councilman Davis.

Councilwoman Chafin made a substitute motion to change the zoning to R-6MF. The motion was seconded by Councilman Gantt.

After discussion, both motions were withdrawn, and Councilwoman Locke moved that the petition be deferred until the next meeting. The motion was seconded by Councilman Gantt, and carried unanimously.

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ORDINANCE NO. 835-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE OF THE CITY OF CHARLOTTE CHANGING THE ZONING FROM R-6MF TO R-6 OF PROPERTY LOCATED GENERALLY BETWEEN HAMORTON PLACE AND PARKWOOD AVENUE, LOCATED WEST OF PROPERTY FRONTING THE WEST SIDE OF THE PLAZA; INCLUDING PROPERTY FRONTING HASTHORNE LANE, MIMOSA AVENUE, BELVEDERE AVENUE, KENNON STREET, THOMAS AVENUE, BELLE TERRE AVENUE, HAYWOOD COURT, CHESTNUT STREET, KENSINGTON DRIVE, PECAN AVENUE, SCHOOL STREET AND HAMORTON PLACE, AS PETITIONED BY CHARLOTTE CITY COUNCIL.

Councilwoman Chafin moved adoption of subject ordinance as recommended by the Planning Commission. Motion was seconded by Councilwoman Locke and carried unanimously.

The ordinance is recorded in full in Ordinance Book 25, at Page 108.

PETITION NO. 77-43 BY CHARLOTTE CITY COUNCIL TO CHANGE ZONING FROM 0-6 AND B-1 TO R-6MF PROPERTY FRONTING ON THE SOUTH SIDE OF PARKWOOD AVENUE AT THE INTERSECTION OF PARKWOOD AVENUE AND BARRY STREET, DENIED.

Upon motion of Councilwoman Locke, seconded by Councilman Williams and unanimously carried, subject petition was denied, as recommended by the Planning Commission.

ORDINANCE NO. 836-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE OF THE CITY OF CHARLOTTE CHANGING THE ZONING FROM 0-6 TO R-6MF PROPERTY FRONTING BOTH THE NORTH AND SOUTH SIDE OF MECKLENBURG AVENUE, ABOUT 150 FEET EAST FROM THE INTERSECTION OF MECKLENBURG AVENUE AND THE PLAZA, AS PETITIONED BY CHARLOTTE CITY COUNCIL.

Motion was made by Councilwoman Locke, seconded by Councilwoman Chafin, and unanimously carried, adopting subject ordinance as recommended by the Planning Commission.

The ordinance is recorded in full in Ordinance Book 25, at Page 110.

ORDINANCE NO. 837-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE OF THE CITY OF CHARLOTTE CHANGING THE ZONING FROM B-1 AND 0-6 TO R-6 OF PROPERTY FRONTING ABOUT 350 FEET ON THE WEST SIDE OF THE PLAZA BEGINNING ABOUT 160 FEET SOUTH OF THE INTERSECTION OF THE PLAZA AND PARKWOOD AVENUE, AS PETITIONED BY CHARLOTTE CITY COUNCIL.

Councilwoman Chafin moved adoption of subject ordinance as recommended by the Planning Commission. The motion was seconded by Councilwoman Locke, and unanimously carried.

The ordinance is recorded in full in Ordinance Book 25, at Page 112.

ORDINANCE NO. 838-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE OF THE CITY OF CHARLOTTE CHANGING THE ZONING FROM R-6MF TO R-6 OF PROPERTY LOCATED GENERALLY BETWEEN KENSINGTON DRIVE AND HAMORTON PLACE, AS PETITIONED BY CHARLOTTE CITY COUNCIL.

Motion was made by Councilwoman Locke adopting subject ordinance changing the zoning of subject property from R-6MF to R-6, with the exception of that segment generally along Firth Court and south of Randall Street, as recommended by the Planning Commission. The motion was seconded by Councilman Gantt, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 25, at Page 114.

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ORDINANCE NO. 839-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE OF THE CITY OF CHARLOTTE CHANGING THE ZONING FROM O-6 TO R-6MF OF PROPERTY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NANDINA STREET AND HAMORTON PLACE, FRONTING ABOUT 160 FEET ON THE EAST SIDE OF NANDINA STREET, AS PETITIONED BY CHARLOTTE CITY COUNCIL.

Upon motion of Councilwoman Chafin, seconded by Councilman Williams, and unanimously carried, the subject ordinance was adopted as recommended by the Planning Commission.

The ordinance is recorded in full in Ordinance Book 25, at Page 116.

ORDINANCE NO. 840-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE OF THE CITY OF CHARLOTTE CHANGING THE ZONING FROM R-6MF, O-6 AND B-2 to R-6 PROPERTY LOCATED GENERALLY ON PORTIONS OF CHATHAM AVENUE, CLUB ROAD, DEARMON DRIVE, ROLAND STREET, MORNINGSIDE DRIVE, LOGIE AVENUE AND MASONIC DRIVE, NORTH OF PROPERTY FRONTING THE NORTH SIDE OF CENTRAL AVENUE, AS PETITIONED BY CHARLOTTE CITY COUNCIL.

Councilwoman Locke moved adoption of subject ordinance as recommended by the Planning Commission. The motion was seconded by Councilwoman Chafin.

Councilman Davis asked the Assistant Planning Director to point out the area involved. Mr. Bryant pointed out the area on a map and stated the area is predominately used for single family purposes at the present time, with a scattering of duplexes. That none of the property which is proposed to be changed from an office classification is now used for anything other than residential.

Councilman Davis asked if there was any distinction in the recommendation between the property that is now single family usage and vacant land and Mr. Bryant replied no.

Councilman Davis asked if any portion of this land was owned by Mr. Heath and Mr. Bryant replied no. Mayor pro tem Whittington stated it is contiguous to Mr. Heath's land.

The vote was taken on the motion and carried unanimously, with the ordinance recorded in Ordinance Book 25, at Page 118.

DECISION ON PETITION NO. 77-49 BY CHARLOTTE CITY COUNCIL TO CHANGE ZONING FROM R-6MF AND R-6MFH TO R-6 PROPERTY LOCATED GENERALLY BETWEEN BELVEDERE AVENUE AND THE DEAD-END TERMINUS OF DEARMON DRIVE AND LOGIE AVENUE, INCLUDING PROPERTY FRONTING ON BELVEDERE AVENUE AND PEPPERCORN LANE, DEFERRED FOR ONE WEEK.

Councilwoman Locke moved to defer decision on subject petition until next week. The motion was seconded by Councilman Davis.

Councilwoman Chafin asked about the dissent in the Planning Commissions vote and Councilwoman Locke stated there was a split vote and it would be best to wait for a week.

Councilman Gantt stated the evening he talked with Mr. Heath before his death he indicated to him that one of his concerns was that he would never build 40 units to the acre and he did not want the property zoned to R-6 which the Planning Commission recommended was a very low density multi-family which would fit that topography. That they make a very substantial argument about the fact that in leaving it at R-6MFH, there is just no way the traffic could be handled in that area. He stated the argument is so clear; that the objection that they refer to - to leave it is the way it is simply because no one will ever do anything with it.

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Councilwoman Locke stated that is probably what she would want to do anyway but she would like to think about it for a week and to hear from some people about it.

Councilman Gantt stated his point was that Mr. Heath was quite pleased with the R-15 designation.

Councilwoman Chafin stated for the record that there is a very good possibility she will not be present at the next meeting of Council, so she would not want to defer action on this petition.

Councilwoman Locke asked about Mr. Heath's letter and Mr. Bryant read a portion of his letter, as follows: "I would much prefer retaining the R-6MFH zoning which allows about 580 units on approximately 14-1/2 acres on rugged terrain - if this is changed and I use lose the high rise status, surely I am not unreasonable by asking to be allowed to erect 1/2 of 580 units, or better described a R-6MF classification for 290 units instead or a R-15MF, comprising 175 units as presently recommended." Mr. Bryant stated essentially Mr. Heath was saying if he could not retain the R-6MFH, he would at least retain a R-6MF classification.

Councilman Williams asked what multi-family classification would be required to permit 15 dwelling units per acre and Mr. Bryant replied the closest to that would be R-12MF, which allows about 14-1/2 units. That the R-15MF allows about 12-1/2 units. Councilman Williams asked about R-9MF and Mr. Bryant replied about 17-1/2 units. Councilman Williams stated he would be willing to vote for either one of those and Councilwoman Locke agreed.

Councilman Davis stated the intent of the previous motions were to delay decisions until next week and the intent to delay decision on this petition was to give the petitioner's estate an opportunity to respond or at least be represented when the action is taken which he would like to expend this courtesy and defer this also.

Councilman Gantt stated that was not the intent of the delay of the first two petitions and Councilwoman Locke stated Council could not obtain four affirmative votes and that is why they were deferred.

Councilman Davis stated the reason he seconded this motion is to extend them the courtesy of being present when Council's takes this action.

Mr. Bryant stated the Planning Commission's recommendation on this is split. That the property along Peppercorn Lane is recommended for the change to single family but the remaining portion is recommended to R-15MF.

The vote was taken on the motion to defer decision for one week, and failed to carry as follows:

YEAS: Councilmembers Locke and Davis.

NAYS: Councilmembers Chafin, Williams, and Gantt.

Councilman Davis asked the City Attorney if Council has a proposal to go down to R-12 and it fails, does this preclude them from going back to R-6MF and Mr. Underhill replied if either of the motions fail, then Council can certainly go up or down on the density.

Councilwoman Locke moved to change the zoning to R-9MF. The motion was seconded by Councilman Williams.

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In response to a question from Councilman Davis, Mr. Bryant stated R-15MF, which has been recommended by the Planning Commission, would allow about 12-1/2 units, R-12MF would allow about 14-1/2 units; R-9MF would allow about 17-1/2 units and R-6MF allows about 20 units.

Councilman Williams asked how many units R-6MF would allow and Mr. Bryant replied about 40 units.

Councilman Davis made a substitute motion that the portion of the property fronting on Peppercorn Lane be changed to R-6 as per the Planning Commission's recommendation, and the remainder be changed to R-6MF. The motion did not receive a second.

The vote was taken on Councilwoman Locke's motion to change the zoning to R-9MF, and failed to carry as follows:

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

Councilman Gantt moved to change the zoning to R-12MF. The motion was seconded by Councilwoman Chafin, which failed to carry as follows:

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

Mayor pro tem Whittington advised this vote automatically places the item back on the agenda for next week.

PETITION NO. 77-51 BY WILLIAM JOHNSTON FOR A CHANGE IN ZONING FROM O-6 TO B-1 PROPERTY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF ALEXANDER STREET AND EAST 36TH STREET, DENIED.

Upon motion of Councilwoman Locke, seconded by Councilman Davis, and unanimously carried, subject petition was denied as recommended by the Planning Commission.

PETITION NO. 77-53 BY JAMES A. JARRETT AND JOHN F. GAYLORD, JR. FOR A CHANGE IN ZONING FROM B-1 TO B-2 OF PROPERTY FRONTING ON THE SOUTH SIDE OF CENTRAL AVENUE, LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF CENTRAL AVENUE AND ROSEHAVEN DRIVE.

Upon motion by Councilwoman Chafin, seconded by Councilman Williams, and unanimously carried, subject petition was denied as recommended by the Planning Commission.

DECISION ON PETITION NO. 77-54 BY CLARA M. HUNT FOR A CHANGE IN ZONING FROM R-9 TO B-1 PROPERTY FRONTING ABOUT 180 FEET ON THE NORTH SIDE OF CENTRAL AVENUE, LOCATED ABOUT 325 FEET EAST OF THE INTERSECTION OF LANSDALE DRIVE AND CENTRAL AVENUE, DEFERRED.

Councilwoman Locke moved deferral of this item until the Planning Commission comes back to Council with a recommendation. The motion was seconded by Councilman Gantt, and carried unanimously.

ORDINANCE NO. 841-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE OF THE CITY OF CHARLOTTE AMENDING THE ZONING MAP BY CHANGING THE ZONING FROM B-1(CD) TO O-6 OF PROPERTY FRONTING 50 FEET ON THE NORTHWEST SIDE OF PECAN AVENUE, LOCATED ABOUT 200 FEET NORTHEAST OF THE INTERSECTION OF PECAN AVENUE AND SEVENTH STREET, AS PETITIONED BY STANLEY BROTHERS PARTNERSHIP.

Motion was made by Councilwoman Chafin, seconded by Councilwoman Locke, and unanimously carried, adopting subject ordinance changing the zoning from B-1(CD) to O-6 as recommended by the Planning Commission.

The ordinance is recorded in full in Ordinance Book 25, at Page 120.

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Finding Standard No. 3 - That the proposed use will not substantially increase the volume of vehicular traffic within the area.

Facts Supporting Finding No. 3 -

1. Traffic generation is lower than if the property were developed for single family purposes.
2. Access is onto Milton Road which is a collector street for the area.
3. Amount of traffic will not substantially increase volume on Milton Road.

Finding Standard No. 4 - That the proposed use will be compatible with the general living environment of the area, particularly with respect to noise level.

Facts Supporting Finding No. 4 -

1. Surrounding uses consist of single family, apartments and vacant land.
2. The proposed building will be well-removed from the nearest land use.
3. Activities associated with the proposed use will be screened from nearby houses, both by proposed plantings on the subject property and by existing screening on the rear of existing lots.
4. Noise level is expected to be below that which would be present if developed for single family purposes.

Councilwoman Chafin stated she would like to make sure that an approval of the recommendation of the Planning Commission would hold the petitioner to development of the detention as per the ordinance which is pending, regardless of what happens to the ordinance. Mr. Bryant replied it was the intent of the Planning Commission in making the recommendation that this be installed as a condition of approval, assuming that the ordinance might not be passed by the time Council decided to act on this petition. That it was the intent of the Planning Commission to enforce storm water detention on this particular site plan, regardless of whether or not the ordinance was passed.

Councilman Davis asked how this is made a part of the motion and Councilwoman Chafin stated because it is the recommendation of the Planning Commission. Mayor pro tem Whittington stated the Planning Commission recommended this petition be approved with the condition of storm water run-off be controlled and this was what the hearing was based on also.

Councilman Gantt asked if Council did not pass the ordinance and they did pass this petition, is Council requiring them to make some provisions which Council does not require other similarly situated developer and Mr. Underhill replied yes, but Council has to keep in mind of what has been applied for here which is a Special Use Permit. That Council has the discretion to attach or make a part of any approval of any Special Use Permits any reasonable conditions they deem are necessary. He stated Council can, as part of their approval of a Special Use Permit, and in making the findings which are required of Council to make, attach a condition that storm water run-off be controlled. That the way it is stated here is very unclear as to what those requirements are and perhaps they should be specified in more detail so that it is clear as to what the intent of Council is, assuming that Council passes this, in the way of what requirements can be made as a condition to this Special Use Permit.

Councilman Davis asked if there was some administrative way that Mr. Bryant can require this and Mr. Bryant replied not unless Council makes it part of the ordinance adopted.

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Councilwoman Chafin asked Mr. Bryant to give Council some language to add to it. Mr. Bryant replied basically the intent here was to require storm water management control on this property. Basically, it existed in the ordinance which was proposed and considered at that time, which in effect means, they would be required to control the amount of water which now runs off the site in its undeveloped state. This has been referred to the Engineering Department, and they have already analyzed it from the standpoint of what could be done.

Mayor pro tem Whittington asked if Mr. Bryant has any problems with this? Mr. Bryant replied they did not have any problem with it, and if Council desires, they can work out the language in this regard.

Councilman Davis asked if this puts them in conflict with the existing ordinance to install sufficient sized pipe to move the water downstream, and Mr. Bryant replied no; he is referring to the subdivision regulations, and they are not subdividing property here.

Mr. Bryant stated the ordinance will include the following: "... including the requirement that a drainage plan will be prepared by the owner and approved by the City Engineer with the plan designed so that the rate of storm water run-off from the site after the development is equivalent to the rate of run-off prior to the development based on storms up to those expected to occur one time in ten years."

The vote was taken on the motion to adopt the ordinance with the above statement and the Findings of Fact by the Planning Commission and carried unanimously. The ordinance is recorded in full in Ordinance Book 25, at Page 122.

ORDINANCE NO. 844-Z AMENDING CHAPTER 23, SECTION 23-36.7(c) OF THE CITY CODE APPROVING TWO SPECIAL USE PERMITS TO ALLOW EXPANSION OF A HOSPITAL AND TO ALLOW CONSTRUCTION IN EXCESS OF 60 FEET IN HEIGHT IN AN R-6MF DISTRICT ON PROPERTY ON BRUNSWICK AVENUE AND BLYTHE BOULEVARD AND SCOTT AVENUE, AS PETITIONED BY CHARLOTTE-MECKLENBURG HOSPITAL AUTHORITY.

Motion was made by Councilman Gantt, seconded by Councilwoman Locke, and unanimously carried, to approve the special use permits as recommended by the Planning Commission, with the Findings of Fact as follows:

Findings Regarding Requirements Prescribed for Schematic Plans: The schematic plans and other materials submitted with the petition at the time of the filing fully comply with each of the requirements of Section 23-36, Section 23-36.7 and Section 23-36.4.

Findings Regarding Prescribed Standards: The following findings are made from the record evidence presented at the hearing with respect to the four standards prescribed by Section 23-36.7(c) with the basic facts relied on in and support of each being set forth below:

Finding Standard No. 1 - The proposed use will not endanger public health and safety or substantially reduce the value of adjoining and nearby properties.

Facts Supporting Finding No. 1 -

1. All adjacent area is already used predominantly for institutional or office purposes.
2. No new use for the property is being proposed with only an addition to the existing facility.
3. Nearby property values have increased over the years with the hospital being in place rather than experiencing a decrease in value.
4. Public health and safety factors will be improved for the community as a whole by adding new medical care facilities.

Finding Standard No. 2 - That the proposed use will be compatible with the general characteristics of the area with respect to the location, size and exterior features of the structure, the location, design and screening of parking areas and the location and size of signs.

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Facts Supporting Finding No. 2 -

1. One new facility will be completely compatible with existing uses, both on the subject property and on nearby property.
2. External design is similar to that already in use on the site.
3. The only change in parking reflects primarily the enclosing within a deck existing parking areas.
4. No sign changes are proposed.

Finding Standard No. 3 - That the proposed use will not substantially increase the volume of vehicular traffic within the area.

Fact Supporting Finding No. 3 -

1. No increase in traffic is projected by addition since only service and special care facilities are involved.

Finding Standard No. 4 - That the proposed use will be compatible with the general living environment of the area, particularly with respect to noise level.

Facts Supporting Finding No. 4 -

1. The site plan only reflects addition to existing facility, with no departure from pattern already established.
2. Proposed facility will not increase noise level now present on the site.

Findings Regarding Prescribed Standards: The following findings were made from the record evidence presented at the hearing with respect to the four standards prescribed in Section 23-36.4(c) with the basic facts relied on and support of each being set forth below:

Finding Standard No. 1 - That the increased height above 60 feet will not unduly shadow adjoining single family homes.

Fact Supporting Finding No. 1 -

1. There are no adjoining single family homes affected by the shadow of the proposed structure.

Finding Standard No. 2 - That the proposed use will not endanger the public health and safety or substantially reduce the value of nearby residential properties.

Facts Supporting Finding No. 2 -

1. No aspect of public health or safety will be harmed by the additional building.
2. No nearby residences are affected by the addition.

Finding Standard No. 3 - That the proposed use will not contribute to an undesirable development plan for the area.

Facts Supporting Finding No. 3 -

1. The proposed use is only adding to, rather than creating a new, development pattern for the vicinity.
2. The proposed building is located internally on the site rather than around the perimeter so that adjoining development will not be influenced by it.

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Finding Standard No. 4 - That the development plan provides for an acceptable relationship to adjacent properties.

Fact Supporting Finding No. 4 -

1. The location of the proposed use is internal to the existing development and will form an acceptable relationship to adjacent properties.

The ordinance is recorded in full in Ordinance Book 25, at Page 123.

PETITION NO. 77-34 BY JAMES J. HARRIS AND WIFE FOR APPROVAL OF SITE PLAN AT THE NORTHWEST CORNER OF THE INTERSECTION OF MORRISON BOULEVARD AND ROXBOROUGH ROAD, DEFERRED UNTIL NEXT MEETING DUE TO LACK OF FOUR AFFIRMATIVE VOTES.

Councilwoman Chafin moved adoption of an ordinance approving a site plan for the development of a shopping center on a 6.2 acre tract of land presently zoned B-1(SCD), at the northwest corner of the intersection of Morrison Boulevard and Roxborough Road and adopting the Planning Commission's Findings of Facts. The motion was seconded by Councilman Gantt.

Councilwoman Locke stated Council has been under the gun on this petition for many, many months and they have been between a rock and a hard place. That philosophically she is very much opposed to this as she has told the petitioner. She stated she is very much in favor of having office space in that area. That intellectually, because of the Findings, she feels she should vote for it but she has consistently voted against it and she is going to vote against it again today.

Councilman Williams asked the City Attorney if there was evidence in the record to support a Findings either way and Mr. Underhill replied he feels there is sufficient evidence in the record to allow Council to make Findings to approve the permit. That there is some evidence in the record which might possibly permit the Council to find that all the standards which have been required to be met, have not been met, and therefore, Council has the right to deny the permit, but he feels much less certain of that opinion than he does on the former. That is, he feels there is more than sufficient evidence to support the Findings; he is just not sure there is sufficient evidence to support a denial of the request for a Special Use Permit. He stated there is some evidence in there that one could certainly argue would permit that he is not convinced in his own mind that if challenged, it would stand up.

Councilwoman Chafin stated she has had some problems with this petition for these many months Council has been discussing it. She stated if she had her choice, she would not put a shopping center there, but the fact of the matter is, it has been zoned for sometime to B-1(SCD) because of the various hearings and discussions Council has had, she feels the petitioner has probably come up with the best possible site plan for that property. That with our new cut-through traffic policy, Council is in the position to work with Barclay Downs residents to give them some relief and that has been the source of the primary opposition to this. She stated it is the opinion of at least some members of the Planning Commission, and some others, that development as office use for that property might, in fact, produce more negative traffic impacts than the shopping center development because it would increase the peak hour problem - the peak hour problem is the problem that most affects the neighborhood streets. She stated she knows the Barclay Downs residents who have continued to oppose this right up until today may be disappointed, but she feels she is making the right decision with her vote.

The vote was taken on the motion, and failed to carry as follows:

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

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AMENDMENT TO THE FOURTH WARD LOAN AGREEMENT TO INCREASE MAXIMUM LOAN FOR PROPERTY DESIGNATED A LOCAL HISTORIC PROPERTY: AND APPROVAL OF A LOAN TO MR & MRS JAMES G. HESTER.

Councilwoman Locke moved approval of an amendment to the Fourth Ward Loan Agreement to increase the maximum loan from \$55,000 to \$75,000 for property designated a local historic property. The motion was seconded by Councilman Williams, and carried unanimously.

Councilman Gantt moved approval of a loan to Mr. & Mrs. James G. Hester, in the amount of \$68,000, for purchase and restoration of the Berryhill House, located at 324 West Ninth Street, in the Fourth Ward Project Area. The motion was seconded by Councilwoman Chafin, and carried unanimously.

ORDINANCE NO. 845-X AMENDING THE TABLE OF ORGANIZATION FOR THE CHARLOTTE MECKLENBURG COMMUNITY RELATIONS COMMITTEE TO PROVIDE FOR THE RECLASSIFICATION OF THREE HUMAN SERVICES ASSISTANT I POSITIONS TO HUMAN SERVICES ASSISTANT II.

Motion was made by Councilwoman Chafin, seconded by Councilman Gantt, to adopt an ordinance amending the Table of Organization for the Charlotte Mecklenburg Community Relations Committee to provide for the reclassification of three Human Services Assistant I positions to Human Services Assistant II.

Councilman Davis asked if these positions are vacant now and if they were reclassifications and Mr. Jack Bullard, Director of Community Relations, replied this is an unusual situation; that their staff has been very stable over the seven years. One of the staff members returned to school, another one assumed a position with another agency, and primarily in the nature of some of their workload they have carried a vacancy because of possible reconsideration and reclassification. Councilman Davis asked if they have tried to employ anyone at the Assistant I level? Mr. Bullard replied they initially advertised through the personnel department for that level. But they took a look at those applications and reconsidered what was going on in their department, and personnel, the Manager's office and his office decided they could perhaps get a significantly kind of application at the other level, and it would be wise to do so.

After further comments, the vote was taken on the motion, and carried as follows:

YEAS: Councilmembers Chafin, Gantt, Locke and Williams.

NAYS: Councilman Davis.

The ordinance is recorded in full in Ordinance Book 25, at Page 125.

MEETING RECESSED AND RECONVENED.

Mayor pro tem Whittington called a recess at 10:05 p.m., and reconvened the meeting at 10:10 p.m..

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ORDINANCE NO. 846-X APPROPRIATING FUNDS FOR THE CONSTRUCTION OF THE FAIRVIEW ROAD MEDIAN.

Councilwoman Locke stated she thought Council discussed this Fairview Road median before, and requested a hearing on it. She asked if we plan to appropriate this money before the hearing? Councilman Davis stated Council instructed staff to look for the money. Councilwoman Locke stated Council also stated there would be hearings before designating any money for the median. Mayor pro tem Whittington stated he asked the City Manager to dispute this; but the minutes said Council acted in haste on this median; the people out there who were opposed to it should have an opportunity to speak against it, or for it; and some consideration should be given to the three property owners at Fairview and Sharon Road, and there was no mention of money. The thing Council talked about was the public hearing before anything was done.

Mayor pro tem Whittington stated he thinks this item should not be on the agenda.

Mr. Burkhalter replied if they want staff to make recommendations they will need this appropriation; that he thinks Council very clearly indicated to staff they wanted to review this matter. The only way they can do it is to fund it; it will take some money to design and do the work in order to have something for Council to consider. This was the idea. Council has a hearing on every median. Mayor pro tem Whittington stated he thinks before you start talking about money or anything else, there should be a hearing on whether you are going to construct the median, how much it will cost, and all those things. Let everyone out there have the opportunity to have some input. The people he talked to are violently opposed to the median, and say they have been treated unfairly and not considered at all. That he would urge Council not to do anything about this item tonight.

Councilman Gantt stated he is concerned about the Fairview Road area for a number of reasons. That Mr. Corbett came and told them about the safety problems involved; that he is probably more concerned about the threat that the road is going to be under for various kinds of zoning uses. There is a legitimate purpose for Council trying to make a change, and which should have been done originally anyway.

Councilman Gantt stated all the other roads we are building around Charlotte we are putting medians in; and he thinks we are in effect setting some kind of policy by doing that on our major arterials. We discovered this was left out either because of some rule that was in effect with the State since they developed the road. He thinks we should go back and rectify, while we have the opportunity, and while that land abutting the road is still largely undeveloped. To have found the funds for it is good, and he thinks Council should designate it for that purpose tonight, and still allow a hearing on the design of the median.

Councilman Davis stated he is in sympathy with both what Mr. Whittington says and what Mr. Gantt says. If Mr. Burkhalter would explain the difference between appropriating the money and spending the money we might not have the problem. Mr. Burkhalter stated Council is the only ones who can spend the money; staff cannot. When Council appropriates it, it is taken out and set aside for that project. Some of it will be spent for the design; but that is all.

Mayor pro tem Whittington stated as badly as we need sidewalks on streets like Clanton Road and Barringer Drive and other streets in this community, we are saying to staff go ahead and find this much money to put down in the middle of the road versus the safety of children is a step in the wrong direction in his opinion. Councilman Gantt replied we are talking about safety on both sides - adults and children. We are still dealing with safety. Just as we found funds for this median which is as important, he thinks we will continue to look and search for funds for sidewalks.

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Councilwoman Chafin moved adoption of the ordinance appropriating \$285,000 from the balance of the Remount Road Widening Project for the construction of the Fairview Road Median. The motion was seconded by Councilman Williams.

Mr. Walter Shaperio stated he would like to reserve his remarks until the public hearing.

Councilman Davis made a substitute motion to defer this item until November 28 and to direct the Traffic Engineering Department to contact the three residents on Fairview Road near the Sharon Road intersection, and explain to them the impact of this decision. Mayor pro tem Whittington stated he would like for him to include those people who gave the right of way for the road. Councilman Davis stated he would include them also, and move deferral until November 28. The motion did not receive a second.

The vote was taken on the motion to adopt the ordinance, and carried as follows:

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

The ordinance is recorded in full in Ordinance Book 25, at Page 126.

ORDINANCE NO. 847-X TRANSFERRING FUNDS FROM THE BALANCES OF SEVERAL 1973 TRANSPORTATION BOND PROJECTS ACCOUNTS FOR THE CONSTRUCTION OF THE EXTENSION OF SHARON AMITY ROAD NORTH, FROM SHAMROCK DRIVE TO THE NEWELL-HICKORY GROVE ROAD.

Councilwoman Locke moved adoption of the subject ordinance transferring \$1,090,000. The motion was seconded by Councilman Williams, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 25, at Page 127.

ORDINANCE NO. 848-X APPROPRIATING FUNDS FOR IMPROVEMENTS TO CHARLOTTE TRANSIT SYSTEM BUS FACILITY.

Councilman Gantt moved adoption of the subject ordinance transferring \$9,632 in Transportation Bond Funds for improvements to the Charlotte Transit System bus facility. The motion was seconded by Councilwoman Chafin, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 25 at Page 128.

ORDINANCE NO. 849-X APPROPRIATING FUNDS TO RELOCATE WATER FACILITIES IN STREETS UNDER REPAIR OR CONSTRUCTION.

Councilman Davis moved adoption of the subject ordinance transferring \$50,000 to relocate water facilities in streets under repair or construction. The motion was seconded by Councilwoman Locke, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 25, at Page 129.

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LEAA GRANT WITH NORTH CAROLINA DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, AND ORDINANCE NO.850-X APPROPRIATING FUNDS FOR THE SALARY COSTS OF AN ADMINISTRATIVE ASSISTANT I IN POLICE DEPARTMENT.

Councilman Davis moved approval of an LEAA grant with the North Carolina Department of Crime Control and Public Safety for \$13,333 to pay the salary costs of an Administrative Assistant I, with the City's match for the grant \$667. The motion was seconded by Councilwoman Chafin, and carried unanimously.

Councilwoman Locke moved adoption of the subject ordinance appropriating \$12,666 for the salary costs of an Administrative Assistant I in the Police Department. The motion was seconded by Councilman Davis, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 25, at Page 130.

RESOLUTION TO PROVIDE 911 EMERGENCY TELEPHONE SERVICE IN MECKLENBURG COUNTY AS AMENDED, CONCURRED IN BY CITY COUNCIL.

Councilwoman Locke moved that City Council concur in the resolution adopted by the Mecklenburg County Board of Commissioners to provide 911 Emergency Telephone Service in Mecklenburg County. The motion was seconded by Councilwoman Chafin, and carried unanimously.

The resolution is recorded in full in Resolutions Book 13, at Pages 118 & 119.

COUNCILMAN WILLIAMS ADVISES HE CANNOT ACCEPT APPOINTMENT TO MUNICIPAL INFORMATION ADVISORY BOARD.

Councilman Williams advised he cannot accept appointment to the Municipal Information Advisory Board as he has already accepted an appointment to the Charlotte Mecklenburg Community Relations Committee.

CONTRACT WITH CRESAP, MCCORMICK AND PAGET FOR LOCAL GOVERNMENT PRODUCTIVITY STUDY, AND ORDINANCE NO.851-X APPROPRIATING FUNDS FOR THE CITY'S SHARE OF THE CONTRACT.

Councilwoman Chafin moved that the Mayor be authorized to execute a contract with Cresap, McCormick and Page for a local Government Productivity Study, in the total amount of \$97,875, with the cost to be shared equally with Mecklenburg County. The motion was seconded by Councilwoman Locke, and carried unanimously.

Councilwoman Chafin moved adoption of an ordinance appropriating \$48,938 to fund the City's share of the contract with Cresap, McCormick and Page for the Productivity Study. The motion was seconded by Councilwoman Locke, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 25, at Page 131.

RESOLUTION TO PROVIDE FOR ALLOWANCE OF RETIREMENT CREDIT FOR EUGENE C. WILLIAMSON, SUPERINTENDENT OF CENTRAL SERVICES.

Councilwoman Chafin moved adoption of the subject resolution, which motion was seconded by Councilwoman Locke, and carried unanimously.

The resolution is recorded in full in Resolutions Book 13, at Page 120.

ACQUISITION OF PROPERTY FOR SPIRIT SQUARE AND ORDINANCE NO.852-X TRANSFERRING FUNDS FROM THE CULTURAL BOND FUND TO THE RENOVATION OF SPIRIT SQUARE ACCOUNT.

Motion was made by Councilwoman Locke, seconded by Councilwoman Chafin, and unanimously carried to acquire 3,840 sq. ft., including any alleyway and party wall interest, at 324-26 North Tryon Street, from Smith Medlin, et al, at \$65,000 for Spirit Square, and to adopt the subject ordinance transferring \$65,000 for the purchase.

The ordinance is recorded in full in Ordinance Book 25, at Page 132.

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CONTRACT AWARDED SANDERS BROTHERS, INC. FOR CONSTRUCTION OF WATER MAIN ALONG CINDY LANE AND SLATER ROAD.

Motion was made by Councilwoman Chafin, seconded by Councilwoman Locke, and carried unanimously, awarding contract to the low bidder, Sanders Brothers, Inc., in the amount of \$142,159.95, on a unit price basis for the construction of a 12-inch water main along Cindy Lane and Slater Road.

The following bids were received:

Sanders Brothers, Inc.	\$142,159.95
B. E. Matthews Construction Co.	147,156.25
Ben B. Propst Contractor, Inc.	149,450.50
Rea Brothers, Inc.	149,680.00
Rand Construction Co., Inc.	154,238.28
Blythe Industries, Inc.	156,131.50
Spartan Construction Co., Inc.	179,630.00
CFW Construction Co., Inc.	184,615.00

CONSENT AGENDA APPROVED.

Councilwoman Locke moved approval of Consent Agenda items as follows. The motion was seconded by Councilman Davis, and carried unanimously.

1. Encroachment agreement between the City and the North Carolina Department of Transportation for the construction of a 6-inch sanitary sewer pressure line to Huntersville.
2. Contracts for construction of sanitary sewer mains:
 - (a) Contract with Providence Properties, Inc., for the construction of 3,630 linear feet of 8-inch line to serve Park Ridge Subdivision, outside the city, at an estimated cost of \$54,450.
 - (b) Contract with Bob M. Beaty for the construction of 1392 linear feet of 8-inch main to serve Westinghouse Boulevard at I-77, outside the city, at an estimated cost of \$24,630.
 - (c) Contract with Carolina Fincorp, Inc. for the construction of 4,012 linear feet of 8-inch main to serve Shadowlake Phase II, outside the city, at an estimated cost of \$60,190.
3. Property transactions:
 - (a) Acquisition of 15' x 1,066.56' of easement at 11701 Statesville Road, from The Charlotte-Mecklenburg Board of Education, at \$1.00 for Torrence Creek Outfall, Phase II.
 - (b) Acquisition of 15.26' x 12.92' x 15.29' x 11.47' of easement, at 6500 Trysting Drive, from Vance Orr Freeman and wife, at \$1.00 for sanitary sewer to serve Holly Hill Subdivision.
 - (c) Acquisition of 48.10' x 61.96' x 45' x 61.89' of property at 214 West Sixth Street, from Junius P. Sherrill, Jr. et ux, Julia A. Sherrill and Katherine Sherrill, at \$9,250 for Discovery Place Acquisition.
 - (d) Acquisition of 27,050.76 square feet of property at 300 North Church Street, 309 North Tryon Street and 112-18 West Sixth Street, from B. J. Stacks and wife, Earlene J., at \$172,000 for Discovery Place Acquisition.
4. Loan agreements:
 - (a) Loan with C. Ben and Catherine Wilson, in the amount of \$5,100, for 800 East Worthington Avenue, Wilmore/Dilworth Target Area.

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- (b) Loan with Frank J. and Mattie B. Lineberger, in the amount of \$6,550, for 2044 Wilmore Drive, Wilmore/Dilworth Target Area.
- (c) Loan with Robert E. and Elizabeth Dixon, in the amount of \$7,600, for 501 East Boulevard, Wilmore/Dilworth Target Area.
- (d) Loan with Joseph D. & Geraldine Burke, Jr., in the amount of \$7,250, for 909 Woodside Avenue, North Charlotte Target Area.
- (e) Loan with Bennie J. and Rosa Lee Hinson, in the amount of \$8,450, for 3405 Benard Avenue, North Charlotte Target Area.
- (f) Loan with Aloid & Janie Tucker, in the amount of \$6,050, for 1412 Baxter Street, Cherry Target Area.

ALBEMARLE ROAD TURN AROUND PROPOSAL BY TRAFFIC ENGINEER REQUESTED PLACED ON NEXT AGENDA.

Councilman Gantt asked that the next agenda include the Albemarle Road proposal made by Mr. Corbett, Traffic Engineer. That he meet with those business people this morning and he thinks they are willing to consider the alternative made of the turn around.

Mayor pro tem Whittington stated this will be on the agenda for the November 28th meeting.

COMMENTS REGARDING THE AGENDA FOR NOVEMBER 28TH MEETING.

Councilman Gantt stated he would like to find out whether or not there will be at least six councilmembers present for the meeting on the 28th. Mayor pro tem Whittington replied that Mr. Withrow told him he would be here, and he understands the Mayor will be present also. If Ms. Chafin can be here, then we will all be present. Councilwoman Chafin replied she may not be able to be present.

Councilman Gantt stated this is the last Council Meeting in which this particular Body will be active. Because Council has deferred a number of decisions which will require some time at that meeting, to the extent possible, he would ask that the Agenda be shortened.

REQUEST CONSIDERATION TO ALLOW CERTAIN CITY EMPLOYEES ON A VOLUNTEER BASIS TO ASSIST IN AREAS WHERE DISASTERS HAVE OCCURRED.

Mr. Burkhalter, City Manager, stated he was contacted this morning by the Regional Office of the Department of Housing and Urban Development to see if the City would consider allowing some of our employees, professional and technical services, to volunteer for special duties in disaster areas. There is one now in the Asheville Area because of the flood situation.

He stated they are in need of approximately 25 people - some with engineering experience, appraisial experience who can appraise damages, personnel work, and PR work. They are asking for volunteers. That subsequently this will call for a contract, but because of the conditions, he is asking if Council will approve city employees doing this kind of work. If they do, the federal government will refund the out of cost expenses involves.

It was consensus of Council that the City of Charlotte should cooperate in this.

Councilwoman Locke moved that this matter be placed on the agenda for immediate action. The motion was seconded by Councilwoman Chafin, and carried unanimously.

Councilwoman Locke moved that Council approve the City Manager's recommendation to send these people on a volunteer basis. The motion was seconded by Councilman Davis, and carried unanimously.

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REMINDER OF SEVERAL MEETINGS.


Mr. Burkhalter, City Manager, reminded Council that the new Council will take office on Friday, December 2, 1977, at 2:00 o'clock p.m., in the Educational Center Board Room.

He also reminded Council they are to meet with the Airport Consultants on Wednesday, November 30, at 12:00 noon in the VIP Room, Civic Center.

Also of the orientation scheduled for the new Council on Tuesday, November 29, from 4:00 to 6:00 P.M., in the Training Center, City Hall Annex.

ADJOURNMENT.

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



Ruth Armstrong, City Clerk