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The City Council of the City of Charlotte, North Carolina, met in regular session on Monday, July 24, 1978, at 2:30 o'clock p. m., in the Council Chamber, City Hall, with Mayor Kenneth R. Harris presiding, and Councilmembers Don Carroll, Betty Chafin, Tom Cox, Jr., Charlie Dannelly, Laura Frech, Harvey B. Gantt, Ron Leeper, Pat Locke, George K. Selden, Jr., H. Milton Short and Minette Trosch present.

ABSENT: None.

Sitting with the City Council, as a separate body, during the hearings on zoning petitions, were members of the Charlotte-Mecklenburg Planning Commission. Present were Chairman Tate; and Commissioners Broadway, Campbell, Culbertson, Ervin, McCoy and Royal.

ABSENT: Commissioners Curry, Kirk and Tye.

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INVOCATION.

The invocation was given by Reverend Fred R. McAlister, Jr., Minister of Third Presbyterian Church.

NOMINATIONS TO BOARDS AND COMMITTEE SCHEDULED FOR AUGUST 7, 1978.

Mayor Harris announced that in meeting on Monday, August 7, 1978, City Council will make nominations to fill positions on the following Boards and Committee:

1. Community Facilities Committee - 2 vacancies.
2. Spirit Square Board of Directors - 1 vacancy.
3. Zoning Board of Adjustment - 1 vacancy.

MEMBERS OF PRODUCTIVITY TASK FORCE PRESENTED PLAQUES IN RECOGNITION OF SERVICE PERFORMED FOR CITY.

Mayor Harris stated he will recognize some very important people who have contributed to our community in the past six months - the Productivity Committee, chaired by Mr. Thomas Storrs. That the committee was composed of key executives of major firms in the City who were loaned by their companies for the study. That this is an expression of appreciation for the involvement of these firms and the interest of these executives in the productivity process. That the best way of showing their appreciation will be their hearing from City Government, perhaps next spring, about the actual implementation of their report. He hopes at that time they can get back together for a work session and discuss the items that have been implemented. He recognized each of the members personally, presented them with plaques, and they were greeted by the individual Council members.

POLICE ATHLETIC TEAM CHAMPIONS RECOGNIZED.

Sergeant Rust of the Police Department stated the Little Rock Apartments team are the champions of the Police Athletic League's 1978 baseball program. That these young people make up only a few of those who participated in the program this year. There were 14 teams located throughout the City and provided a program for approximately 210 young people. He recognized the adults who assisted with the program - Officer M. L. Gaines, the coordinator for that team area, Mr. Eric Sturgis, the coach, and Mr. Barry Bonner, manager of the Little Rock Apartments complex.

The Mayor and Council members greeted each of the team members and presented them with small flags symbolic of their achievement and of their visit to City Council.

Mayor Harris stated it is gratifying to see young people being recognized for something they take pride in; that this activity sponsored by the Police Department is a good program.

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CITY OF CHARLOTTE EMPLOYEE PLAQUES PRESENTED TO RETIRING EMPLOYEES.

Mayor Harris recognized the following City employees who have recently retired and presented them with Employee Plaques:

Inez Fisher Summers, Police Records Clerk - Employed August 27, 1969;
Retired June 20, 1978.
Donald A. Dellinger, Police Officer - Employed January 1, 1947;
Retired June 30, 1978.
Paul Addison Shroyer, Chief Automotive Mechanic, Public Works - Employed July 1, 1957; Retired June 27, 1978.
Hubert (Bert) Lee Strawn, Accountant II, Finance - Employed September 11, 1944; Retired June 27, 1978.
Cole Livingston Gregory, Water Service Technician, Utility - Employed November 14, 1969; Retired July 5, 1978.

APPROVAL OF MINUTES.

Upon motion of Councilmember Trosch, seconded by Councilmember Selden, and carried unanimously, minutes of the last meeting on Monday, July 10, 1978, were approved as submitted.

NEW MEMBERS OF THE PLANNING COMMISSION WELCOMED.

Mayor Harris extended welcome, on behalf of the City Council, to two recently appointed members of the Planning Commission - Mrs. Peggy Culbertson and Dr. William McCoy.

HEARING ON PETITION NO. 78-32 BY CITY COUNCIL TO CHANGE ZONING OF PROPERTY ON TOOMEY AVENUE BETWEEN TREMONT AVENUE AND REMOUNT ROAD, DEFERRED UNTIL SEPTEMBER 25, 1978.

Councilmember Leeper moved deferral of this item, seconded by Councilmember Locke. Mr. Leeper stated that Council has been trying to work with members of the Toomey family and members of the Brookhill Community to come to some kind of agreement on this particular property; that some of the members of the Toomey family have requested that they not have a public hearing at this time but wait until sometime in September.

On conferring with Mr. Watts as to the legality of such a motion, it was determined that it can be postponed if a date is set. The date was set as September 25th, and the motion passed unanimously.

HEARING ON PETITION NO. 78-38 BY CHARLOTTE-MECKLENBURG PLANNING COMMISSION TO CHANGE ZONING FROM R-6 TO R-6MFH PROPERTY LOCATED TO THE REAR OF 511 QUEENS ROAD - SUTTON HOUSE APARTMENTS - LOCATED GENERALLY 205 FEET OFF QUEENS ROAD AND 155 FEET NORTH, OFF DARTMOUTH PLACE.

The scheduled public hearing was held on the subject petition, with Council being advised that a protest petition had been filed and found sufficient to invoke the 3/4 Rule requiring nine affirmative votes of the Mayor and City Council in order to rezone the property.

Mr. Robert Landers, Principle Planner, stated this petition has a bit of involved history to it. That they will recall sometime ago when the overall area of Myers Park was considered for rezoning in several complicated patterns. During that time, this area along Dartmouth had been zoned multi-family. At the public hearings, the owner of the subject property, through his attorney, requested that this property not be rezoned to single family, but remain in the multi-family category consistent with the current property.

He stated that during the involved discussion that led to the recommendation and ultimate zoning of the area, the actual condition of that property was not again raised as a question, and a boundary line was established along the rear line generally of property fronting on Dartmouth Place. Since that time the property owner has expressed considerable concern that the actual

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conditions of that property were not adequately addressed during the many involved debates over the overall Myers Park area. Acknowledging this fact, the Planning Commission has initiated this petition.

Using a zoning map, he pointed out the subject property and explained the pattern of zoning in the immediate area, stating it is a complex pattern, with multi-family predominating along Queens Road, office zoning along Providence Road, and single family zoning towards the interior.

The land use pattern for the area reflects the zoning very accurately.

Looking at the subject property, he pointed out the principal structure which is Sutton House Apartments and stated the remaining area is used predominately for parking. A swimming pool and recreational area is located at the back corner. Beyond that is parking that is associated predominately with the offices located on Providence Road. Topographically, there is a heavy wooded area through the area as well. The Charlotte Little Theatre is also in the area.

Mr. Robert Gillis, the owner of the property, stated he is not looking to adding on to the building. That when the zoning was changed in Myers Park, he brought this up and it was his impression that it would be changed because, literally, they put him under the grandfather clause. This would be the only multi-family structure in the area - that little piece of land of approximately 3,000 square feet - it comes to the number of units in the building. So, by accident when they rezoned that differently, it threw the building under the grandfather clause. All he is asking them to do is treat them the same as they did everyone else.

Councilmember Short asked if the Sutton House is a non-conforming use? The Mayor stated that is what he hears him saying.

In answering a question from one of the Councilmember, Mr. Landers stated he is not familiar with the total number of units in the Sutton House but that in an earlier study, the apartment house was built just about to the maximum density possible under the

Mr. Gillis stated he would be happy to sign a statement that he does not plan to expand the building nor build any other buildings.

Mr. Landers stated at the present time the property is heavily wooded and much of the area falls off significantly from the homes along Dartmouth and drops down. Essentially you could consider it a wooded, "bottom of the bowl" type of area. It does provide screening as part of the natural area between the homes on Dartmouth and the Sutton.

Mr. Gillis pointed out that that property is quite often flooded. That the creek runs behind the houses on Dartmouth and they have had tens of thousands dollars of damage to the Sutton House over the years. You cannot build anything on it, it should be in the flood zone, in his opinion.

Councilmember Selden asked if this is the only property facing on Dartmouth that would be short depth?

Mr. Gillis replied no, the property next to the orange portion is in a depth like that and he believes the next three of them run that way also.

Councilmember Frech asked if this is a piece of a lot that is creating this problem? Mr. Gillis stated he will give them a little background.

When the land was originally purchased for the construction of the building, they put on the exact number of units they were allowed, and they needed some additional land. At that time, he went to the neighbors and asked the homeowners if they were interested in selling. Everyone said no, except one man who offered the back part of his lot which he does not use anyhow, which is flooded. This amounted to 3,000 square feet, give or take a few, which brought them into the requirements needed by the zoning laws.

Councilmember Frech stated she had heard a tennis court mentioned. Mr. Gillis replied that most of the tenants in the Sutton House are around the age of 60. He is not planning for a tennis court or anything like that.

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Mr. Maurice D. Ewing, 2029 Dartmouth Avenue, spoke in opposition. He stated that while he and his wife are the only signatures on the protest petition, he represents both of the neighbors on either side of him and they are both present in the Council Chamber today. That the small piece of property is 75 x 55 feet and is virtually not useful for anything but recreational purposes. The piece of property he owns is directly in front of it, facing Dartmouth Place. It is bottom, low lying land, heavily wooded and provides a buffer between single family residential property and the multi-family property - the Sutton House with the parking lot, the swimming pool and the dumpster which is on the back lot, and the driveway which connects the two larger portions of the Sutton House property.

He stated the main value of that particular stretch of property which encompasses both of the pieces of property on either side, of about the same size of that particular piece, is to provide a screening between that and the Sutton House property. That any development whatsoever, be it for recreational purposes or parking lot in the future, or whatever purposes that piece of property might be used for, would provide significant exposure to all of the residents against that multi-family property.

He stated the Council, in its wisdom, chose to rezone that property before, realizing, he assumes, that it did provide that buffer. On a daily basis, he sells this city, and the single most important thing that we have to sell here is our quality of life; and our quality of life is mostly clearly demonstrated and represented by the distinguished nature of our residential communities, not just Myers Park, but most of our inner city communities are enjoying revitalization. If we continue to whittle away at this single family zoning, the single family integrity of these old neighborhoods, slowly but surely we can whittle away, especially in these very fragile areas, the single family integrity of these revitalized neighborhoods. It is for that reason that he and his neighbors are opposed to this petition for rezoning.

Councilmember Gantt stated it seems to him the only screening of that 3,000 square feet protects the lot from the mass of apartments. He is having some difficulty. The person living in one area is not protected from the mass of the building itself, but the owners are protected from the driveway which leads to the parking lot. Only one property would be screened by the heavy tree cover.

He appreciates the point made about protecting the neighborhood. That is what Council was trying to do last year when much of Myers Park was rezoned. That he has difficulty making this particular case one in which whatever decision is made, believing that decision would affect seriously . . .

Mr. Ewing replied he thinks he can address himself to that. That there are three or four huge trees on that property; and those trees are what provide that screen. If you remove those trees - Mr. Gantt is right - the lay of the land will not provide any screening because it is in a low lying area and all the property on Dartmouth Place sits above it. But, in order to develop that site for whatever purpose it might in some future time be chosen to develop, those trees would have to come out because it is such a small area. If you leave the trees, it takes a significant portion of that 3,000 square feet. That it is the trees that provides the screening and not the ground that it sits on. If in the future someone decides to develop that site, then those trees would have to go, and there goes the screening!

Councilmember Locke asked if he really believes that the property owner would develop that piece of land? Mr. Ewing replied he does not know, but he knows the petitioner would be there if the property were rezoned. Ms. Locke stated this petition was brought by the Planning Commission itself because they feel that this is a non-conforming use and is an oversight in the Myers Park rezoning.

Mr. Ewing stated his understanding is that the Planning Commission is bringing the petition at the request of the property owner. Is he wrong? Mr. Landers replied that he is correct; that the Planning Commission initiated the petition in order to bring the question to light; not in recognition of the pros and cons of the argument. They felt that this was a detailed situation that was overlooked in the overall action by the Planning Commission.

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Councilmember Frech stated she is still puzzled as to why it is necessary to rezone it. Mr. Gillis owns the land. It is not zoned multi-family but what difference does it make; he says he is not going to do anything with it, so what difference does it make what it is zoned?

Councilmember Gantt explained that if he makes any alterations to the apartment building itself, he is under the grandfather clause now.

Mr. Landers stated that in order to use the property in any way associated with the existing Sutton House it would have to be zoned multi-family. In other words, if the property were large enough for a recreational amenity or parking, or whatever, associated with the apartment building, it would have to be so zoned.

Mayor Harris stated they are getting into an area now that should come back from the Planning Commission, as far as their recommendation is concerned. That the purpose of this hearing is to bring forth comments from the petitioner and the opposition; then hear from the Planning Commission about their recommendation.

Councilmember Dannelly stated the property owner has indicated that he would be willing to sign a statement that he does not intend to develop it in any way. He wonders if that would be binding.

Mr. Watts replied any development would have to be initiated as conditional zoning.

Council decision on Petition No. 78-38 was deferred pending a recommendation from the Planning Commission.

HEARING ON PETITION NO. 78-33 BY CHARLOTTE-MECKLENBURG PLANNING COMMISSION TO CONSIDER AN AMENDMENT TO THE TEXT OF THE ZONING ORDINANCE RELATING TO THE APPEAL PROCESS AND IMPOSING TIME LIMITATIONS FOR PROPOSALS IN THE HISTORIC DISTRICTS AND URBAN RESIDENTIAL DISTRICTS.

The scheduled public hearing was held on the subject petition.

Mr. Robert Landers, Principle Planner, stated this petition was initiated by the Planning Commission at the request of the Historic District Commission. That this commission's sole focus right now is the Fourth Ward Historic District area. That in the time period that this commission and these ordinance provisions have been in effect they have identified certain areas of improvement or modifications in existing zoning ordinances that would be desirable. Hence this petition.

The first amendment would be to the Certificate of Appropriateness process. The specific change is the installation of a six-month duration period.

The second amendment relates to the appeal process. It goes back to the State enabling legislation since the historic district is developed pursuant to State guidelines. He stated that at the present time an appeal may be taken either to the City Council or the Board of Adjustment. The recommended amendment would read: "An appeal may be taken to the Board of Adjustment from the Historic District Commission's action in granting or denying the Certificate and such appeal shall be filed with the Board of Adjustment with sixty (60) days from the date of the issuance or denial of the Certificate. An appeal from the Board of Adjustment's decision in any such case shall be heard by the Superior Court of Mecklenburg County."

Ms. Ann Daniel, Director of the Historic District Commission, stated the Commission feels that a six-month's deadline on Certificates of Appropriateness would be a very helpful tool to employ. Since the Commission's inception two years ago they have reviewed over one hundred applications for work in the Fourth Ward area. The first step in the approval process is for the individual to receive Commission approval for what he does. He cannot, in fact, be issued a building permit until he receives a Certificate of Appropriateness.

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She stated that frequently an individual will receive a Certificate and hold it indefinitely before starting work. In some cases, a year may pass before he actually gets a building permit and this time lapse can cause numerous problems. Sometimes an individual will forget exactly what the Certificate states, such as whether or not the Certificate was issued for preliminary plans with samples still needing to be submitted for roofing or paint colors. That by the time the work begins new members could be sitting on the Commission and it is harder to recall the decision. A cut-off date insures that work will begin within a reasonable time after issuance of the Certificate, and that work will progress at a reasonable speed, so that the properties will not be torn up for extended periods of time.

That what they are trying to do with this ordinance change is to put a six-months deadline on the Certificate. If the Certificate requires a building permit, the permit should be secured within that six months period. If it is, then the building permit deadlines are enforced, not the Certificate of Appropriateness. If the approved work does not require a building permit, then the work should be finished within that six months period. This will also assist the Commission staff in keeping their records current and will assist in keeping in touch with the property owners and helping them if unnecessary holdups are occurring.

The second part of the change deals with appeals being taken at the discretion of the appealing parties to City Council or the Board of Adjustments. The State enabling legislation states very specifically that appeals should be made to the Board of Adjustments. It has been her concern that an appeal to City Council might, in fact, be invalidated by a court since it is not proper under the enabling legislation. Also, the legislation does not provide for a deadline for appeal. They feel that a 60-day deadline is in order; they do not like the thought that perhaps several years later a decision that had been made by the Commission could be appealed. It is much harder to re-enact a situation that has occurred.

No opposition was expressed to the petition.

Council decision on Petition 78-33 was deferred pending a final recommendation from the Planning Commission.

HEARING ON PETITION NO. 78-34 BY CHARLIE HOPKINS FOR A CHANGE IN ZONING FROM R-6MF TO B-1 OF PROPERTY FRONTING THE NORTH SIDE OF STATE STREET, LOCATED ABOUT 580 FEET EAST OF TURNER AVENUE, OR EAST OF INTERSECTION OF TURNER AVENUE AND STATE STREET.

The scheduled public hearing was held on the subject petition.

Mr. Robert Landers, Principle Planner, stated this request for rezoning is in order to replace an existing non-conforming business. In locating the property on a zoning map he explained it is to the southwest of the Five Points Community Development Target Area. He stated a multi-family pattern predominates throughout the easterly section of the area, with R-6MF being the exclusive multi-family zoning for the area. It is a change from an industrial pattern that exists along Turner Avenue down toward and along Stewart Creek. There is some office zoning established along both Coxe Avenue and State Street as a transition. This pattern was established and has remained essentially unchanged since about 1952 when the city zoning in its present form was set.

The land use is essentially a residential neighborhood along State Street and Bruns Avenue. On the northerly side of State Street there is a change in pattern with vacant lots and a dilapidated structure; then a mixture of multi-family and single family along with commercial.

The subject facility, Grier's Grocery, has changed hands; it is an old building - he has not been able to identify whether it was at one time used for residential purposes - but it has been in the neighborhood for a goodly number of years. Next to it is an existing single family structure, then a multi-family structure and another grocery which at the present time is vacant, a church and continued residential along State Street. There is

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an industrial pattern on Turner Avenue in which is located the Atlantic Coast Carton Company which is the main employment and industrial use for that area.

He stated the B-1 classification is a neighborhood business classification and would permit the grocery store which the petitioner seeks. That the zoning administrator advises that any non-conforming status would allow maintenance of the structure but any major structural alternations would not be permitted.

Mr. Charlie Hopkins, the petitioner, stated the present building just will not meet the needs of his customers. That he cannot sell fresh vegetables or candy - items that he could carry normally through the wintertime. The business is there, the community is backing him. He has gone to the neighborhood to find out if they want a new facility and they do. He does not feel that he can maintain a competitive grocery store with the facility that he has right now.

He stated if he can get the land rezoned, on the adjoining land right beside it which he is in the process of purchasing, he is going to put up a day care center. All of this is a stepping stone toward the growth of his business. He wants to stay there but he cannot remodel. If he relocates elsewhere, the clientele that he has now will not have a grocery store at all; he is the only business on State Street.

Councilmember Gantt stated he is sure that when Mr. Hopkins bought that building he did not come down and take a look at the zoning map at that time. He is wondering if he knows the background of the grocery store - was it at one time a residence and then converted to a store? Mr. Hopkins replied that Cicero Grier owned the store before and he was there eleven years; that he has been there two years. Before that he does not know anything about it. He took the store because it gave him a chance to make an honest living; that since he has had it the building has deteriorated itself, and since he cannot do anything about it, under the present zoning, it will keep on deteriorating. He just does not want to sit around and let the building collapse.

Mr. Gantt stated he has been providing a service to the community and yet all of them are trying to operate under good zoning principals. The fact is the store is located in an R-6MF residentially zoned area but has been operated for eleven years; that probably one of the reasons it has deteriorated was because Mr. Grier could not do anything with it either. That he is certainly providing a service to the neighborhood, but from his standpoint there is some real concern because it is a residential neighborhood, and although he is providing a service to that neighborhood he is in the wrong place from a zoning standpoint. That from Mr. Grier's side he has thirteen years of history of being in that neighborhood and should they just let the store become a slum and not provide this service for the people of the area.

Mr. Hopkins replied well it has been there for thirteen years but he was not responsible for letting it get in the condition it is in now; that is why he is trying to do something about it.

Councilmember Leeper asked about the property behind along Coxe Avenue. Mr. Landers replied it is all vacant.

Replying to a question from Councilmember Dannelly, Mr. Landers replied the B-1 classification would provide for any type of retail sales activity; any type of business on a neighborhood scale.

Councilmember Short stated he could do repairs and Mr. Landers agreed, stating he has discussed this with the zoning administrator, Mr. Dale Long, and he indicated that in terms of maintenance or minor modifications, as a non-conforming use, it does have that protection; however, any structural or major renovations would not be permitted.

Mayor Harris asked Mr. Hopkins if he understood the process from here on; that whenever an individual comes without an attorney he likes to make sure he understands the process. He explained that this petition will be returned to the Planning Commission today, they will take it under advisement and come

back to Council probably in a month with a recommendation and he will be advised at that time of the recommendation.

There was no opposition expressed to the petition.

Council decision on Petition No. 78-34 was deferred pending a recommendation from the Planning Commission.

HEARING ON PETITION NO. 78-36 BY CHARLOTTE MECKLENBURG PLANNING COMMISSION TO CONSIDER AN AMENDMENT TO SECTION 23-8 OF THE ZONING ORDINANCE RELATING TO THE ADOPTION, MODIFICATION AND INTERPRETATION OF THE ZONING MAPS.

The scheduled public hearing was held on the subject petition.

Mr. Robert Landers, Principle Planner, stated that in adopting the maps of the most recent city annexation they identified some potential problems in both the identification of effective maps and the interpretation. That what this amendment does is provide for the continuous addition of official zoning maps as annexation takes place, rather than providing for an individual reference for adopting a part of the map.

The second portion of the amendment provides for interpretation. At the present time the Superintendent of the Building Inspection Department does have the authority to make an interpretation of the boundary lines when uncertainty exists. The language of the amendment will clarify that process and identify the situations where it is possible there is an ambiguous situation in the zoning map. These guidelines provide for how that interpretation will be made.

No opposition was expressed to the petition.

Council decision on Petition No. 78-36 was deferred pending the final recommendation from the Planning Commission.

HEARING ON PETITION NO. 78-37 BY ED CARTER FOR A CHANGE IN ZONING FROM R-12 TO B-2 OF PROPERTY ON THE NORTH SIDE OF INTERSTATE 85, APPROXIMATELY 1,280 FEET EAST OF THE INTERSECTION OF I-85 AND LITTLE ROCK ROAD.

The scheduled public hearing was held on the subject petition.

Mr. Robert Landers, Principle Planner, identified the property on he map. He stated that south of I-85 is an industrial area; that at the intersection of I-85 and Little Rock Road there is B-2 zoning and a residential pattern exists along Tuckaseegee Road both south and north; that Sheets Circle is directly behind and adjoining the subject property. Within the area there is a scattering of single family zoning. He pointed out the location of Mulberry Baptist Church at the corner of Tuckaseegee and Burkholder Roads.

He stated that adjoining the subject property is an existing house that fronts on Sheets Circle, and adjoining on the west is a vacant house which actually fronts on the frontage road. There is a motel and several small groceries and fast food activities, an ABC store and heavy truck sales. That actually the subject of this petition is a part of the Hickory House Restaurant. That the history is that a building permit was issued and the Hickory House was undertaken under Mecklenburg County jurisdiction. The parking for the restaurant was actually constructed on single family property. Specifically, the license was issued under the County, and under the City the discrepancy was identified and the use of the single family property was identified as in violation of the zoning ordinance. That is what precipitated this particular petition.

He reminded Council that the widening and improvement of Interstate 85 do affect this property. That at the present time approximately 15 feet will be taken on the frontage and in addition, the new interchange design will come off to the immediate west of the property and come back to Little Rock Road along the rear, so that the plans, which are preliminary, will adjust the Hickory House to actually being on the corner of the frontage road. He stated that has a bearing on the petition.

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Mr. Ed Carter, the petitioner, stated he is the proprietor of the Hickory House. That in 1976 he purchased some property on I-85 - business property - and moved his business out there. He had a house right beside of it which he later moved to a lower piece of property, and they now use that property for parking. He did not know that you could not use residential property for business property parking. That he went to a great expense to move the house off of the lot and have the lot landscaped and about \$1,500 worth of gravel put on it so it could be used for parking. At that time the property was in the County; last July it was annexed into the City. In the meantime, he was told he had to put up screening. After he finally got this done, a hurricane came along and blew the fence down and he had to get this fixed. They have had quite a few problems.

That he was notified by the Planning Commission that they were not supposed to use this property for parking, so he complied with that and put up a deposit and now is submitting this petition. He stated that you cannot get to this property from Sheets Circle; the only way you can get to it is through the service road. This property is necessary for his business in order for his customers to park. That is the reason he moved there from Thrift Road because of the parking problem there.

Councilmember Frech asked if it is possible for conditional use zoning to be requested?

Councilmember Gantt stated that it appears that the property on Sheets Circle has double frontage, oriented to Sheets Circle and backing up to the frontage road on I-85. Mr. Landers replied that the first house, to the rear of the subject property has the rear lot line in common with the parcel's side lot line; that fronts just on Sheets Circle. The next property which Mr. Carter owns and on which the parking area has been made is double-fronted - the house fronts on Sheets Circle and the property line goes all the way up to the frontage road. The third house which is vacant actually fronts on the frontage road and does back up to Sheets Circle. He stated the frontage road extends all along I-85.

Councilmember Selden stated it would help him a great deal and he imagines it would help others, if they had a layout map on which is superimposed the proposed alterations of the access road.

No opposition was expressed to the petition.

Council decision on Petition No. 78-37 was deferred pending the final recommendation from the Planning Commission.

HEARING ON PETITION NO. 78-39 BY FAIRVIEW INVESTMENT COMPANY FOR A CHANGE IN ZONING FROM R-15 TO O-6 OF A TRACT OF LAND APPROXIMATELY 1.9 ACRES FRONTING APPROXIMATELY 200 FEET ON THE SOUTH SIDE OF FAIRVIEW ROAD, LOCATED ABOUT 170 FEET EAST FROM THE INTERSECTION OF FAIRVIEW ROAD AND SHARON ROAD.

The scheduled public hearing was held on the subject petition.

Mr. Robert Landers, Principle Planner, stated this property is located between Savings Place and Fairview Road. There is on the southwesterly side of this intersection the SouthPark Shopping Center, and there is also commercial zoning located at the southeast quadrant, and in like manner in smaller portions on both side of Fairview and North Sharon Road. Surrounding that is some multi-family; they have some petitions for multi-family zoning consistent with the SouthPark study, and then the office pattern surrounding that as well, then going into a single family zoning throughout.

The land use map showed existing single family residential patterns on both the north and south side of Sharon Road. To the southwest of the subject property is the existing school site; there are also a savings and loans office, the Chateau Restaurant, and now presently under construction, a fast foods restaurant. To the north along Fairview Road on the same side, there is essentially vacant land; there are pending zoning matters to the farther north, along Fairview. In like fashion, land use opposite the

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subject property along Fairview Road there are scattered single family homes. The single family development along Coltsgate are actually quite removed and remote from this site although in relative proximity.

Mr. Douglas MacMillan stated he is the attorney for Fairview Investment Company, the petitioner. That this company also owns an adjacent tract of land currently zoned single family residential on the other side of Savings Place. That land is not the subject of this rezoning petition; they are simply concerned with a very small tract of land on the other side of Savings Place which is bordered by Fairview Road, Sharon Road and the Charlotte-Mecklenburg Board of Education property.

He stated their feeling that O-6 zoning is justified is that they are virtually isolated from any other residential zoning in the area. They are adjacent to the fast food restaurant currently under construction, they are behind the new Chateau restaurant and feel their request is compatible with and consistent with the goals set forth in the Charlotte-Mecklenburg Planning Commission's SouthPark Land Use Study. He stated that study discussed their area specifically although the area was not included in the study. He quoted from the study as follows: "The construction of Savings Place on the southerly side of Fairview Road about 380 feet east of the intersection creates a good physical stopping point for non-residential zoning and is far enough away from the intersection to begin a transition for land uses from non-residential to residential."

Mr. McMillan stated there is B-1 zoning immediately at the corner and spreading down Sharon Road. The whole point of the SouthPark Land Use Study was to contain commercial development to the immediate area of the intersection. The study went on to point out that their property (the acreage they seek to have rezoned) was originally zoned single family residential which was prior to the construction of Fairview Road Extension, and now the character of the neighborhood has changed drastically and no one could realistically expect them to support single family dwellings with two restaurants and on a five-lane highway. The SouthPark study seemed to emphasize that what is needed there is an area of transition - in other words, containing the B-1 zoning to its immediate vicinity and then perhaps changing their location. It recommended some office zoning immediately in the area of Savings Lane, and creating a buffer zone from the B-1 to the O-6. On the other side of Savings Lane, the land study recommended a low-density, perhaps multi-family, use. That right now he does not have any feeling one way or another as to whether they would like to have that multi-family or single family, but he believes that it is in the cards that they are not going to have anything more densely populated than a multi-family area in that vicinity.

He pointed out that the event which specifically precipitated this rezoning request was an offer of purchase they received from a new savings and loan association to purchase a tract of land on the intersection of Savings Place and Fairview Road. So, they do have a feel of how the development of their small tract of land is going to go. Presumably, if their rezoning request is honored, there will be a small (in physical area) savings and loan association located on the corner. They feel at O-6 would be the appropriate zoning classification for them to construct a building, parking area and perhaps allow for a small amount of expansion in future years.

He stated that obviously there has been a great deal of interest generated in this area because people are afraid that the area will grow unchecked into a commercial strip and that would upset the very attractive residential areas in the surrounding environment. They feel that their O-6 request, coupled with the specific land use contemplated on that corner, will be very compatible with a residential community. They will have a new savings and loan association coming into the community, there is presumably going to be more residential growth in that area, and hopefully the two will go hand in hand.

Mr. Ernest Tucker, representing the proposed savings and loan association, requested Council's favorable consideration of this petition. He feels it is an ideal spot for a savings and loan. He stated the name is Citi Savings and Loan.

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Councilmember Short asked if it would be possible to put the building on O-15 zoning. That the reason he asks is that it is near a huge intersection and the O-15 classification would force him to set back further. That if they ever had to have another turning lane, etc., it might work out better for everybody.

Mr. MacMillan replied that an O-15 classification would require 20 feet more setback than the O-6, and the size of the location would greatly restrict their ability to do anything with the rest of the property or their ability to construct a savings and loan of the square footage which their Board of Directors has approved. They did contemplate the O-15 possibility but feel that O-6, given the size of the property, would be a more realistic classification.

Councilmember Gantt stated the area that they are talking about is considerably larger than the area being purchased by the savings and loan. Is that right? Mr. MacMillan replied that is correct, however, the savings and loan will take the first chunk out of their remaining property; that possibly they would have to come back and buy some more land; they do not know how much more land they would want and then they do not know exactly what the future is going to hold in store for the balance of the property. It is a small tract, 1.8 acres, and there is a limit to what you can squeeze on there when you impose that additional setback required by the O-15 classification.

Mr. Peter Gerns, 1200 American Building, spoke in opposition to the petition, stating that he represents some of the homeowners in that area - the South-South-east Council of Homeowners Association. That he wants to make two points.

That anytime there is a zoning to be considered by this Council or the Planning Commission that due and adequate notice should be given to all of those who may be interested in it. He spoke on this point sometime ago when there was before them some Board of Education property. That the signs cannot be seen from the street. He showed Councilmembers a photograph he had made in this case to support this claim. He has been told that this is perhaps the fault of some of the employees of the Planning Commission. But, he thinks the Planning Department should make sure that signs which are posted give adequate notice. That if a decision is made in this case, there is a possibility that court action will be brought because of lack of notice.

His second point concerns the SouthPark Land Use Study. It was adopted by staff in some form in May of 1976. In May of 1978 the Planning Commission adopted this on the staff's recommendation. On July 11th at a luncheon meeting in the Training Center Council was given a presentation of this land use study. That Council has before it at this time three different zoning requests that he is familiar with which is this one, 78-8 which is the Board of Education, and 78-26 which is McGuire's property further down Fairview Road. Council may recall that this particular property was subject to a request for a change in zoning to B-1 on 76-74 and that was denied. His point is that there is an attempt being made to piecemeal zone the SouthPark area. That is a mistake if Council allows it to happen. That the important point he can make to Council and the Planning Commission today is that they ought to go ahead and make haste and adopt the SouthPark Land Use Study. Then everybody in this city, not only homeowners directly concerned, know where they stand. The presentation made two weeks ago was excellent and Council should now take these steps.

He stated there will be other petitions, in other areas. That looking at the SouthPark Land Use Study which recommends the multi-family zoning south of Fairview Extension. The Board of Education had asked for O-6 for 2.2 acres; that they are amenable to a change, because the staff's and the Planning Commission's adoption of this particular plan makes good sense. He can agree with all of its concepts. That on July 11th at the Planning Commission hearing on 78-26, the members were in a quandary because they were trying to consider the zoning for the McGuire property, which is 3,000 feet west of McMullen Creek, and they had already had a second set of

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plans had been submitted, and now a third plan will be submitted. The Planning Commission found themselves wondering what to do east of Colony Road, and west of Colony Road; and then consider the SouthPark Land Use Study which envisions an additional 2,000 dwelling units in the eastern section, east of Sharon, south of Fairview. If they carve out 78-26 and give McGuire Properties what they want, then they are going to have a problem taking care of the rest of the property without having a policy set down. What is being done by the Planning Commission because there is no guidance at the present time, so there is no adoption of the SouthPark Land Use Study, is zoning from perimeter to the core. That what this Council should do, or at least consider, is to do it the other way around. They are supposed to zone from the core to the perimeter. That it makes more sense. His request today is first, that they delay any action on this, because of the lack of adequate notice - that people do not go to the zoning ordinances in The Charlotte Observer, they look for what is on the telephone poles and the notice should be perpendicular to the road and not parallel. Secondly, another reason it should be delayed is because nothing should be done in this very vital sector of our city until they have sat down and made a decision about the SouthPark Land Use Study and adopted it so that everyone knows where we are going to go from here. This is an important area; it is not up to him to say whether or not this is going to be the downtown of the future, but Council must take this lead and he urged them not to grant this petition until these two things have come to pass.

Speaking in rebuttal, Mr. MacMillan stated that whether there was adequate notice or not by virtue of how the signs were placed on the property, it is no fault of his client or himself. They do not place the signs there or have anything to do with that. That to ask his client to be delayed in having his petition considered is unfair because they did comply with the statutory requirements for filing a rezoning petition.

That, with all due respect to Mr. Gerns' plea to adopt the SouthPark Land Use Study, which he is also in favor of their adopting, he would point out that their property is not covered in the SouthPark Study. That on Page 26 of that study there is a map which shows that the property line comes down to where the Charlotte-Mecklenburg Board of Education property is and circles back next to their property and goes north across Savings Place, and does not come to the actual acreage that they are requesting the rezoning on now. That, as Mr. Gerns pointed out, the whole tract, on the Sharon Road side of Savings Place as well as the tract on the other side, at one point was petitioned to be B-1 zoning. That the people who were concerned about unchecked commercial development should be delighted to see that they have cut down the area on which they have requested a rezoning and have lowered the classification to an O-6 as opposed to a B-1. That they have made a great deal of concession in that area and have tried to be compatible with the principles in the SouthPark Study.

Councilmember Cox stated if they presume the notification problem was not with them, and that Council had approved the SouthPark Land Use Study, and that this piece of property were part of the Study, how would Mr. Gerns feel about this petition then?

Mr. Gerns replied he would suggest that Council consider the O-15 and drop the O-6 because it would be transitional zoning from the business zoning in the southeast corner of the property across Savings Place.

Council decision on Petition No. 78-39 was deferred pending the recommendation from the Planning Commission.

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HEARING TO CONSIDER AN AMENDMENT TO THE CHARLOTTE SUBDIVISION ORDINANCE TO ASSURE THAT INFORMATION CONCERNING THE REGULATORY FLOOD (100-YEAR) IS INCORPORATED IN SUBDIVISION PROPOSALS.

The scheduled public hearing was held on the subject amendment.

Mr. Bob Landers, Principle Planner, stated both this amendment and the next one on the agenda have been precipitated by our required review and certification of our flood plain management methods and detailed flood plain management activities with the Federal Insurance Administration. That they are complying and these amendments assure our continued compliance.

He stated this amendment and the floodway amendment as well are basically and essentially amendments of detail rather than substance. The first amendment to the subdivision ordinance simply adds a new paragraph and the required information to be placed on the final plat of the record plat and this would be language identifying the floodway and the floodway fringe areas and identifying the restrictions that are placed on those areas by the Floodway Regulations.

Mr. Landers quoted from the proposed ordinance as follows: "Any construction or use within the areas delineated as floodway fringe district boundary line and floodway district encroachment lines is subject to the restrictions imposed by the Floodway Regulations of the City of Charlotte."

There was no opposition expressed to the proposed amendment.

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

HEARING TO CONSIDER AMENDMENTS TO THE CHARLOTTE FLOODWAY REGULATIONS, SECTION 8A OF THE CITY CODE, TO ACHIEVE GREATER CONSISTENCY WITH THE NATIONAL FLOOD INSURANCE ADMINISTRATION GUIDELINES.

The scheduled public hearing was held on the subject amendment.

Mr. Bob Landers, Principle Planner, stated these amendments are amendments to the floodway regulations and assure that the language we use is consistent with that adopted the Federal Insurance Administration in February of 1976 and their flood plain management guidelines.

He stated the first amendment amends the administrative section and the floodland development permit and the language there has been changed to adjust it slightly to reference improved or unimproved real estate and to also mention excavation or drilling operations. That again under the federal guidelines, if you do not have excavation or drilling operations, you are not covering some base that they want covered.

He stated this generally applies throughout these amendments, which are amendments of language. That two areas are of note here; the first is with respect to an option, the Zoning Administrator or Floodland Development Administrator has, at the present time the option of requiring a seal or a certification from the surveyor or engineer that floodproofing measures have been carried out to the flood protection elevation. Under the federal guidelines, it is not optional - they say "you shall require", so they have added that in.

The second is an area of administration. The federal guidelines request that we review all permits to insure that State and Federal Permits have also been secured. He stated what they have done in this instance is to request that the applicant provide the evidence that he has complied rather than having our local administrator or the federal administrator having to do this.

There was no opposition expressed to the proposed amendment.

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

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HEARING ON THE QUESTION OF DESIGNATING PORTIONS OF THE STRUCTURE KNOWN AS "LATTA ARCADE", 300 BLOCK OF SOUTH TRYON STREET, AS HISTORIC PROPERTY.

The scheduled public hearing was held on subject question of designating portions of the structure known as "Latta Arcade" as historic property.

Mr. Dan Morrill, Director of Charlotte-Mecklenburg Historic Properties Commission, stated he is present to speak on the Commission's recommendation for Latta Arcade. He stated it is the function of the Historic Properties Commission to recommend designation of properties which contain important elements of our local history and there is no question but that Latta Arcade does this. That it was constructed in 1914 by the Charlotte Consolidated Construction Company and its president, Mr. Edward Dilworth Latta who decided to bring electric street cars to Charlotte.

He stated it is also mentioned in the National Register of Historic Places and has been thereby affirmed by the State and Federal Governments as being of historic significance as well.

That he would speak briefly to the issue of the recommendation of the Commission regarding portions of the property rather than all the property; that basically relates to the fact that the Historic Properties Commission desires little control over what the property owners do with the property as long as its architectural and historical significance is protected. He stated on this basis, the Commission has made the recommendation.

Councilmember Locke asked about the vote of the Commission and Mr. Morrill replied it was unanimous.

Councilmember Trosch stated being in the National Registry, what were the local designations that are not already a part of the definition in the National Register and Mr. Morrill replied it would essentially do two things. One, it would place the property owner under the requirements of the 90 day notice, which would afford at least protection against the destruction of the property and second, there would be that there would be a visual symbol placed by this City Council on the property which would re-enforce its historical significance.

Councilmember Trosch asked if there was no 90 days notice involved in National Register designation and Mr. Morrill replied none whatsoever.

Mr. F. T. Boyce, Vice President and Trust Office of North Carolina National Bank stated he is speaking on behalf of the Trust Department, which has the responsibility, in a fiduciary capacity, as Trustees of the property in question.

He stated he has not seen, nor has any of the Trust Department's representatives, seen the proposal which has been recommended by Mr. Morrill. That this does not mean they are opposed to it, nor does it mean they are in favor of it.

That having the responsibility of a fiduciary of property owned by others, it behooves them to be very thorough before they can arbitrarily, or by silence, concur with the recommendations. He stated if Mr. Morrill, or someone, would be good enough to supply them with a copy of the recommendation; they would be glad to either concur or make a formal protest.

Mayor Harris stated they have a copy of Mr. Boyce's letter included in the materials in the agenda and if this is true, then perhaps this calls for a postponement before any further action until they have had a chance to study the recommendation.

Mr. Boyce stated the letter he wrote to Mr. Morrill was trying to simply explain that as a fiduciary, they had a large number of beneficiaries of this particular property and asked that no further encumbrances be placed against this property.

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Mr. Morrill stated the Historic Properties Commission did give Mr. Boyce notification of the fact of the public hearing and did also explain what the effect would be as far as what portions of the property would be designated; that it is true that he has not seen a copy of the proposed ordinance.

Councilmember Chafin asked if this was legally necessary and Mr. Morrill replied it was not legally necessary but he would be happy to furnish Mr. Boyce with a copy of the recommendation and what it essentially involves.

Councilmember Selden asked Mr. Boyce if he would want a full report before Council acts on this item and Mr. Boyce replied possibly not the full report but a brief synopsis of what the recommendation is.

Mayor Harris asked if the information in the recommendation is made public and Mr. Morrill replied they have not sent this material to all property owners or lien holders to the properties. That they have sent notices of the hearings and also specifically what the impact of the designation would be, but the specific ordinance which proposes which portions of the property be included, is not sent to the property owners in their procedures.

Mayor Harris asked when this information is available to the public and the City Clerk replied when the agenda is completed on Friday afternoon, after 2:00 o'clock p.m.

Councilmember Selden moved to defer action on the proposed ordinance until the August 7th meeting. The motion was seconded by Councilmember Locke, and unanimously carried.

HEARING AND ADOPTION OF ORDINANCE NO.147-X, DESIGNATING THE INTERIOR AND EXTERIOR OF THE BUILDING KNOWN AS THE "CLUBHOUSE OF THE CHARLOTTE WOMAN'S CLUB" AS AN HISTORIC PROPERTY.

The scheduled public hearing was held on the question of designating the structure known as "Clubhouse of the Charlotte Woman's Club", 1001 East Morehead Street, as historic property.

Mr. Dan Morrill, Director of Charlotte-Mecklenburg Historic Properties Commission, stated he would like to point out there are several members of the Charlotte Woman's Club present in the audience and they have expressed, in writing, their endorsement, which was unanimous.

That the feeling of the Properties Commission regarding the Charlotte Woman's Club was actually two things. Number one, the building does have some architectural significance, being designed by the same architect who designed this building, Mr. Charles Christian Cook, an architect of considerable local note. He stated even beyond that, there is the association of this building with a very important significant group of women in an organization, which over the years, really has made profound contributions for the betterment of our lives, both collectively and individually and in the thinking of some Commissioners, this was really of paramount consideration. He stated the building does deserve protection against destruction and recognition because it is the clubhouse of the Charlotte Woman's Club.

There was no opposition expressed to the proposed ordinance.

Councilmember Short moved adoption of the ordinance designating the structure known as "Clubhouse of the Charlotte Woman's Club" as historic property. The motion was seconded by Councilmember Dannelly, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 26, beginning on Page 55.

HEARING ON PROPOSED SCHEDULE OF WATER AND SEWER RATES.

The scheduled public hearing was held on proposed schedules of water and sewer rates.

Mayor Harris invited members of the Community Facilities Committee to sit with Council during this hearing on water and sewer rates. The following members of the Committee were present: Ann Morris, Robert Beck, Walter O. Hendricks and William M. Harward and Marion Ward (Chairman).

Mr. Fennell, Director of Finance, stated his staff recently completed a rate study which they submitted that follows the Arthur Young Study that was made in November. That this study orients the rate structure to a cost reimbursable approach. He stated members of the CFC Committee, who have heard this report, have given their approval.

Mr. Robert Beck, member of the CFC Committee, stated he would just re-iterate their letter to Council; that they feel the study properly allocated the cost of the department to those customers for whose benefit the costs were incurred, and feel if Council is satisfied with the total cost to the department and the budget therefore, then the rates as generated by the Arthur Young model are the proper ways to assign these costs to the various users or various customers and any effort to grant some relief to one group, or customers, would necessitate increase the charges to another group of users, or customers, because this is strictly a cost recovery system.

Mr. Russell Marshall, 6525 Morrison Boulevard, stated he represents the Charlotte Apartment Association and is present to endorse the rate schedule as recommended by staff. That in principle, the members of the Association have long supported, and have documented their support to previous Councils and Mayor, a rate schedule for water and sewer which does allocate cost and collect revenues on a cost and/or user basis.

He stated their first exposure to Young's study, which is now somewhat more than a year ago, was rather encouraging in that it seemed to represent a windfall reduction in their operating costs. That his exposure this past week to Mr. Fennell's report, dated July 7, left him somewhat crestfallen because a quick computation shows that just in the past year, for everyone, regardless of category, we are looking at about 15% more dollars than previously.

That a quick computation he made this morning says that if costs increase at such a rate, we will be seeing double rates in about five years. The whole world, or more specifically, the public staff in Raleigh is tremendously up in arms regarding what is known as the 9.3% Duke request. He stated he is not aware of much press space at all regarding the adoption by this Body of water/sewer rates which, when combined increase some 15% after a significant 35% increase in sewer rates in the 77-78 budget. Notwithstanding the fact that most people in the city and county look forward to an immediate future of planned orderly growth but he is not sure that any of them could or should be prepared to see our rates double over the next five years. They do support the schedule to the extent it does coincide with the Arthur Young concept but they do suggest that perhaps some more forward planning and scrutiny by this Body of CMUD's budget is in order.

Councilmember Cox asked if Mr. Marshall believes that the costs of C-MUD have gone up 15% in the last year and Mr. Marshall replied he is not deep into the study; that he has gotten into it to some extent and has talked to some people who do have some knowledge and they come up short in establishing discreet criterias for 15% increase - they are not able to do that. They all know that services will be extended and they all know that inflation victimizes all of us, including city government; they find it very difficult to conclude that they are being victimized by 15%, which is half again as much as current inflation.

Mayor Harris stated he figures 2.8% for apartments and asked if he was speaking of apartments and Mr. Marshall replied if he will take the 77-78 budget and compare it to the 78-79 request, he can see right at a 15% increase. Mayor Harris asked if the increase was for residential and Mr. Marshall replied no, total, overall.

Mr. Marshall stated the reason they were crestfallen was because the preliminary data a year ago, when the AYC study first hit the street, the 2.8 would have been 15.3% reduction, or something of that magnitude. That in a year's time, the 15.3 negative has grown to a 2.8 positive.

Mayor Harris asked if he thought the study last year was forecasting a 15% drop in revenue and Mr. Marshall replied no, a 15.3% reduction in apartment rates. That if the methodology was adopted, the same increment of increase would apply to all users.

Councilmember Gantt stated he is not sure about that. That what Mr. Marshall is doing is drawing a straight line projection between the budget increase and the rates and he does not think this is the case.

Mr. Marshall stated the two 15's he is using are not the same; the fact is the bottom line of the budget this year is 15% greater than 77-78. He stated when he first became familiar with the AYC study last year, the early numbers which interested him, was that he would be seeing on an apple-to-apple basis, at that time, a 15% reduction in his rates. Now, upon adoption of the first budget using that methodology, it is now plus 2.8 - the gap has evaporated. That he is still better off than most but the 15% has come upon them and he does not think the world is excited enough about it.

Councilmember Cox stated if he will look at the bottom line in the budget where it follows that costs have gone up 15%; that they have added some more people in the last year and there may have been some non-recurring kinds of expenses in there. Mr. Marshall stated in the on-going maintenance categories, he thinks he can see increases of something like 30 to 40%. That he does not think the areas of responsibility for maintenance of water and sewer systems in the County, in terms of footage, or hundreds of cubic feet, has not increased 30%.

Mayor Harris stated the principle of the study is that if we have that much cost, then we have to have that much revenue. Mr. Marshall stated nobody quarrels with that; the methodology is fine but they are scared of rates doubling in five years. Councilmember Selden asked if his percentage increases relate to total expenditures without regard to increase in volume or increase in number of customers and Mr. Marshall replied that is correct.

Mayor Clay Lefler, of Matthews, stated he is not present to protest anything or ask Charlotte to give them anything. That the CFC has done as good job as far as he understands it.

He stated he feels we need a Municipal rate. They have approximately 600 water meters in Matthews; they own the water meters, they own their own water and sewer lines; they read the meters and send out the statements and collect the monies. That they have the same rate that the outside industries have - double rate.

He stated there is a master meter as you go into Matthews and all Charlotte has to do is go down and read the meter and send them a bill and it is up to Matthews to collect the money. That they have about a million gallons a month of water losses and they have trucks coming in and loading up from their fire hydrants and they try to catch them.

That their water pressure has gotten down very low now and they are asking their people for a Bond Issue for a half of a million dollars to give them enough water pressure in Matthews so the industries can operate. He stated on some days the largest industry down there, PCA, has had to send some of the people home because there was not enough pressure there to operate on. That hopefully they will pass the Bond Issue.

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Mayor Lefler stated he felt that Matthews, or any other small town in Mecklenburg County, should be considered in a different category from someone outside the City, such as PCA or Family Dollar.

Mr. Frank Cockinos stated in the 1972 Charlotte-Mecklenburg Agreement, it states in many instances that the two separate water and sewer departments shall be consolidated into a single department. That he would ask if the water and sewer system is a Charlotte-County system why can Charlotte enjoy the low rate and the town of Matthews has to pay the double rate.

He stated the double rate is also be in effect for sewer service for the three northern towns and Pineville when the 201 facilities are completed. That the question is if the water and sewer system has been consolidated, why two separate fees? Other consolidated departments of the city-county complex, the library, health department, the school system, the jail, the Planning Commission, the Tax Collection and some others, such as the Police Recordkeeping Section, where there are fees or charges, there are no double standards; the fixed fees are the same, no matter which side of the City limit line one lives.

Mr. Cockinos stated the January 1972 Agreement also states the rates may vary according to classes of service and further that different schedules may be adopted for different areas. That a double meaning sentence, which is very ambiguous, is "billing and collecting, the rates, fees, charges and penalties shall be handled and maintained by the City Finance Department."

He stated another item of the Agreement states: "beyond the City limits of Charlotte shall not exceed double the rate for corresponding services in the City." That what Mayor Lefler is saying is the average water user of 5,000 gallons per month in Matthews, which equates to 668 cubic feet in Charlotte, the Charlotte resident pays \$6.14 for water and sewer service, the same amount beyond the city limits costs \$12.28. He stated for these amounts on either side of the city limits, the City is responsible for reading the meter, posting, billing, mailing, collecting, handling, bookkeeping, installation of lines, maintenance of lines, debt repayment and all other costs for administration and operation that go with the ownership of the property.

Mr. Cockinos stated that once the master meter in Matthews is read, posted, billed, collected, banked and the transaction recorded, corresponding service ends; Matthews maintains the 600 individual meters beyond the master meter. Even now, a bond referendum for \$500,000 is being prepared to expand the system beyond the master meter. Since Matthews is budgeting \$21,000 for bond repayment, he asked where is the corresponding services for Matthews? That they have the responsibility of reading, billing, collecting and maintenance of six or seven miles each of water and sewer lines in Matthews.

He noted the ambiguous statement that he read earlier about the Agreement about the City Finance Department's duty to handle the administrative, maintenance, billing and collections in the Matthews system. That it does not say beyond what point. He stated it seems that Matthews does not get the corresponding service that the single family customers in Charlotte are receiving but they are also required to pay double for the lesser amount of service. That there is a certain amount of class that occurs in all businesses, industries and organizations; like units, even though competitors help each other in business dealings. He stated although he is representing Matthews, there is a separate class in different areas, Matthews, Pineville, Huntersville, Cornelius, Davidson and some day possibly Mint Hill that should be placed in the wholesale purchasers class with the absence of detailed service, operations, maintenance and debt retirement accordingly. That these are the numbers that came out of the unaudited budget. During the recently completed year of 77-78, Matthews paid C-MUD \$52,400 for water purchased from Charlotte; another \$96,600 was paid by Matthews to its meter readers for billing, line repairs, operations, maintenance for its water and sewer system; that is for about 75 or 80 million gallons of water that sell for \$26,000 in Charlotte and offered \$96,600 less in services.

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Mr. Cockinos stated of this \$96,600, part of that cost is for their sewage treatment plant; they do not break down the water and sewer, it is one department in the town of Matthews, assuming half, they say they spent \$48,000 for their water system. He stated the proposed increase of 36% will put the Matthews water user of 5,000 gallons per month in a position of having their rates jump from \$10.50 to \$12.30, or \$1.80 per month against Charlotte's \$1.17 per month increase.

He stated the people in Matthews realize that Charlotte is in no position to subsidize the citizens of Matthews. Conversely, the Matthews citizens do not want to pay additional water fees for services not received. That in the never ending argument of the Charlotte benefits received from the County residents for using the auditorium, coliseum, streets and employment market has two sides; Charlotte never fails to mention it standard metropolitan statistical area population for various credits in marketing and commercial enterprises; there is a misconception that EPA demands similar water rates to all customers; the EPA regulation applies only to sewer service, not to water rates. The EPA regulation allows classes which should be taken into consideration in the single-double rate schedule.

Mr. Cockinos stated there is a public hearing in Raleigh that will have a single water rates such as Charlotte is proposing to get more money for the Clean Water Bond Grants, therefore it is a trend that everybody wants to follow. That the public hearing has not been held. The Town of Matthews requests that additional wholesale price for municipalities be established; the rates for this class is taking into account the services not rendered to the towns by C-MUD but included in the double rates for the county customers. That Matthews is not asking for a subsidy and does not think it should offer any. The class of a municipality with a different rate between the inside and outside rate seems in order when the entire service is reviewed.

He stated it is requested that the City Council direct the CFC to review the additional class before the proposed rate increase of 36% is passed on to the Town of Matthews.

Councilmember Cox stated what Mr. Cockinos wants is an additional class and the justification for that would be that in supplying water to the Town of Matthews, C-MUD does less service than it would do for other industrial entities like Family Dollar Stores, etc. That the justification would be, if he understands it right, that C-MUD does less service.

He asked what service they did for Family Dollar that they do not do for others; that it seems to him they offer the same service to them that they offer the Family Dollar, or any other industrial user around there, at the same cost. That he is having a hard time understanding what service that they do not give Mr. Cockinos. Mr. Cockinos replied the 20-inch cast iron line put in from Rama Road to Matthews and was paid for by C-MUD funds, actually the County paid for it and C-MUD accepted it when this agreement was made. That Matthews is getting ready now to put in a 12-inch line on the other side of the meter and there is no payments made for this and the City will be selling water through that 12-inch line, with no expenses.

Councilmember Cox asked who bought the 12-inch line and Mr. Cockinos replied Matthews will pay for it. Councilmember Cox asked if C-MUD bought the 12-inch line, then the City would have to charge him for it. Mr. Cockinos replied then the City would also have a bond indebtedness that they do not have now. Councilmember Cox stated then the rates would go up and Mr. Cockinos replied everybody's rate would go up.

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Councilmember Selden asked if the employees of the City of Matthews did all the meter reading, if it was located within Matthews, and Mr. Cockinos replied yes, everything but the master meter.

Councilmember Selden asked if the City of Charlotte did the meter reading on everything outside the City of Matthews or any other incorporated place and Mr. Cockinos replied that is correct. Councilmember Selden stated this is, in effect, a credit expense that the people in Matthews incur that the City of Charlotte, C-MUD, does not incur and Mr. Cockinos replied that is correct.

Councilmember Selden asked what other expenses they incur, other than meter reading and Mr. Cockinos replied they bill 600 customers, the stamps, postage, collections and banking.

Councilmember Selden asked if they maintain all the lines within the City of Matthews and Mr. Cockinos replied yes, beyond the master meter. Councilmember Selden asked if the City of Charlotte, C-MUD, maintains all the lines outside the City but not inside incorporated areas and Mr. Cockinos replied that is correct.

Councilmember Selden stated if he understands correctly, this .87¢ relates to the fixed charge is, in effect, related to meter reading, billing, etc., so that, in effect, if C-MUD charges Matthews for that part, then the City is charging them for something they are doing. Mr. Cockinos replied yes, for 600 meters.

Mr. Harvard stated this billing was done on a per customer basis; that he only had that one little fixed charge. He stated they were not billing them any different from Family Dollars Stores; they get one fixed charge in the billing and so does Mr. Cockinos and so do the individual residents.

Councilmember Selden stated that is true but if C-MUD served all the customers in Matthews and the City of Matthews did not exist, the City would have that many more bills to mail out.

Mr. Harvard stated, for example, the apartment building, they have one big meter and they maintain all their lines, just like Mr. Cockinos is a customer.

Mr. Cockinos stated the department is going up 2.8% and Matthews is going up 36.5% - that is quite a jump for a municipality. That they have to charge their 36.5% to be on a parity with Charlotte; they have their own fees to put on top of that 36.5.

Councilmember Trosch stated this is a problem that she is somewhat familiar with because she knows the other towns in this are also concerned and are talking with the CFC. That as she understood it, the smaller towns have been negotiating in the past few months regarding this issue and Councilmember Selden replied no, that was in the North-Meck 201 Project.

Councilmember Trosch stated then they are separate from this and if Council adopts this, it is not necessarily the same; it would be a different methodology? Mr. Ward replied we are talking about two different things.

Councilmember Trosch stated that is why the town of Matthews is here and not the towns of Huntersville, Cornelius and Davidson are not. That this argument sounds very valid when you hear their side of it; that she has not heard the other side of this argument and feels, as Councilmember, she needs to hear that side of the rationale.

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Mr. Burkhalter stated the reason she has not heard from the others is because they are not on the system yet. Mr. Ward stated we are also talking two different 201 districts - we are talking about the Mecklenburg and the North Mecklenburg and EPA has directed and it has been agreed that this will be two separate districts with 201 EPA system in compliance. Mr. Burkhalter stated the problem is going to be the same, or the same argument.

Mr. Beck stated he feels a little uncomfortable to be put in the situation of being the bad guy here when he tells some of the cities and communities that the CFC feels they should pay more than their residents. That when they were undertaking the rate study, there were several things that absorbed an awful lot of their time that turned out not to be that significant, or perhaps they were significant but they did not realize it at the time. He stated they did devote a tremendous amount of time to a couple of issues; one was a "life-line rate" which they ultimately resolved after spending hours and days working on problems; the other was the outside rate. That what they wound up with is what has been recommended here and that is that all customers outside of the City of Charlotte pay a double charge and that charge is assessed to the meter. He stated where the customer chooses to put the meter it up to them, if they want the meter at the front gate to the city, then that is fine, but they bill only for what they sell to that meter and only charge the .87¢ for the meters; that there is some variable for the larger meters, but only charge a fixed amount for coming out and reading that meter and sending out one bill. He stated the rest of it is free to resell either to apartment dwellers or to citizens of his town at whatever charge he can get or wants to get at whatever profit he can get or wants to get.

He stated the reason for the outside rate primarily is that there is more to the cost of what they are giving them, than simply the operation and maintenance costs of pumping the water out to their meters. That they built Hoskins Reservoir, which is the source of the water that they are selling them today - Hoskins Reservoir was paid for primarily with City Debt and the City's credit rating was used there; and the treatment plants, when the sewage is taken out of Matthews, is pumped into the City's treatment plants which were built with Charlotte City Bonds, general obligation bonds of the City of Charlotte; the trunk lines that run the water all the way out to Matthews and bring the water back from Matthews. That true, the ones that specifically connected Matthews to the existing system at that time were paid for by the County, but ultimately the City has built a very large network of distribution and collections systems for water and sewer and it was all paid for with the City's General Obligation Bonds and the City taxpayers are the ones responsible for those bonds, not the County and not the local communities. That CFC felt that charging a sur-charge to those people outside the city was a proper thing on three grounds. The first is that the contract consolidating the Charlotte-Mecklenburg Utility Department was entered into by City Council and the County Commissioner testified at that time that everyone outside the City would pay a double rate. That he heard Charlie Lowe say a couple of years ago, that he still feels that was a good deal that the County entered into.

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The second reason is because the City of Charlotte has pledged its faith and credit to support the bond indebtedness that has built the system we have here. The third reason is because the taxpayers of the City of Charlotte have a tremendous capital investment in the plant by all customers, whether they be residents, or whether they be a city or apartment house or whether and they felt like there should be some return to the city taxpayers, based on the capital they have invested. That this is the reason, or rationale, behind the double rate. He stated he believes Mr. Dukes has stood with the proposition that any of the communities that wish to move that meter from their city gates to the households of their residents, he is willing to move his maintenance services to that point. That the question is whether or not the communities feel that the cost of maintaining that maintenance service is worth keeping their own independent system.

Mr. Lee Dukes, Director of Utilities, stated if a person wants to benefit from all of the City's service, they will give it to him to where the meter is and if he wants to move the master meter from the edge of town to the homeowners' residence, the City will assume the responsibility for maintenance and operations up to that point and the billing.

Mayor Harris asked the difference in that rate versus the rate Matthews has now, the bulk rate, and Mr. Dukes replied their past experience has been declining rate. That if there is a benefit the towns have now, it would be there would be only one fixed charge. For example, if they had 800 customers, they would pay .87¢ only one time; where, when they bill, they could charge 800 times .87¢.

Councilmember Selden stated there would also be some difference by the fact that the City would aggregate fractions of a break point in billing, for instance, if the use was 300 cubic feet and they used 250, on an individual billing basis, they would be billed at the 300 cubic foot level. Mr. Dukes replied they way it is now, it would not make any difference how many units of water a person used, they would still pay the same unit cost. Councilmember Selden stated that is right, but there are fractions that would add together whereas one single bill, there are fractions of use that would actually aggregate the entire billing if it was billed by 800 different costs than as one group billing. That this, in effect represents some savings to the people of Matthews. Mr. Dukes replied that is correct.

Councilmember Selden asked what other differences would there be if the City did the meter reading and billing the 800 customers and Mr. Dukes replied the City would have a maintenance expense, meter reading and all of the things the City does. Councilmember Selden asked the approximate annual cost of the maintenance and Mr. Dukes replied the way he would have to answer this is because they are a community and they have a community system; they take all of their costs and average it out so therefore they could not single out one group or another group. Councilmember Selden stated he realizes that; that he does not know where line is going to break but on an average length of the number of feet in their area, but asked if we are talking about \$10,000, \$20,000 or \$50,000 and Mr. Dukes replied anything he would say is going to be wrong at this point but they estimate it costs between \$400 to \$600 per mile to maintain the sewer and it would be less than that for water.

Mayor Lefler asked if they remove the meter, would Charlotte take over the reading of the meters in Matthews and be responsible for the whole water system; put them in a half of a million dollar water tank where they could get the proper water pressure? That he would like to be able to tell the people in Matthews when he gets back. Mr. Dukes replied anytime the City takes over a service connection, they promise that person the City's standard service level, so if they had low pressures in Matthews and it was the City's problem, they would have to be responsible to try to work toward eliminating these things. That they would assume the responsibility - not immediately but with time, it would be corrected.

Councilmember Short stated he appreciates very much the opportunity to have this hearing and hear what Mr. Cockinos, Mr. Lefler, Bob Beck and others have to say. That this represents a very considerable change in the whole background plan for the way our water rates are set up and our Utility Department operates it. He stated since we have 30 other items ahead of Council on this agenda, he would like an opportunity to think about these comments a little bit and a chance to talk about this to Councilmembers at a time when we have more time.

Councilmember Short moved that Council just have the hearing today and then let the Council debate and talk about this matter at a later date. The motion was seconded by Councilmember Selden.

Councilmember Cox asked if there has been any discussion that this water and sewer - the Arthur Young methodology - does not in fact from an accounting point of view, represent the proper distribution costs to the citizens and Mayor Harris replied he has heard nothing to the contrary. Councilmember Cox stated what Council has been asked to do is to make some political decisions about this and he has not heard anybody that said, from an accounting point of view, this was correct.

Mr. Ward replied last Fall, before this methodology was adopted, this Council (then sitting), held public hearings, evaluated proposals, had recommendations from CFC and staff, revised the proposal to some extent and then adopted them. That there was no question, as he can gather, as to whether or not the proper methodology was used to evaluate the cost; that possibly someone who was on the Committee at that time, may have a comment.

Councilmember Cox stated he has not heard any today and that is what he was really looking for today.

Councilmember Locke stated the Council before this Council went through many hearings. That CFC held hearings and came back to Council and then Council requested that they go back and hold more hearings and then they came back to Council and Council would hold more hearings; there was much debate, much input into this and for the first time, in her 3½ years on Council, it was the first time she was ever able to understand the water sewer rate. She stated it was all political before, but this time, they worked very hard and put in long hours at Council's request, and came up with what she feels is an excellent plan and which the previous Council adopted. She stated she feels they should be commended for the work they have done.

Councilmember Selden stated with respect to further consideration is the possibility of proposing the rate structure be maintained but a credit given to a town for the maintenance of their lines within the town, the cost of maintenance, and a theoretical cost of new ones.

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Councilmember Carroll stated he is a little concerned at how we arrived at our turn-on, turn-off charges. That he talked about this earlier and did not want to take any more time but perhaps Mr. Burkhalter could comment about this concern in writing. He stated he feels the study has given Council a real good basis to begin to make a decision. That he is interested that Council consider, just as the CFC spent long hours considering, the life line rate which the City of Charlotte has had for a number of years and which, even some of the private utilities are beginning to think about using.

Mayor Harris stated the thing we have to do to maintain the integrity of what we are doing here is realize the study is valid to start with, if not, then we need to step back and look at it from the standpoint of costing out of the cost of the delivery of the service. That if there is a subsidy that the City wants to give to a life line rate, then we ought to call it that and go to Social Services from the standpoint of cost on a direct subsidy basis and not require the other taxpayers to subsidize the water system.

Councilmember Carroll stated in connection with that, as he understands the way the study was set up and the methodology used, that it was not really taken into account the sort of demand part of what a user has; in other words, a user is going to have two things which concern him or her, that is, both the service that comes and the demand for service which that user may or may not have. That this relates in some small part and some very pertinent part to the concern about the life line rates. He stated the fixed charge that we are putting on everybody for just having that meter there is \$1.74 and that is the same whether it is a 2-inch meter or a 4-inch meter, but what the system has to be built for in another overall cost is the demand which this particular person is going to use, as Mr. Dukes was saying, what kind of capacity or have the right kind of pressure they are going to have to have.

He stated they have to build into our system not only service but an ability to meet the demand. That he does not know if the methodology fully takes that into account and he does think this is a pertinent point. He stated you can see it sort of in the apartment complex thing; say you have an apartment complex of elderly people - there is only one fixed charge for that one meter, maybe for 300 people, but if they were 300 small single family houses, there is an additional \$1.74 charge for each person. Although the demand of each one of those houses is not near what that apartment complex is.

Mayor Harris stated you maintain the integrity of your system from the standpoint of that in Council's deliberations and if it is valid, it is valid and then if you want a subsidy, from a point of life line rates.

Councilmember Locke stated the previous Council took all those things into consideration because they asked the same questions at that time. That maybe Mr. Carroll ought to go back to the minutes of the previous Council Meetings.

Mayor Harris stated it would be helpful if the City Clerk could get copies of the minutes of those hearings and make them available to Councilmembers.

Mr. Burkhalter stated we are pressed for time on water rates and if Council does not adopt this at their next meeting, then we are probably going to have problems. That it will be on the next agenda. He stated he has asked Mr. Fennell what we would have to do to the present rates to bring in the revenue we need until Council does adopt something.

He stated the second thing Council ought to know before next week because the charge was made about the budget today and that was because of a misunderstanding of someone who does not go through the process, but in the

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Arthur Young Study, the projection for this year was made and the budget that they have proposed are within 2% of what he suggested or proposed.

Mr. Burkhalter stated the second thing is, that in the Arthur Young Study, they recommended that the City not subsidize the water and they are subsidizing this year to the tune of \$500,000. That he also recommended that we not use reserve funds, but we are using reserve funds in the amount of \$470,000, so we are subsidizing this budget almost a million dollars in order to keep the rates down for everybody.

He stated the study he is referring to has been changed about one cent or more on the water rate; possibly he is referring to the original study.

Mr. Ward stated the CFC has written to each of the Councilmembers, with a copy of the letter addressed to the Mayor, that the CFC supports the methodology which was adopted by the Council and CFC last year as a result of a great deal of effort. That they believe that it is a valid means of operating the Utility Department as an enterprise system. He stated as the Mayor has said, when you begin to put in a special consideration for a special category, then you destroy that kind of concept. That while there may be valid needs for consideration, they would suggest that this be handled through other means than through the utility rates, that is life lines, etc.

He stated they would also like to ask if they have further discussions with Council on the rate structure, that they be allowed to sit with them if it is agreeable. That Mr. Beck gave the best summary about why the double rate.

Mayor Harris invited the members of CFC to their Council Meeting on August 7th and stated if they have an earlier meeting, they will let them know.

Councilmember Gantt stated he realizes that some Councilmembers have not had the opportunity to study this as much as the others who have been on Council longer, but he would hope they realize Council has to 'bite that bullet' sometime; that he does not see very much opportunity to turn this back.

The motion was withdrawn by Councilmembers Short and Selden.

Council decision was deferred for two weeks.

MEETING RECESSED AND RECONVENED.

The meeting was recessed at 5:22 o'clock p.m. and reconvened at 5:37 o'clock p.m.

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COUNCIL RULES SUSPENDED IN ORDER TO HEAR NON-AGENDA ITEMS.

On motion of Councilmember Cox, seconded by Councilmember Trosch, and unanimously carried, Council rules were suspended in order to continue the Citizens' Hearing.

CITIZENS' HEARING CONTINUED FROM INFORMAL SESSION; POLICY ON PARK CONCESSIONS TO BE PLACED ON FUTURE AGENDA.

Permission Requested to Sell Ice Cream in City Parks - Mr. Daniel Prizer, 345 Providence Square Drive, stated he and his partner are here today to ask Council to grant them some kind of lease which would allow them to sell ice cream in at least some of the City parks. That they are students at East Mecklenburg High School and they decided to start their own business against the advice of most everyone they knew. They were told time and time again that they would run into endless red tape and official hassle from the government growing too big. They were also warned that they would have to fight many big entrenched businesses which would be very unreceptive to a new business, no matter how small, trying to muscle in on their territory.

Although they fully expected the latter, they did not believe that the former would actually happen. They thought that being two young people with enough initiative and courage to put together their own business out of their own hard earned savings, that a government which of late has been under constant attack for stifling free enterprise would throw open its arms and help them - two businessmen of the future - wherever it could.

When a competitor called them over to his truck one day and warned them to get out of his territory because he was part of a chain of 22 trucks which "had the City of Charlotte sewed up," it was something they were rather prepared for. But, when they were informed by the City that they would have to be fingerprinted, mug-shot and otherwise inspected to get a license, and would in turn have to pay \$115 yearly fee for a license for a business that was that seasonal - gosh!

Later, after they had fulfilled all of the City requirements - a process that ended up taking more than a week - and had paid for their licensing, they were casually informed that, by the way, they were not allowed to sell ice cream in the city parks. They were told that Ogden Foods, a much bigger business than theirs, had an exclusive contract with the City to sell concessions in Freedom Park and others through 1980. They were also told that all of the other parks were completely off limits to anyone selling anything. Needless to say, they were more than mildly surprised. When they posed the question of why there was such a regulation, they were confused with a dazzling array of answers from different people. Every City official they talked to had his own version, not one of them making much sense. At one place they were told if such a thing was allowed, there would be a tremendous mess in the park. But, what does license fee pay for? In any case, they personally offered to go around and pick up any waste attributable to their business.

He stated another person told them that the regulations were there to protect the people from getting "bad" ice cream. Then, what was the purpose of the health inspection of their truck and freezer - to make sure it was the proper breeding place for disease, maybe? The fact is the City is seeing fit to license both them and their biggest ice cream supplier - Sealtest. So, if the public is being protected from bad ice cream, why not just throw Sealtest and all the other ice cream distributors out of the City. That way no one would ever have to worry about getting bad ice cream because there would not be any ice cream at all?

Finally, they were told that if they were allowed into the park, then the City would also have to let every Tom, Dick and Harry with something to sell in too. This reason is even more ridiculous than the rest. Not every Tom, Dick and Harry could get in, because one must still have a license to sell anything within the City and supposedly the licensing procedure will weed out the undesirable elements. Else, what is the purpose of the whole procedure? In any case, there is still the question of free enterprise to be answered. Although it is not specifically mentioned in the Constitution, free enterprise has become a part of our democracy, giving everyone a chance to earn a dollar and make something of him or herself. He stated in recent

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years the public has bemoaned its loss of much of the free enterprise system. Government and big business has encroached upon much of the territory formerly controlled by the small businessman, slowly pushing him into a tiny corner telling him when, where and what he can sell - that is, if he can read the requirements to begin with. He has even reached the point of being told what can and cannot be done in these public parks. That word "public" is the key. The dictionary defines public as "of or pertaining to the people." He stated he would defend with his life the fact that the small businessman is a person, as much as the government does not seem to think so. Under the guise of protecting this same public, to which the businessmen also belong, the government is effectively blocking him entirely from public parks which he, the small businessman, himself helps maintain with his tax dollars. As ridiculous as it may seem the government has told the people that the free enterprise system does not work. The people cannot protect themselves. In effect, it is saying that the unscrupulous businessman will thrive where good ones will fail. If this was the case, the government would most assuredly be in the right. With a little more than 200 years of the exact opposite being true, it would seem to prove otherwise.

So, what can the small businessman do? Instead of getting the applause that he deserves, he has been scorned everywhere that he has turned. Instead of getting the pat on the back which he rightfully deserves, he continually gets slapped in the face. Something is most definitely wrong. If he is to survive someone, somewhere, had better start patting him on the back soon.

Mayor Harris complimented Mr. Prizer on his speech and welcomed him to the business of free enterprise, stating he should do very well. He stated he is sure there is another side to this question and asked for a response from Mr. Burkhalter.

Mr. Burkhalter stated we went through the free enterprise system. The City parks system could operate their own concessions or could lease them out. Apparently they opted to lease them out rather than do it themselves. That Mr. Diehl might wish to speak to this.

Mr. Marion Diehl, Superintendent of the Park and Recreation Department, stated that for years when the Park and Recreation Commission was started, they just let any and everyone come in that wanted to sell anything whether they had a license or health certificate, or anything. They did not receive any of the commission from the persons who went in. The Health Department got onto them because they were letting people in without passing health specifications. That kids were coming in in the summertime with little wagons with ice. There were broken glass, tin cans, cups, trash all over every park - not just the few large ones - so the Commission decided that they would start operating these and once a year they would receive bids for the large parks and take these bids from anyone who wanted to bid on it, and the best bid that came in they would accept. This was about seven or eight years ago and since then they have leased it; now to Ogden Foods, one of the largest food concerns in the country. They get an itemized report from them each month of what they do with their check. For instance, last month they got \$1,917.48. They have Park Road Park, Freedom Park and Hornet's Nest Park. The boats are also in this, as well as insurance that will cover all the danger of anything that happens. The City has no money involved in it at all.

He stated the only exception is that on July 4th they have always allowed the Mecklenburg Jaycees to have Freedom Park. This does not include the swimming pools; they will let anyone put a bid in for the swimming pools who wants to. But, in the other areas they are told that they cannot go in because of the mess that they will make and because of the fact that if you open the door to one then they will have to let all of them in.

Mayor Harris asked if the contract with Ogden Foods is an open-end one that goes on forever? Mr. Diehl replied it is through 1980. The contract was let about three years ago; before that it was with Grimm Concessions.

He added that there is another exception and that is that Drum Caterers has the Festival in the Park. The reason they let them have that is that they cook all of their food at the Drum Restaurant and carries it down; that the Health Department is pretty particular on who comes in for this type of

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thing because the park does not have hot water or double sinks or things like that. He stated they got a percentage on that, over \$2,000.

Mr. Diehl stated they have had many requests like this to go to these parks. They must have had thirty-five to forty; he has never seen as many ice cream trucks, candy trucks, drink trucks that want to go into the parks. It is just hard to say that one can go in and one cannot. The Commission just decided they would have to try to control it.

The Mayor stated the Commission is no longer around, so he supposes Council will have to make a decision.

Councilmember Cox stated to Mr. Prizer and his partner that they are probably right in what they have said. That he talked with him at least three times on the phone and with his father at least twice, and he was one of the City officials who was giving him all kinds of answers. That what he would like to say to them today is that they are probably right and could serve "maybe even better than Ogden Foods." What they are asking Council to do is to renege on a contract made by a Commission that they overtook in the past six months; renege on a five-year contract. That he has a problem with doing that.

He stated that the last time he talked with Mr. Prizer they were going into Park Road, Freedom and Hornet's Nest; then the fourth telephone call they asked what about the smaller parks? He has no problem with that but he hopes they understand that if Council gives them the opportunity, then they would have to give everyone else the opportunity to go into those parks. It would be on a bid basis. Will they be around in the next five years? Council wants to protect the people they are doing business with too. That the reason he is saying these things is that he does not want to give them the old runaround anymore. His advice to them, and other Council members can certainly vote him down on this, would be to go out and sell ice cream where they can because at least Freedom, Hornet's Nest and Park Road Parks are tied up until 1980. If they want to go to the smaller parks, then Council can take a look at doing that; and it may be something they want to do. But the three parks are out because the City has a contract with Ogden and they cannot do anything about that.

Councilmember Gantt stated he is very impressed, and he whispered to the Mayor awhile ago he thought these young men are well on the road to becoming very good Young Republicans. That he really does think they have learned a lesson in their venture in the field of free enterprise - one of the lessons is that you have to check out what your market is going to be and all of the ramifications and requirements. He is sure if they started this thing again they will find out the red tape they have to get into with the City or whatever agency they are dealing with.

He stated that Council ought not to be too hasty about a decision on concessions in the parks. That although he plays tennis quite a bit, there are many days he would love to see their truck roll up just at the point when he has finished a set, because he does not see the Ogden people in the small parks that he plays in. But, he thinks Council ought to be very careful about how they proceed on this problem. They cannot do anything about the three big parks; they can choose to continue the policy that the Commission had prior to the City take-over which is not to allow any concessions to be sold in the small parks; they can choose to change that policy; and he thinks they ought to make a decision on that one way or the other. He would like to see that put on the agenda, not so much for the balance of this summer because the agenda is getting longer and longer, but the issue ought to be dealt with as to whether or not we can have the concessions with some controls, or whether they should continue the policy we have now.

He stated a tremendous amount of trash is generated in parks as it is without anyone bringing anymore in; and yet there is some validity to the idea that some concessions should be allowed.

Mayor Harris commented that covers the concession rules, but actually Council should look at the operating rules of the parks, period. In other words,

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they ought to be evaluating the parks rules which he assumes Councilmembers are not too familiar with. That maybe they knew about the concession agreement until 1980, but it is the first he has heard about it. Another thing is that Council has an obligation too as to what kind of policy they want to have concerning people who just want to go to the park and not be hassled by buying anything. This is another thing - the parks are operated for the convenience of the public.

Councilmember Selden stated he would like to clarify one point. With Mr. Prizer's retailers license, can he park in any area outside of the park and sell? Mayor Harris replied he does not think that relates to the question because they are requesting to sell in the park.

Mr. Prizer replied to the question by relating the places where they are prohibited from selling.

Mayor Harris thanked Mr. Prizer for his interest in bringing this problem to Council, stating that he thinks they have learned a good lesson in how to run their business.

Playground Equipment at Little Rock Apartments - Ms. Lucille McNeil, 3203 Faye Street, Apt. 5, stated she is concerned about a mini-park that she has been trying to get at Little Rock Apartments since April. She stated they came and replaced some things there; that the children wanted to play but they would not let them touch anything until they asked the gentleman who placed the things and he told them everything was ready and the children could swing and play.

She stated the only thing that needed to be done was paint it and put up one more set of swings. They already had the frame, they are only asking for some swings. That when she first came to Council she told them it was just a small thing they were asking for; something for the small children to play with. They appreciate their large park, but it is too far for the small children.

That they came and surveyed for one week; the second week he came and brought the equipment and hung the swings. The other day they worked up there all day with their equipment - it looked like they had every piece of equipment that the City has out there that day. When they left the children came to play and it was gone. She stated they just want to ask this - if they do not have the money to replace it, are they going to replace it or did they take it down - because what they moved there, there was not a new piece of equipment that they brought. It was old. She wants to know this afternoon if they have the money in the budget; did they find out it was not safe for their children to play on; are they going to replace it? She asked that they please give her some understanding, so she can go home and rest. She hopes she is making herself clear; that they understand what she is saying. She has been trying to get it over but it seems like people do not understand what she is saying. She knows they are intelligent; she has stood there so many times and talked to the City Council and they have understood what she said. They may not have agreed on everything, but they did not fall out or differ. She has a high respect for every City Councilmember; if she did not she would stand here and tell them she did not. She knows Mr. Diehl is here and she wants a specific answer before she leaves here. She remembers when the Mayor told Mr. Burkhalter, Mr. Burkhalter told Mr. Wylie. All these officials, please tell her what they plain are going to do. Did they find out there was something wrong with the old swings, and are they going to replace them?

Mayor Harris stated they will see if they can find some answers for her and asked Mr. Diehl if he could give Ms. McNeil some information.

Mr. Diehl, Superintendent of Park and Recreation, stated the equipment she is talking about is from Wilmore School. When they moved Wilmore School they were asked to remove the equipment; that Mr. Williams called him and asked if they could find some equipment to put out at Little Rock Apartments, and they did this. They went out and talked with the manager of the apartments and he showed them the playground area. That Temple Beth-El said

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that they had some equipment; they looked at it so they have three more pieces of equipment to take out there tomorrow, but they had to get that at Wilmore School first. He stated he was out there one day last week with Mr. Ott and he said there were about six or seven pieces of equipment that were up and in place. That he will guarantee that the equipment is safe.

Mayor Harris stated then the equipment is back; but where are the swings that were put up one day and gone the next day? Mr. Diehl replied that when they went out they had two swing frames and several climb-arounds that were not safe. They removed the climb-arounds and put new chains and seats in one swing; the other swing there was nothing there except the framework and they will put something in there as soon as they can get around to it.

Ms. McNeil stated she wants to know what happened to the swings that they put up? The Mayor referred the question to Mr. Wylie Williams who stated he does not have an answer now but he will get an answer for her. Ms. McNeil replied she wants an answer before she leaves. After further discussion, Council assured her they would get her an answer and Mayor Harris asked her to call if she has not gotten a satisfactory answer by Wednesday.

ORDINANCE NO. 148-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 R-9 TO R-6MFH(CD) OF PROPERTY FRONTING ON THE NORTH SIDE OF WOODLAWN ROAD, AT THE INTERSECTION OF WOODLAWN AND HALSTEAD DRIVE.

Motion was made by Councilmember Gantt, and seconded by Councilmember Chafin to adopt the subject ordinance changing the zoning from R-9 to R-6MFH(CD) as recommended by the Planning Commission on petition of Brevard S. Myers and Ralph C. Clontz.

Councilmember Short stated this would have followed their original planning on this procedure, if they could have formally adopted the Woodlawn Plan first. He thinks this conforms to the plan and he hates to bring this up since the petitioners have sat here all afternoon, but they may have led some citizens to believe that they would do this.

Mayor Harris stated that at the meeting Council had on the Woodlawn Plan last week, it was summarized by one of the Councilmembers that really the whole study was based on conditional zoning, and that is what this is.

Councilmember Trosch stated her desire to see the Woodlawn Plan as well as the SouthPark Plan placed on a future agenda for formal approval.

The vote was taken on the motion and carried unanimously.

The ordinance is recorded in full in Ordinance Book 26, at Page 58.

ORDINANCE NO. 149-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 O-6 TO B-1(CD) OF PROPERTY FRONTING THE WEST SIDE OF BEATTIES FORD ROAD, LOCATED ABOUT 600 FEET NORTH OF THE INTERSECTION OF BEATTIES FORD ROAD AND CELIA AVENUE.

On motion of Councilmember Locke, seconded by Councilmember Dannelly, and unanimously carried, the subject ordinance was adopted changing the zoning of property on Beatties Ford Road from O-6 to B-1(CD) to allow for a florist shop as petitioned by Pauline Sanders.

The ordinance is recorded in full in Ordinance Book 26, at Page 59.

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PETITION NO. 78-27 BY JOHN K. MOORE FOR A CHANGE IN ZONING FROM R-6MF TO O-6 OF PROPERTY FRONTING THE SOUTH SIDE OF COLONIAL AVENUE, LOCATED ABOUT 210 FEET WEST OF THE INTERSECTION OF COLONIAL AVENUE AND PROVIDENCE ROAD, DENIED.

Council was advised that subsequent to a protest petition having been filed and found sufficient, two parties signing this petition had withdrawn their names, thus rendering the protest petition invalid; that the Planning Commission recommended denial of Petition 78-27.

Motion was made by Councilmember Leeper, seconded by Councilmember Dannelly, for approval of this rezoning as requested by the petitioner.

Councilmember Locke pointed out that this was a unanimous decision by the Planning Commission, but acknowledged on being corrected that Mr. Tate voted nay.

Councilmember Gantt stated it seems to him that something very important here is the question of whether or not the issue of traffic safety and access to Providence Road is crucial enough at this point to allow an additional piece of property along Colonial Avenue to be zoned for office use. That apparently what the Planning Commission says is that the traffic problems are overstated, but that the problems related to the integrity of that neighborhood are more important.

Councilmember Selden stated he raised a question about access into Providence Road when the hearing was held on this petition, because he lived in that location 30 years ago. He has come to find that there are accesses on both sides of the building whereby you can enter on one side and exit on the other side - one way in and one way out. This would afford a much greater degree of safety. Also, he has been by there about eight times, including Friday mornings, and has yet to find all of the parking spaces in the back area completely occupied. That he believes it would be possible to enlarge the parking area and still stay within the dimensions of the properties themselves and provide additional parking space in the back. He is very concerned about any over run of existing office zoning crossing Colonial Avenue. That considering the fact that there is no practical way to give a road entrance or exit to Colonial short of changing the zoning of the property through which it goes, he would be very much concerned in opening the gate for office on that side of Colonial.

Mr. Selden made a substitute motion that the petition be denied. The motion was seconded by Councilmember Chafin.

Councilmember Carroll stated the traffic concerns were his major concerns and he believes Mr. Selden's analysis is right - that there is another way that they can be dealt with in a way that was not discussed at the hearing.

Councilmember Dannelly stated Mr. Selden's suggestion of going in and out one way makes sense. Of course, having been caught himself several times in succeeding in turning one way across traffic and find that he is going the wrong way when somebody is coming out, and traffic bearing down on you, there is a problem of not knowing what to do except just block up traffic. He pointed out that some fast food chains have tried to control traffic this way and found that they have had to resort at busy times to hiring off-duty policemen to control the traffic to keep people from getting caught like that.

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

YEAS: Councilmembers Carroll, Chafin, Cox, Frech, Gantt, Locke, Selden, Short and Trosch.

NAYS: Councilmembers Dannelly and Leeper.

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CONTRACT WITH HOMEMAKERS INTERNATIONAL COMPANY FOR A PROGRAM FOR 1,100 COMMUNITY DEVELOPMENT AREA ADULTS, PROVIDING HEALTH SCREENING, PHYSICAL AND HOUSEHOLD CARE.

Motion was made by Councilmember Locke, seconded by Councilmember Selden, for approval of the subject contract in the amount of \$129,544.

Councilmember Gantt stated that a month ago he asked that this contract be delayed to allow the opportunity for the Association for Sickle Cell to discuss this matter of sickle cell screening with the Community Development Department, primarily because they have spent a considerable amount of time in the last three years - since the existence of the CD program - trying to provide a similar type service to the CD area. He thought that the opportunity for them to provide the service existed in this Homemakers International contract. That he asked the staff to look into the possibility of finding out. That he understands at the meeting at which he was absent the value of the service was estimated to be \$5,000. This is completely different from what Ms. Beckwith and her board of directors were saying it would take to really provide a first rate program of sickle cell screening and the necessary health care associated with that. In fact, her budget was more on the order of about six or seven times that amount.

He stated it became clear in his discussions with the staff that what, in effect, Homemakers International was going to do was simply screen people and they would be referred to another program, not a local program, but some other statewide program. That the disparity in costs associated with the Association for Sickle Cell and their proposal for handling this service in Community Development can be explained by the fact that only the screening is going to be done by Homemakers International.

It occurs to him that because this is the only health provider that we have in the Community Development areas and because the sickle cell disease is generally known to be more predominant in black communities, somehow this contract is missing something. It does not propose to do any sickle cell screening since it has eliminated \$4,500 from it. He does not know whether the staff did that so that there would be no conflict with his concerns, but he would like to say that rather than not approve this particular contract for \$129,544, that they look to completing the health provisions that would be in the area of providing the additional services - the screening and the potential treatment.

That one way they might do that is to use the \$5,000 eliminated as seed money and look for other funds that may be existing, or possibly discussing with Mr. Person the possibility of getting CETA monies. That he understands from the Board of Directors of the Association of Sickle Cell and Ms. Beckwith, that they are receiving funds from HEW now and a new contract next year; that they would need in addition to the staff that will be funded by HEW, approximately two additional workers now, and they could handle a goodly portion of the work that would be required in the CD areas. That they miss the opportunity if they turn their backs on sickle cell screening.

That what he wants to propose is that they ask the CD Department to continue to work with Ms. Beckwith with the idea of probably beginning a program in another month or so. They can work out the details with the CD Department to get two workers in addition to the \$5,000 or whatever additional funds might be needed to carry out a full program in the CD area. That he supports the motion on the floor if Council would agree to go along with this.

Councilmember Trosch stated that she understands that the reason for taking out that portion on the screening and referral is that the referral is done through something that is already in place in the State to help people who are actually diagnosed as having this problem. She asked Ms. Beckwith what additional services does she propose to offer that would not be offered with this arrangement where they have the screening with Homemakers and then referred to the State agency for treatment thereafter?

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Ms. Peggy Beckwith stated there is a State Agency, and they are the ones she alluded to who do the counselling, which is the most important phase of any sickle cell program. The State program has one counsellor who serves twelve counties. And they are absolutely mandated to provide counselling.

Councilmember Gantt stated perhaps Ms. Beckwith would want to speak to the issue they discussed earlier about the fact that she needs at least two full time people to work; that he is just looking for a way if we do not have \$25,000 or \$30,000 to support the two people who would be required to counsel and whatever other support, to add this additional coverage to their present HEW funds.

Ms. Beckwith stated the entire Charlotte community is quite mindful of the fact that they have been funded for five years, but this was what they had projected as a program expansion to focus absolutely on the nine target areas that are being served by Community Development. All of the other services other than two fulltime employees, could be offered as in-kind services by the Association for Sickle Cell Disease. That again she would like to have it absolutely understood that Mr. Sawyer or appropriate people from his staff and herself need to get together to decide how many people they can serve for this amount of money.

Councilmember Trosch asked if she is referring to the \$25,000 or \$30,000 that they alluded to? Mr. Gantt stated Ms. Beckwith and the CD staff do need to get together, obviously. That the \$4,500 cannot do it, that it will allow some screening and referrals by Homemakers, but that what Ms. Beckwith is saying is that she finds it difficult to believe that they can provide the quality of service in the referral positions since that service has only one counsellor who covers twelve counties. That he also has some difficulty seeing that.

Councilmember Selden stated that in terms of this recommendation, the sickle cell phase has been lifted out, and there is a great necessity to go ahead and pass this part. That he shares Mr. Gantt's concerns very much that they should develop the appropriate program and hopes that Ms. Beckwith, Mr. Sawyer and whoever else, will come back to Council with an appropriate recommendation. But, this is important to go on with.

Ms. Beckwith asked that Council give them a time frame in which they can deal with this?

Councilmember Carroll stated that one of his concerns here is that if the Chore Services folks are doing the glaucoma, hypertension, heart disease, and other testing, he has some feeling that from just the economics of it, they could test for sickle cell cheaper than you could set up a new agency. That what they need to concentrate on with Ms. Beckwith is just a contract with counselling and how she could fill that role. That he is wondering if whether or not they should not go ahead and include the screening with the Upjohn people and then ask staff to see if they cannot come up with something that will fill what appears to be a counselling gap in the program.

Ms. Beckwith replied that it is absolutely against the law to screen people for sickle cell without education and there is no education named in this contract.

Councilmember Cox stated Mr. Carroll has a good point. That from what he understands of this situation, these Homemakers International people are in these homes every day in the target areas and are doing these other kinds of tests as well as doing some other services for the residents. To him it would be redundant for one of these people to have to say to a resident "Well, I can do your heart disease, hypertension, diabetes and glaucoma tests, but you will have to go down the street to get your sickle cell test." He thinks that is a problem.

He stated he also likes the idea about Ms. Beckwith's group doing the counselling program. Instead of referring them to the State, why could they not be referred to her group. He thinks that is a good idea.

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Councilmember Selden stated he understands that there has not been this screening prior to this time; that he also understands that if what Mr. Cox and Mr. Carroll suggest is desirable, they can amend this contract and get it back in. He is anxious that they go on and approve this contract and come back within one month with a recommendation for what to do about sickle cell.

Councilmember Dannelly stated that when Mr. Carroll was talking about what Upjohn could do at a cheaper rate that Ms. Beckwith made a statement that he does not believe many people heard, and he would like for her to make that statement again, so that, first of all, they could all hear it and so they can find out whether it is in the Homemakers, or Upjohns, proposal and whether or not they are proceeding without going about procedures relative to sickle cell anemia properly. He is somewhat disturbed that they go elsewhere to find someone to do work when we have local expertise - in his opinion, the best in the state - that they overlook. He is anxious to get the services provided by Upjohn on the road too, but he is also anxious to be sure that the people that seemingly 80 to 90 percent of the time are afflicted by sickle cell anemia are not passed over lightly.

Ms. Beckwith stated she thinks Mr. Dannelly was alluding to the fact that it is considered against the law to test the person without first educating them; and Mr. Dannelly asked if that is in the contract anywhere? Ms. Beckwith stated she has submitted a copy of North Carolina House Bill 32 in which this was clearly stated to Community Development, so they are mindful of it.

Councilmember Gantt asked if Ms. Beckwith is saying that before one can test for sickle cell anemia that there is counselling incurred prior to the time that they test the person? Ms. Beckwith replied they must be educated to the sickle cell syndrome before they can be tested in the State of North Carolina.

Mr. Gantt stated they have to assume that in the original contract that Upjohn was to do this kind of counselling prior to their testing. Is she suggesting that if they were doing that they could not do it for \$4,500? Ms. Beckwith replied definitely not, with the number of man hours involved in laboratory procedures, in counselling, in prior education, etc.

Councilmember Leeper stated he probably just needs a little bit of clarification on the point Councilmember Carroll was making. That rather than duplicate it, have somebody else do a job for which we have already given a contract, we just go ahead and re-include that \$5,000 in that contract and allow Homemakers to go ahead and do that. That his only concern is that we have someone who specializes in a certain area; that is what they look at in letting most of their contracts. If you have a specific field that you can provide at a high level, then it is his concern that they do that. He would not be concerned about making sure that they allowed too many people to get involved, providing an increase in cost, but make sure they get a high level of service. Sickle cell is a special kind of problem and they might need a certain kind of people to give the service.

Mayor Harris stated as he hears the discussion, and he has talked with Ms. Beckwith, he keeps hearing here an additional service that is not in the contract that they are talking about extending - a health service to the CD area. Do we have the funds for this?

Councilmember Gantt stated all he was talking about was that they ought to provide sickle cell screening, testing, counselling and what have you - they ought not to turn their backs on it. That this contract eliminates it and he wants to make sure that they get it back in the program. That they should use the best organization they can find.

Mayor Harris stated he is just asking how much money are they talking about, or do we have the funds? Mr. Gantt replied CD has already said we do not have the funds; and he is saying well here is an opportunity since Ms. Beckwith is saying if she had two additional staff people with her new grant from HEW she might be able to put together the program in the CD areas. He is saying use the \$4,500 that we have here, plus get Mr. Person to sit

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down with CD and let's work something out.

Mayor Harris stated that Ms. Beckwith had talked with him about a much grander figure than two people, and that is what he was wondering about. That they are interested in extending the service into the CD area?

Councilmember Carroll requested that, along with the information that they will be furnished about how they can put together the package Councilmember Gantt is talking about, perhaps a little more clarification about what Ms. Beckwith says has to be provided under the law if they are going to provide the services. He is not aware of that and feels they should know what that involves.

Mayor Harris stated if they are extending into the health services, then they really need to know what they are doing, more so than the idea of just putting people together. That Ms. Beckwith knows the field, and he is not speaking for Council, but he himself does not understand all that is involved. He asked Mr. Burkhalter if he understands the full ramifications of what she is speaking about from the standpoint of health services - extending sickle cell counselling, screening, education, the whole program?

Mr. Burkhalter replied yes, he thinks he knows what she said, but he is not quite sure the City can do that, but he believes he understands what Mr. Gantt wants him to look into. Council is leaving them \$4,500 to work with and would like for staff to come back with a program.

Councilmember Gantt stated the real point here is, as he understands it from previous contracts, they have given over this whole business of health care to the County; now we are getting into it. What he is saying is if they are into it . . .

Councilmember Trosch stated her point is that we are really making policy decisions here even in the contract we are entering into the health service area. That if we do this that we look in terms of what choices we are making. The choice to spend the money in one place is definitely a choice not to spend it in another place, or to reduce it as present allocations in other areas. She is very supportive of having an excellent program. That she would like a lot more attention paid to this question.

Councilmember Short asked where Homemakers-Upjohn is located - New York, Texas, or where? Mr. Sawyer replied it is a local unit that is going to administer this, that a representative of the company is present. The Homemakers representative stated they are a subsidiary of the Upjohn Company, they have 255 offices nationally, but there is a local office here in Charlotte. Replying to a question from Mr. Short, he stated they have been in Charlotte seven years, as long as this particular division of Upjohn has been in existence.

The vote was taken on the motion to approve the contract with Homemakers International and carried unanimously.

Mr. Sawyer stated he assumes the minutes will give them their instructions; that he really does not have a clear understanding of what they are asking him to do. That he will state what he understands and they can tell him if he is correct.

They have \$4,500 - total funds to work with. In addition to that, Council is proposing that they work with Mr. Person to see if they can find two qualified staff people, and that is all they have - \$4,500 plus two staff people. Mr. Gantt stated that is right, she has money from her new grant. Mr. Sawyer stated, in other words, she understands that she has money in addition to their funds? Mr. Gantt stated she has a grant that she has said she can use for two qualified people and whatever support funding is needed for that to carry on a program which has to be defined by Mr. Sawyer, the availability of Mr. Person's manpower program to provide funds - he has indicated he is only committed to the end of this fiscal year. That he is looking for what can be put together by Ms. Beckwith, by the CD Department and by Manpower to see if we can get a program.

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ACTIONS TAKEN TO IMPLEMENT THE HELP THROUGH INDUSTRY RETRAINING AND EMPLOYMENT PROGRAM.

The following actions were taken to implement the Help through Industry Retraining and Employment Program:

1. Acceptance of a CETA Title III Grant from the U. S. Department of Labor to provide funds for a Help through Industry Retraining and Employment (HIRE II) Program during fiscal year 1979, for a total of \$102,590 - on motion of Councilmember Selden, seconded by Councilmember Cox and carried unanimously.
2. Approval of a contract with the Employment Security Commission of North Carolina for the administration of the CETA Title III Help through Industry Retraining and Employment Program for 69 unemployed veterans, persons eligible for veterans' preference and other eligible individuals, for a total of \$101,590 - on motion of Councilmember Seldon, seconded by Councilmember Chafin, and carried unanimously.

RESOLUTION OF THE CHARLOTTE CITY COUNCIL ENDORSING AND ESTABLISHING THE CHARLOTTE SISTER CITIES COMMITTEE.

Councilmember Chafin moved adoption of a proposed resolution establishing a Sister Cities Committee to carry on the on-going activities between the City of Charlotte and the city of Arequipa, Peru - a relationship which has existed since 1962.

Councilmember Trosch raised questions about statements in the agenda attachment. That it states one of the purposes is to promote better understanding of the ethnic communities surrounding the City of Charlotte. Then it does not mention a member of the ethnic community on the Board of Directors. She thinks they should be represented. That also it makes reference to an annual contribution from the City of Charlotte's budget. Mr. Wylie Williams, Assistant City Manager, replied that at this point it will be a non-profit corporation so it will be self-sustaining and take care of itself. Mayor Harris stated this is a real good step to formalize a very informal arrangement.

Councilmember Trosch stated she does think that the ethnic community should be represented. Mayor Harris stated that is a good point; he thinks every area in which we have a Sister City, we can have someone from that area.

Councilmember Carroll asked if there is any figure in mind when they talk about annual contributions. Mr. Williams replied no because they do not know what kind of things they will want to do. Mr. Carroll stated this is the kind of thing that if it is going to be important to the City and not just important to City officials, we need to have community support, and it should be self-supporting.

The vote was taken on the motion and carried unanimously.

The resolution is recorded in full in Resolutions Book 13, at Page 382.

ORDINANCE NO. 150-X TRANSFERRING \$1 MILLION FROM 1972 AIRPORT BONDS TO BE USED TO FUND THE DEVELOPMENT, ARCHITECTURAL AND ENGINEERING FEES FOR THE NEW TERMINAL COMPLEX AT DOUGLAS MUNICIPAL AIRPORT.

Motion to adopt the subject ordinance was made by Councilmember Locke, seconded by Councilmember Selden.

Councilmember Short stated he has received over the years, including recently, a little bit of complaint from citizens about smoking at the airport. That they should ask the architect who will be designing the new terminal to come in and with the City Manager discuss with Council whether this new terminal can be designed in some way to minimize this problem. That now is the time to do this. That it is difficult to do anything in the present terminal,

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but as a political body Council should have some discussion about this as they get into the design of the new terminal. It is important and related to this motion. That the people who have mentioned this to him have not been members of non-smoking organizations, but people who are trying to retrieve baggage, buy tickets, etc.

Mr. Short made a substitute motion adding that the City Manager and the architect be asked to come to Council and discuss whether the new terminal can be designed with special places for smoking, which will protect those who are purchasing tickets and doing other necessary business. The motion was seconded for discussion by Councilmember Frech.

Ms. Frech stated she wonders if that is the way to deal with the problem. You can always deal with the problem by doing what many communities are doing around the country and that is forbidding smoking in public buildings. But, on the other hand, may be she and Mr. Short are saying the same thing - that they may need certain areas where smoking would be allowed.

Mr. Short stated he has not gone along with those who have tried to get him and perhaps other members of this and other Councils to prohibit smoking in the present airport terminal, but he does think they should look into that as we go into a new one.

Councilmember Trosch asked if the architect has already been chosen? The reply was yes. She asked how was the contract awarded? Councilmember Locke replied it was done in October of 1973. Ms. Trosch stated before the voters knew that they were not going to build an airport? Mayor Harris replied we knew we would build an airport terminal some day.

Ms. Trosch stated then the contract was awarded to an architect before the voters voted for a bond approval. Are we then legally committed to this contract?

Mr. Birmingham, Airport Manager, replied yes, we have a signed contract with Odell Associates; that it could have been financed with revenue bonds just as well.

Councilmember Locke explained that the Airport Advisory Committee recommended it to the City Council in October of 1973 - the last act before the three new Council members came into office.

Councilmember Trosch stated she personally would like to have a more legal opinion on that because this was four years ago and we are already committed to an architect. If, in fact, we are committed to the architect, she would like to have assurance that - during the bond campaign, the people who worked so diligently on it assured people that we would stay within that budget; that Council would not be coming back to them; and many of them felt that they said it with such confidence. She would like to have assurances that it will stay within the budget.

Ms. Trosch stated she has a problem with acting on this particular motion at this time because as far as she is aware the contracts with the airlines have not been signed. That when she found out, in supporting the airport referendum, that the contracts had not been signed it caused her problems personally. But she was assured that nothing would be permitted as far as the bonds issued. She understands that this is going with the 1972 bonds, but if something happened with the contracts, they would be committed to this appropriation. She would like to first see the contracts signed before Council commits themselves.

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Mr. Birmingham stated the airlines contracts will be submitted to Council on August 7th. Ms. Trosch stated then she will move that this matter be deferred until August 7th.

Mr. Birmingham stated this is an administrative procedure only to set this amount up. Ms. Trosch stated she still would prefer not to act until they have the contracts.

Replying to Ms. Trosch concern about the assurance from the architect that he will stay within the budget, Mr. Birmingham stated that during the past three or four days he and Mr. Burkhalter have had several discussions on the procedure to do this, and they both are committed to this, and he thinks the City staff is committed to this.

He stated there is a clause in Mr. Odell's contract that recognizes the expertise of Mr. Thompson in the field of airport planning, both from the functional viewpoint and from the financial viewpoint, which means they will be subordinate to him. He can assure Council that they intend to monitor that and that Mr. Odell is aware of the restraints in the contract.

Mr. Burkhalter stated they are talking about a very large financial deal - \$50 million or more involved in this contract - highways and other things which could run this up to around \$80 million. He stated we do not have the in-house capabilities for doing all this at the present time. That Council will have the control factor - no contract can be let until they approve it. If staff comes in with a terminal that is \$5 million over, then they can just not approve it. That is what he would recommend.

That the problem will be if they come in with \$5 million over and they do not approve it; then they will have to go over the process again - that would be plain stupid, in his opinion. They will have for Council's approval and will discuss with them how they plan to control it - it will probably be through some project management arrangement. It will be rather expensive, but it will be well done. They will be dealing with five airlines, with the State government, with the Federal government, City government, County government; with an architect, a financial consultant, an airport consultant, and an engineering firm. It will require constant and continual monitoring, and they will have a system for doing this. That Council will know all the time how it is going to be done. They will have some reporting procedures to divide this up, so that it is not just Mr. Birmingham telling them this, or just himself telling them. But, they are not prepared now to tell them exactly how it is going to be. They have interviewed nine firms trying to get some input into this sort of thing. That he can tell them one thing - anything that he has anything to do with about this airport is going to be done within that dollar. The architect does not have that power; none of these people have the power to overrun this situation.

Councilmember Gantt stated he thought for a while Ms. Trosch wanted them to go back through the whole process of selecting an architect. With regards to the comment on commitment to the architectural firm selected by the Airport Advisory Committee and a former Council, that is not unusual. We also have Mr. Pease doing the City-County Government Complex and other studies that they have spent money on that they have no commitment on funds from anybody. That they should move posthaste to get the planning started on this thing right away because inflation eats away at that \$47 million everyday.

Mr. Gantt stated that as he went down the list of things on today's agenda, he made a comment to a staff member as to why it was so thick. The reason for this is that about six or seven items have been deferred from previous meetings. He stated it is good for Council to be deliberative, but on some of these issues, such as this on which Ms. Trosch is suggesting that they not make a commitment of funds to hire the architect - funds that are not even from the \$47 million package - to begin that process until they are certain that Mr. Birmingham is going to bring those contracts in on the 7th, he just does not think they should go that route. They have to believe that

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the contracts are going to be in line - they in fact said that to the voters in this community even though they knew the contracts were unsigned, that they were positive that the airlines would follow through, and he sees no reason to believe that they will not at this point. Here again, let's bite the bullet - we want us an airport!

Councilmember Carroll stated he assumes that Mr. Birmingham would like to get this before the next meeting, and Mr. Birmingham replied that he would. Mr. Carroll stated he shares some of Ms. Trosch's concerns about proceeding in a business-like manner in that his feeling was that perhaps they should have had the contracts signed before they voted on the bonds, but it really is not something that is going to cause any detriment to them to go ahead and proceed with it. We are too far down the road now.

The vote was taken on Mr. Short's substitute motion and carried as follows:

YEAS: Councilmembers Carroll, Chafin, Cox, Dannelly, Frech, Leeper, Selden and Short.

NAYS: Councilmembers Gantt, Locke, and Trosch.

The ordinance is recorded in full in Ordinance Book 26, at Page 60.

CONTRACT WITH W. E. UNDERWOOD, JR., ATTORNEY, TO PROVIDE LEGAL SERVICES TO THE CITY ON MATTERS RELATING TO DOUGLAS MUNICIPAL AIRPORT.

Motion was made by Councilmember Locke, seconded by Councilmember Chafin, to approve the subject contract for legal services on matters relating to the airport, at a rate not to exceed \$65.00 per hour.

Councilmember Trosch stated the last contract with Mr. Underwood had a cap on it - a total figure - and asked why this one does not have that?

Mr. Birmingham, Airport Manager, replied the reason they did not do that on this one is the fact that the bulk of the pending noise suits will come out of projects. In other words, most of Mr. Underwood's time now is charged to projects. That in the previous contract they just made a wild guess - basically that is all - they did not really know. A lot of Mr. Underwood's time has been charged to individual projects. The lawsuit exceed \$60,000. Not only Mr. Underwood's time but other time so the total project came to about \$300,000 in consultant fees. That what they do is charge the appropriate time. Based on the new contract with the airlines, the airlines are picking up 80 percent of this cost.

Councilmember Gantt stated it would be helpful to the Council, considering the size and scope of the project and after they get into construction and other techniques that Council might not be familiar with in the normal projects they have had to deal with, he wonders if at some point Mr. Birmingham can summarize the projected dollars that are going to be spent in non-capital costs - not the construction dollars for the terminal, but all of the different consultants and other kinds of people we are going to have and what their contract amounts are likely to be. That they need to see the blueprints of where we are going.

Mayor Harris stated Mr. Gantt's point is very well taken because they will be going through this process for years as far as contracts coming to Council and he would like to see a chart too of where they are going.

The vote was taken on the motion for approval of the contract and carried unanimously.

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ORDINANCE NO. 151-X PROVIDING \$1,995,000 IN 1972 AIRPORT REVENUE CONSTRUCTION BOND FUNDS FOR LAND ACQUISITION ASSOCIATED WITH AIRPORT EXPANSION.

Motion was made by Councilmember Cox, seconded by Councilmember Selden, to adopt the subject ordinance, providing \$1,995,000 in 1972 Airport Revenue Construction Bond funds for land acquisition associated with airport expansion.

Councilmember Frech asked if 75 percent of this money will not be gotten back? Mr. Birmingham replied if not, then 80 percent of that money is guaranteed by the airlines in the new contracts. He stated this land acquisition represents 18 houses on Wallace Neal Road and 11 houses on Besser. That this amount covers relocation costs, appraisal costs, and legal fees as well as the cost of the land.

Councilmember Leeper asked if some negotiation has already been made with these people? Mr. Birmingham replied no, the only thing they have done as preliminary is the appraisal. Mr. Leeper stated that at some point he would like to see a breakdown. Mr. Birmingham stated that in their basic estimates they counted on the maximum amount at each location.

The vote was taken on the motion and carried unanimously.

The ordinance is recorded in full in Ordinance Book 20, at Page 61.

TECHNICAL ADVICE TO BE SOUGHT ON SETTING NOISE LIMITS FOR PERFORMANCES IN MEMORIAL STADIUM.

Councilmember Selden moved that in considering the City's policy on concerts in Memorial Stadium, that permission for future concerts be granted on the basis of controlling the sound to 85 decibels for amplified sound - 85 decibels at the source of the sound. Mr. Underhill, City Attorney, advised that the City's noise ordinance sets the noise level at 85 decibels at the property line.

Mr. John Hasty, Attorney for Kaleidoscope Productions, stated that in January of 1978 his clients began to work with Council to try and develop a working policy for use of the outdoor public facilities in this city. He is not talking about Memorial Stadium necessarily. That in order for any such ordinance to be legally enforceable it will apply to every amplified sound in the City, football games included.

He stated that instead of taking the course in which they felt they were legally justified in taking, they worked with this Council through the City Attorney, the City Manager and came up with what they felt was a very workable and good policy. That his client, at no small expenditure of funds, held a concert which adhered not only to the letter of that law but to the spirit of that law. Not only did that concert adhere to that policy it also adhered to the City ordinance which admittedly is not even adaptable to it, that is the sound emitting from the stadium did not exceed 85 decibels at the property line.

In reliance upon the policy of this Council, his clients have also signed a contract for another concert in the Stadium on August 20. He stated they did not ask for Saturdays and Sundays. If they will check back, they asked for Fridays. But, in reliance upon the Saturdays and Sundays, they have expended money and placed themselves in a position with others, which this action would undermine. He stated that he is reminded of Councilmember Cox's comments to the young men who wanted to sell ice cream in the parks, in not wanting to renege on a contract.

He stated his clients will be happy to stage concerts on Fridays and Saturdays in the future; but this comes at a time when, in reliance on the old policy, they have already made contractual commitments to the performers. Aside from that point, he realizes that you can control sound by turning a knob. He would remind them that 85 decibels, according to the sound studies on Independence and the Northwest Freeway, is quieter than the traffic on

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Independence Boulevard. Traffic everyday on Independence Boulevard is 92. The city buses which this Council operates on a daily basis in front of his office is 92 decibels. The machinery that digs up our streets everyday in front of every one of our homes is 95 decibels; the noise emitting from the Washburn Press rooms down on McDowell Street is 86 decibels. He simply says to Council that 85 decibels is unrealistic. But the main point about sound regulations is that you cannot get two experts to agree on how to measure it. He has been involved in other cases with the motorcycle industry which EPA attempts to regulate the manufacture of, and the war rages on without end as to how exactly do you measure what the sound is. He would suggest to Council that what they are hearing is not an objection to the sound but an objection to the music.

He stated he has lived in Charlotte all of his life, as a number of the Councilmembers have, and he could hear bands playing at the Shrine Bowl on Wendover Road. That he supposes not as many people object to John Phillip Sousa as they do some of the other people who play from time to time. That needless to say, it is a concern. That his point simply is that he does not feel that they can adequately police sound at the source of the amplifiers. Making it adhere to the 85 limit at the street is fine because he knows they will not have any problem with that. Secondly, if they want to limit it to Friday and Saturdays in the future it is fine with them because that is what they originally wanted, but as to the concert which is scheduled on August 20th, they are already committed and the City is holding their money at this time for that concert.

Councilmember Short stated the contract with Ogden Foods was a contract between the Park and Recreation Department and the food operation that went on for five years; but what happened on the matter of the policy statement that Mr. Underhill and others worked out was that this was just basically a policy directive sent to the Parks Department approved by the Council - there was no contract between the City government and Mr. Hasty's client. That it seems to him that the City Council can change its policy. That he is of a mind to stick with Mr. Selden's motion because he thinks it is very dubious to pull this kind of event in Memorial Stadium. If they want to have one up at Union Grove, that is kind of a rural area and that is where most of these things are held. He has a little bit of information about this census tract - there are 2,499 citizens living in the census tract of several blocks around the stadium, and he would say that very, very few of these citizens are of an age that they are going to care a thing in the world about this sort of concert. Maybe Mr. Hasty is right in saying that they just do not like the nature of this music, but he thinks he was saying the same as he is saying that this is just not an appropriate place to have this sort of activity anyway. That they should go ahead with Mr. Selden's motion.

Councilmember Leeper stated he does not have a great deal of concern about this. That he has never been to a rock concert and probably never will go. But the facilities that we operate are for all of the citizens of Charlotte. That from what Mr. Hasty has indicated, he has tried to sort of bend over backwards trying to work with the Council to develop a policy on whether we are going to have rock concerts in the City. There was a great deal of concern indicated when they undertook to look at a policy of rock concerts because of some of the crowds that might come about because of some of the people who might be interested in that kind of activity. That from all of the reports he has heard so far from the activity that occurred out there, it was much better than anyone even expected, himself included, because he had some concerns. He was pleasantly surprised that it turned out the way it did and we did not have any substantial instances; that the only concern that the citizens had was it was a bit noisy. That it is important that they keep this in mind - sometimes they lose sight of the fact - that they are not only talking about rock concerts but when they deliberate and talk about the kind of policies they are developing they are talking about all other kinds of activities. That many of them like to go to football games and other things that some of the young people may not be interested in. But when they develop their policy they need to try to be fair and take all of these factors under consideration. That some of the things that take place out there, whether it is at a football game and some of the people are trying to get home who are not interested in it are going to be confronted by the traffic problem and other kinds of things. That is just a fact of

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life in living in a big city with all of the kinds of activities that take place. It is going to be inconvenient sometime, but that at the expense of the citizens not being able to enjoy some of the activities that the Council can provide, or allow to appear in our city, they ought to always keep in mind that they are trying to provide certain kinds of activities so that we can have a broad base of interests for all of our citizens.

Councilmember Short stated the motion allows for the concert - it just sets rather minimal regulations. Mr. Leeper stated it just seems they are trying to do things that will undermine all that they have done in terms of developing a policy.

Councilmember Selden stated he received 24 complaints of noise and one recommendation to extend the concerts. He feels that there is a sector of this city that wants the concerts and that is why he would like to devise ways and means of having them. His greatest concern is that the noise was a serious detriment to the people at Presbyterian Hospital and the Hawthorne Nursing Center. At one time the City had quiet zones in front of hospitals. That the 85 decibel limit is not a serious limit when you consider what is now being said with respect to excessive sound causing actual deafness at very short ranges above that. That recognizing the promoter's contract situation, he would be willing to waive the Sunday situation for the August 20th event. But, he is anxious to protect that part of our city who do not appreciate the sound situation and want to sleep at 10 and 11 o'clock at night. That they should be afforded that opportunity.

Councilmember Cox stated it appears to him that the only thing they disagree on is the 85 decibel. That Mr. Selden says it should be at the speaker system and the City ordinance says it ought to be at the street. That he contends there are at least two football fields in between and he tends to believe that 85 decibels at the speakers you could hardly hear it by the time it got to Independence Boulevard or to some of the neighborhoods around there. Therefore, the 85 decibels at the speakers may be too restrictive and he would suspect that it would be very difficult to implement. But, on the other side, he thinks the promoter really "screwed up" because they have to be sensitive to the fact that we live in a city; he went out and got the loudest guy going; we would not have this problem if Ted Nugent had not been here that day.

Councilmember Frech stated considering what Kaleidoscope has been through, and she thinks they did a good job managing that concert, she does not think this is the time to change the days that they can have the concerts. It may be that later they will want to consider that, but the key is really the noise. That perhaps they are attempting to set an arbitrary limit without really knowing what would be possible. That they need some good technical advice on how you can set a noise level. She has to disagree with Mr. Hasty that 85 decibels is unreasonable. That Raleigh has a city ordinance now that allows no higher than 75 decibels in industrial areas and 55 in residential areas.

Ms. Frech made a substitute motion that the days for concerts not be changed at this point but that they seek competent technical advice as to what kind of limits they might set on the noise. That if the noise was controlled there might not be so much objection to Sundays. That whatever limit they set would apply to any performance in the stadium. The substitute motion was seconded by Councilmember Leeper.

Councilmember Dannelly stated he has listened to Mr. Selden and Mr. Short sort of modify their motion a little. That he does not go to these things either, and a lot of what is bothering him is the fact that we have Sunday concerts. He is just that old fashioned. On the other hand, from what they have been told, they started out with the worse there is - Ted N . So, they have weathered that storm and basically we did not come out too badly. That the biggest part of it was that it was held on a Sunday and a lot of us still hold Sunday sacred. That we have an ordinance on noise that is fairly adequate. That someone needs to come up with a better system of measuring or determining what is too loud and what is not - that what is too loud for him may not be too loud for someone else. That is one of the things they are dealing with. He wishes we had a stadium or a sports complex way out somewhere in the County where

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we would not have to be bothered with this kind of problem, but he certainly more or less agrees with the modification except that our noise ordinance is adequate as it is.

Councilmember Gantt stated he thinks Council has over-reacted; they really have not given themselves enough time to evaluate these concerts and this in his opinion indicates a kind of instability in this Council; they have just not had enough experience with this policy to know. That he would ask that Ms. Frech amend her motion to simply leave open the question of first of all, at least sticking with the idea that they comply now with the City ordinance until such time as they can come back with some expertise on this. It is not clear to him that if this motion is passed, whether or not the promoter will be allowed to have the concert he has contracted for. That a better motion would be to comply with the City ordinance as it now stands, which is 85 decibels at the property line, which is what they were required to observe at the first concert. That since he is agreeable to changing the dates, make effective September 1, Friday and Saturday concerts. This allows him to put on his concert as is.

Ms. Frech stated she did not intend to stop them from having the next concert; she just intended to get the technical advice on what limits might be set on noise. Mr. Gantt stated he thinks Friday and Saturday is amenable to a lot of people and everybody is willing to do that. Mr. Cox stated what they are saying is that after the Eagles concert, Friday and Saturday, and get some good noise advise. Ms. Frech asked no concerts at all on Sundays? Ms. Chafin stated that is a question they really to address to Mr. Underhill. Ms. Frech stated she will not accept that part of it.

Mr. Hasty stated he will instruct his client not to submit any proposals for concerts other than on Fridays and Saturdays after this Eagles concert. If Council wants to examine the days of the week further, but this was their "rathers" to begin with. He assured them that with this performance they will not have anywhere near the complaints which they had on the other performance. As far as noise is concerned, they of course are interested in plying their trade with as little controversy as possible. If there can be some way that a study can be developed concerning the noise, they will be happy to do whatever they can to go along with it. That they can see from their past actions that they have tried to work with Council.

Councilmember Carroll stated that the Charlotte News had their decibel meter out there and it was 100 decibels in the stadium; that he thinks in terms of doing their own research on what is too loud and what bothers people who live a considerable ways from the stadium, that they know what is too loud; that something like the proposal that Councilmembers Selden and Short have suggested, maybe they can say 85 decibels measured at the 50-yard line which would be the center of the stadium, as opposed to the speaker, might be some way to hit something agreeable and make sense. He has no problem with going along with what Councilmember Gantt says either in studying the solution. They have learned where the outside limit is, but he agrees with Councilmember Leeper that they do not need to over-react; that we had 14,000 or 15,000 people who were interested in being there and they have to take their needs or desires into consideration too.

Councilmember Frech stated she wants to clear up one point regarding her motion - are they now talking about that they may be scheduled Friday, Saturday and Sunday? That she had stated it should stay unchanged, but seek technical advice. There was discussion as to whether the noise ordinance would automatically apply, with Mr. Hasty stating there was some question as to whether or not a function at a city-owned facility would be covered under the ordinance. The Mayor asked if that was right and Mr. Underhill replied yes, the Festival in the Park, for example, he does not think would be covered by the 85 decibel limit.

Ms. Frech stated she is not quite clear about what they have done about the dates that are allowed. Mr. Gantt stated they should let this concert go on on the 20th; that if they want to change the date they do so afterwards, and he used the date of September 1. Ms. Frech stated they should not do that without further thought because she does not know that you can ban one type of concert.

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Councilmember Selden stated he wants to say one thing about the noise level with respect to the technical advice, etc. That stadium is a bowl, and you get a high noise level and greater distances where it echos from the inside of the bowl than you do at the immediate property line.

Councilmember Chafin stated she would like to see - if it is legal - the Council eliminate the concerts on Sunday afternoon; that a number of the Councilmembers have expressed an interest in this; and she would like to get an opinion from the City Attorney on this.

Mr. Underhill asked "What kind, just rock; how about if they get a gospel sing scheduled?" Ms. Chafin replied that is her question; can they eliminate Sunday afternoons for one type of entertainment and not for others.

Mr. Gantt stated that is a cultural question they are getting into.

Mr. Burkhalter stated if they amend the present plan to have the concerts on Fridays and Saturdays only, after September 1, and say no rock concerts otherwise, they will not have any problem. This man does not want to have them on Sunday.

The vote was taken on Ms. Frech's motion and carried as follows:

YEAS: Councilmembers Carroll, Cox, Dannelly, Frech, Gantt, Leeper and Trosch.

NAYS: Councilmembers Selden, Locke, Chafin and Short.

PARKS AND RECREATION DEPARTMENT INSTRUCTED TO MINIMIZE PARKING AT INDEPENDENCE PARK WHEN IT INTERFERES WITH RECREATIONAL AND ATHLETIC USAGE; COUNCIL TO REVIEW SITUATION IN ONE YEAR.

Consideration was given to a parking Plan for Independence Park.

Mr. John Blume, 506 Louise Avenue, stated he is concerned by the staff report which does not address in any way the inappropriateness of a plan which calls for cars to be parked on space that is valuable to residents of the neighborhood and the city for recreation, as well as land that is used as a school playground. Further, it fails to make any mention of the parking that is currently available, parking of more capacity than is presently being used, but also space that in all likelihood would not have its normal quota of cars at the precise time that they would be most needed - during holidays and special events.

He stated they have prepared a list of parking facilities, publicly and privately owned, which could be used if the need arose. Apparently no attempt was made in the report to explore the technique which Mr. Diehl has said worked very well in the past - the park and ride shuttles which were used very effectively during the Billy Graham crusade. They appreciate the information which the City and CPCC have provided. They applaud CPCC's decision to locate in the City where transportation, services and cultural events are readily at hand, but where space is at a premium. They realize that the City must support CPCC as a distinct benefit to its vitality, and technical and individual growth. However, they are fearful of the situation in which Mr. Diehl is forced to bargain at a disadvantage with CPCC with our parks held as hostage.

He stated the staff report notes there is a shortfall of 4,745 parking spaces. That will not be eased by the parking in question, which at most can only hold a fraction of that number. What this solution does do is to deny the community and city residents open space for which blacktops and parking lots are not adequate compensation. The real solution to the problem needs to be bolder & more far reaching than the appropriation of a park. It should include incentive for faculty, staff and students of CPCC to use the good and expanding bus system which the City owns; to negotiate with owners of privately-owned parking lots to provide parking for city events; to provide shuttle transportation from massive publicly owned but under utilized parking facilities. They urge the City Council to rule on this matter with great care. That while it is common for land to be turned into parking lots, the reverse is virtually unknown. Council's decision will have both immediate and far-reaching impact.

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He stated we are living in a time when more and more state and local governments are finding themselves short of park and recreational land - land consumed in the past by shortsighted solutions and careless development. He stated the list which he has provided the Council gives parking areas that are easily within shuttle distance; a lot of them the City owns and are not being utilized. That the only time the stadium, to his knowledge, has been filled in the last two years, is for the Shrine Bowl game and there just is not enough parking in the area - they park all over.

That 25 percent of all the buses go right by CPCC when they go to the square, or within one block. Another 25 percent at least go immediately to the square where they can transfer to CPCC.

Councilmember Carroll moved that Council adopt a parking plan which would discontinue the use of Independence Park as a parking area, and which as a part of the general parking plan which we have in connection with the use of the stadium provide that facilities will be designated to use other existing facilities by shuttle or other means to accommodate the crowds. Following an exchange between the Mayor and Mr. Carroll as to whether or not the latter part of his statement is included in his motion, Councilmember Gantt seconded the motion for the purpose of discussion.

Mr. Carroll stated the key thing for him is he does not mean to underestimate the difficulty that this poses and how they arrive at what is really the best policy for the whole city. But, they see in the statistics which they have in the report that no matter which way they go on the use of Independence Park they are still several thousand parking spaces short to really utilize the stadium in terms of the parking needs. It means that if they are going to apply to themselves the same requirements which our zoning laws would apply to someone else using another facility, they have to develop some additional parking space. That the space in the park does not really tilt the balance either way; therefore, if the space in the park would solve the problem he could see where there would be more pressure to embrace that as the solution. But it does not do this; that when the Billy Graham crusade was held here, they parked cars in the park and used buses to go to the Coliseum. That this is an opportunity to use the reverse of that and park in the Coliseum and use buses that go straight down Independence to the stadium. In fact, the Shriners very often use bus transportation, because of the parking problem.

He stated they can also see that this puts some pressure on Central Piedmont, but they have not been the prime movers in putting that crunch because they have had a crunch of the same magnitude caused by additional roads being built. That part of the long term solution to this, if in fact the inner loop is built and it is elevated at that point, is to build some parking decks underneath that and utilize that space for more than just a right-of-way. However, we have not gotten to that stage yet, and the parking problem is going to be bad there. This is not something that will solve CPCC's problem, although it will have some impact. He feels they have extended the no fare zone to CPCC and have done other things to encourage the use of mass transportation for them and this will perhaps provide more incentive and, above all, it will give a larger recreational area that can be used during the fall and the winter for a number of citizens who live right there in the area.

Mr. Barry Blackwood of Park and Recreation Department provided Councilmembers with copies of an addendum to their report, stating that the department sent a letter to 122 businesses within a two and a half mile radius of Memorial Stadium. That 17 replies were received. Of those, 7 stated the City may lease or borrow parking space, 7 stated they would not permit such use; and 3 are not sure and may negotiate.

Again, they would like to recommend to the City Council the continued periodic use of the two ballfields in Independence Park as a parking area for the Stadium-Park Center complex to help alleviate the existing inadequate parking facilities. A statement made earlier seems to indicate that they have taken part of a school playground and are parking cars on it. This is not the case. Part of the school facilities are indeed located on Park and Recreation property.

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He stated the park was not taken from to make a parking lot; it was constructed for that purpose in the 1930's under the WPA program which was started by Franklin Roosevelt. The ballfield and the parking lot were built to accommodate the stadium. Since that time the parking lots have been depleted by Independence Boulevard and further taxed by the expansion of Central Piedmont.

They realize there is a problem; there is more park land needed in this community. They are now doing a feasibility study to see about using a portion of the Firemens' Hall property for parking for this area, which would help the situation. But this is too far, they feel, from the stadium to help the parking. They recommend that Council continue the use of this park until they decide to build a stadium elsewhere. To say that the depletion of 800 spaces would not make that much difference, is like saying that if a man spends more money than he makes it will not matter if he spends a little bit more.

Councilmember Gantt stated the report from Park and Recreation is excellent and covered all of the points; he has heard Mr. Blume's reasons and although he sympathizes with the residents of Elizabeth on this, it is clear to him that they exasperate the situation by eliminating the spaces at this time.

Councilmember Leeper stated his thoughts are along the same line, but he feels obligated to tell Mr. Carroll that he shares his feelings on parks; that he feels in an awkward position because he also shares the concern that Central Piedmont is a very important entity in our community. That where there is already a shortage of parking facilities, to consider eliminating those that are available - he understands exactly what Mr. Carroll is trying to do and that is to speed up the process that Council might take the ball and actively look at some available parking. That they will have to do that. He is also concerned about whether they are to cut out before they make available. That some students may not be able to attend Central Piedmont because they have to walk a long distance to a car at night. It gives him a great deal of concern, and for that reason he is having difficulty in supporting Mr. Carroll's motion.

Mr. Blume stated he is concerned as to who Council is trying to provide parking for; for city functions or for Central Piedmont? The reply was both. Mr. Blume stated he was under the impression that CPCC was more or less governed by County and State government, not City Council. Councilmember Chafin replied that is correct, but it is a service to the community, the citizens of Charlotte.

Councilmember Short offered a substitute motion that the Park and Recreation Department be instructed to make an affirmative and continuing effort to minimize any interference from the parking with the recreational and athletic usage of this lot. The substitute motion was seconded by Councilmember Locke.

Councilmember Carroll stated perhaps the steps they should take in fairness to Central Piedmont - he sees that as being a major concern - it is the major problem with the usage during the fall and winter. If it does not rain you can park cars for a big event like the Shrine Bowl without that much damage, and as the report states, the department does go in and re-do the ballfield the next day. But, perhaps to give some impetus to other aspects of government who do deal directly with Central Piedmont, that Council ought to indicate that they would like to change their policy after a year and use it more as a park and this will give them the transition time for Central Piedmont to do a little more working within; also they can continue to work on meeting the other 2,000 space needs. If they have some good examples of how they can meet those and use the Coliseum parking lot, it may be a precedent that is helpful in deciding how they should handle the overall problem. He asked Mr. Short to include as a part of his motion that they express an intent to keep this policy with Central Piedmont for the next year but at that time they would like to try to return the park to principally park use if means can be found. Mr. Short agreed that it would be reasonable to try to do something about this situation and he will make it an addition to his motion. Ms. Locke stated she has some problem with that because she does not want to put any time limit on saying that this will be the end of it and in a year it is going to revert to park land; if this is what the amendment means, then she can not support that.

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Councilmember Chafin suggested that the amendment state it would be reviewed in a year with an eye toward having it revert back to park land. This was agreeable.

Mr. Marion Diehl, Park and Recreation Superintendent, stated they are booking a professional soccer game; a Grand Prix horse show and they want to sign for three years, it is one of the thirteen that follows over the country and it will be a very large one, and he just cannot imagine operating a stadium without parking facilities. He agrees with what the Councilmembers are saying, that parks are their business but operating the stadium is also their business. If they could get other areas for parking, then he would say yes. They do not want to use the ballfield, but it was a parking place for Memorial Stadium long before it was a ballfield.

Councilmember Short restated his motion that the Parks Department make an effort to minimize any interference that parking might cause the recreational and athletic usage, and that Council review in a year what might be possible in terms of better parking and better recreational facilities for the Elizabeth area.

Councilmember Carroll stated there are two little things - would he mind including in the motion that they would like to discontinue parking. He thinks they need to get some incentive to the folks who might be building the parking lot. Mr. Short stated that is implied in the fact that they offer to review it.

Councilmember Cox called the question, which was seconded by Councilmember Selden, and carried as follows:

YEAS: Councilmembers Cox, Short, Chafin, Dannelly, Frech, Gantt, Leeper, Locke, and Short.

NAYS: Councilmembers Carroll and Trosch.

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

Councilmember Carroll asked in regard to the Parking Plan which was presented, which they deferred at the time this came up, if it needs to be put back on the agenda or how is that handled? That it has not been acted on and that Council probably wants to do that. His suggestion would be that they need to include in it that there has to be some arrangements made to accommodate the cars when you have an event that will have more cars than we have facilities there for.

Mayor Harris stated we need an operation procedure on these facilities - the whole operation. There should be an approved policy by this Council on the operation of our parks and facilities, which evidently was never done by the old Park and Recreation Commission.

Mr. Carroll stated when this came up, they had a parking policy to approve; they have not approved it yet - do they want to do it now or do they want to put it on the agenda for next time? It was generally agreed that it should be placed on a future agenda and Mr. Carroll moved to do so, seconded by Councilmember

At Mr. Wylie Williams' request, Mr. Carroll clarified this request. That when this came up, they had a parking proposal which was a part of our stadium operation rules; that Council has never acted on that one way or the other. Mr. Williams stated he thought this was a part of it. That they subverted the issue into Independence Park versus the Coliseum and use of the stadium - it was all a part of that same discussion.

Councilmember Carroll stated the only outstanding thing, for one thing they can assume that it was adopted, but he does not think it was; the other part is that he does not believe the plan makes adequate provision for dealing with the cars that may come if you have a big crowd. It is the 2,000 or 3,000 extra spaces beyond what even Independence Park would take care of.

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Mr. Williams stated this was a part of the discussion that they had at the time they discussed the stadium policy. Mr. Carroll stated they took out the parking policy because of the Independence Park.

Mr. Burkhalter read from the stadium policy: "The procedure when large crowds are anticipated for an event, the user shall exert its best effort to encourage patrons to park their vehicles only within off-street parking areas on lots designated for parking or where parking is allowed by the property owner. In this connection, the user shall submit a parking plan that indicates a method and manner of complying with the provisions of this paragraph, to the facility manager for approval prior to the event."

Mayor Harris stated he sees no need for Council to take any action; the parking plan is per event.

Mr. Carroll stated this was to be a parking plan which was to be standard; that was what was submitted before. That if they do not need to take any action, he would like to see the parking plan which is approved for the next event, or have it come before Council.

Mayor Harris asked that the plan be sent to Mr. Carroll.

CONSTRUCTION INSPECTION CONTRACT BETWEEN THE CITY OF CHARLOTTE AND J. N. PEASE ASSOCIATES FOR THE McALPINE CREEK WASTEWATER TREATMENT PLANT.

On motion of Councilmember Chafin, seconded by Councilmember Short, and carried unanimously, the subject contract for construction inspection of the McAlpine Creek Wastewater Treatment Plant was approved, the total not to exceed \$347,258.

RESOLUTION AND AGREEMENT WITH THE MATTHEWS UTILITIES COMPANY TO ACCEPT OWNERSHIP OF ITS PRIVATE WATER SYSTEM IN WESTMORELAND SUBDIVISION.

Councilmember Locke moved approval of a proposed resolution and agreement with the Matthews Utilities Company to accept ownership of its private water system in the Westmoreland Subdivision, without cost to the City. The motion was seconded by Councilmember Short.

Councilmember Trosch asked if the Matthews Utilities Company only operating in the Westmoreland Subdivision? Mr. Dukes, Utilities Director, replied yes. Ms. Trosch stated that is why the resolution and agreement says that we will absorb the whole thing rather than any mention of the Westmoreland Subdivision?

Mr. Dukes replied we are not taking the subdivision; just the water and sewer system in that area.

Ms. Trosch stated then that is the only place it exists, because the resolution says that we will assume the Matthews Utilities Company. Mr. Duke replied she is right, it is the only place that it exists.

The vote was taken on the motion and carried unanimously.

The resolution is recorded in full in Resolutions Book 13, at Page 383.

ORDINANCE NO. 152 AMENDING CHAPTER 20, ENTITLED "ZONE WRECKER AND TOW SERVICE."

Councilmember Locke moved adoption of the proposed ordinance defining zone wrecker service. The motion was seconded by Councilmember Selden.

Mr. John Warren, Attorney, stated he represents Hunter Auto and Wrecker Service. That they have gone over this with the Police and the Legal Department has drawn up a very fine ordinance. He stated there are a few things in it though that he would like to bring to Council's attention, particularly on behalf of his client.

He stated if "E" Zone is adopted, which would supercede Hunter's zone on the map, it would put Mr. Hunter's place of business outside his zone. That this creates some problems for him. He stated they do not object at all to giving up that zone over to "N" or "P", or Kiser's zone on the map, because the purpose of the zoning in the new ordinance is to try to equal the business to each zoning wrecker, which is proper. But they would ask if they are given the zone which they now have, to seriously consider letting them stay in the zone they are going to serve. That this puts them in another zone, which would be in Kiser's zone - other than that, they have no objection to the whole plan.

He stated these four zones have been there for quite a while and they have gotten a little bit out of equal balance in the number of cars pulled. This new zoning does that very well and they feel if Tryon Street were given from "E" to "N", or Hunter to Kiser, it would equalize it without going all the way to North Davidson Street and taking his business right in front of his door, out of his zone.

Mr. Warren stated he would ask Council to seriously consider this request when considering the zoning lines if they are fortunate in getting their zone again - which they have had some 20 or 30 years.

He stated there are no major problems. They have done a very fine job in drawing this ordinance; the Police Department has gone over it with them. He stated he did not have any objection to the ordinance but wanted to bring this to Council's attention.

Councilmember Cox asked about the communication he received that stated "the undersigned say that they should leave the boundaries as they are without making any changes," and Mr. Warren replied as he understands it, they all would like to do this but they understand this is not going to be possible from the Police's standpoint and that is the reason they are here today. That this was signed by all parties, submitted with the hopes Council would leave them there, but if they do move them, they would like to stay in their own zones.

Councilmember Selden asked which tract his client would be located in and Mr. Warren replied "E".

Councilmember Trosch asked if it would be possible to post the rates on the sides of the trucks and Mr. Warren replied sometimes their rates are not the same, they do other things and sometimes this might mislead the public.

Mr. Tom Moore stated he is present today as attorney for S & R Wrecker, currently in the south zone. That he is speaking on one issue and would be brief. He stated on Page 14 of the proposed ordinance; they have met with the current zoning wreckers, Item 1(b) - Second Tow. That the second tow arrives when, say, an individual is in accident at 10:00 or 11:00 at night; a zone wrecker comes to pick them up and takes them back to the zone storage facility, etc., and the next morning, the individual comes and says take them from S & R, Keith, Kiser or Hunter, to Town and Country Ford or LaPointe Chevrolet, because they could not take them there the night before - the repair shop being closed.

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Mr. Moore stated their request is that Council consider changing the price of the second tow; that the proposed ordinance shows \$10.00 - it costs these wrecker companies the same amount of money to hook it up in their lot and tow it across town as it does originally to go out and bring it in. That under the old ordinance, Section 20-21, this was not in there at all; possibly because it was felt to be a private contract between the zone wrecker and the individual in the next day's transactions.

He stated Major Smith is here today from the Police Department and he basically objects to leaving it out. That he would ask that the wrecker service receive \$25.00 for the second tow; it costs these wreckers about \$19.00 per tow, a couple of years ago, and he is sure it is up now and he would ask that the second tow, which costs them the same amount money, be set at \$25.00.

Mr. Moore stated he would point out that in many cases where there is an automobile wreck, the man is having his car towed to LaPointe, or wherever, some insurance company is going to pay it; it is not out of that individual's pocket. He stated if it stays as it is, it is a losing proposition to the wrecker if they have to do a second tow.

Councilmember Cox stated since we are talking about prices, he notices on Attachment 3, Charlotte, North Carolina is the third highest of the cities listed there. Mr. Moore stated they sat down with these figures and looked at them. That the information in Council's package, does not show the number of tows; since this came out, showing the prices, etc., the staff has provided a break-down on number of zoned wreckers in these various cities and they number of zones in various cities. He stated they call Greensboro one zone, in other words, the whole town is a zone and they have two wrecker companies for the whole town. That they have not been able to equate actual number of tows per town to these figures to compare with the price in Charlotte. He stated they noticed that, but based on the volume they get over the years historically, they cannot say what Aberdeen, Texas does, with the number of wrecks because they do not have those numbers.

Councilmember Cox stated the obvious concern he has is, for example, when you take the cities that have multiple zones, Charlotte ranks second of the five cities that have multiple zones on this list. Mr. Moore replied we do not have the volume figures; it is his opinion, if they have the whole city, they could do it for \$10.00 a tow - it is just the volume. He stated what Council is looking for in this ordinance is reaction time to wrecks; to keep the intersections from being unduly jammed up; to get the officers off the scene, etc. and that is the philosophy with the four zones and the lines that have been drawn to have the 25 minute reaction time.

Councilmember Gantt stated he does not understand why the second tow does apply to the transaction and Major Smith replied in Section 20-20 now, it only authorizes two places where an vehicle can be towed, that is, to the existing four wrecker companies or to the Police Garage on South Davidson Street. That they are asking that this be deleted in this new ordinance; under the new ordinance, they do not state where the vehicle can be taken - it is up to the owner's discretion, if he can make it, as to where he wants it towed, either by a private wrecker or by one of its own wreckers; if he does not have a preference, then they will call a zone wrecker. He stated they felt like they needed a measure in the

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ordinance to make sure that the people were charged the proper amount of funds - to make it part of the ordinance, whether it was a second tow, the first two, or what.

Major Smith stated if the owner of the car, at the scene of the accident, makes a request that his vehicle be taken to a specific place, and the company is closed, say, Burrough-Lincoln-Mercury, and the operator of the car says he wants it taken there, the citizen should have the right to have that car towed on the initial call, plus an additional \$10.00 for towing and \$2.00 for storage overnight. That we have one city that has this and they charge the same as they are recommending, and that is at Baton Rouge, La.

He stated regarding the second tow, if the owner does not know where he wants to car taken, then that is a negotiated price with the wrecker companies the next day or two days later if he decides where he wants to car to go. That they feel like, at the scene, if the owner makes a decision that he wants his car to go to a third place, a place that is closed, through no choice of his, then it ought to be towed at a reasonable rate, specified by ordinance, which will eliminate complaints of over-charging.

Mr. Moore stated they do not object to a statutory or ordinance rate but the thing is they are losing the \$10.00 tow, but the cost is still there with these companies. That it is no fault of the wrecker companies that Burrough-Lincoln Mercury is closed, either; they have to get these cars out, these wrecker companies store them, they have insurance, they have watch dogs, lights, fences, etc. and then they have to crank up the wrecker, hook it up, put the driver or dispatcher back out to Burrough-Lincoln Mercury the next day and he is gone an hour or two - they just can't make money this way. That this is what they are saying.

Mayor Harris stated there is not the urgency there on the second tow like it was on the first move and that is the big difference. Mr. Moore replied that is absolutely right as far as there is no urgency there but nevertheless to crank up that wrecker costs basically the same amount of money - they just do not make it go as fast.

Mayor Harris stated \$25.00 is a premium price for that service anyway. That a lot of people feel it should be less than that. Mr. Moore replied a service station can tow a car in for less than \$25.00 but they do not have any storage, if they went to a wreck, they do not clean up after it, etc. That may be the \$25.00 is a premium, but on the second tow, they say \$20.00 would at least break even.

Mr. William Rose, Attorney, stated he is representing Kiser's Mecklenburg Wrecker Service, and will address his comments to Section 21-30 of the proposed ordinance dealing with the Zone Wrecker Review Board. That this Board will basically police these wrecker companies and enforce the policies outlined in the proposed ordinance, specifically, the Zone Wrecker Review Board is given the power to hold disciplinary hearings, have suspensions for breaking the rules, hold public hearings and even come to City Council with recommendations for contract terminations. He stated in the ordinance as written today, the City Manager is given the power to appoint three people to this Board. They are, as outlined in the ordinance - a Police Attorney, a Division Commander of the Police Department and the Superintendent of Motor Transportation Division of Public Works Department. He stated they submit today that they would like to expand this Board and add two additional people. Number one being a private citizen, picked from either the City pool of volunteers or other sources, who would bring the wreck victims' point of view to these hearings, because that is the person who is being affected when they are in the middle of the street and the next person they proposed would be either one of the zone wrecker principals, such as the President of

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one of the companies, possibly on a rotating basis, or one of their attorneys who could represent the zone wrecker viewpoint at these hearings. He stated his involvement in this has been quite surprising because he has learned there is a lot more to towing a car than meets the eye; there are a lot of technical things and a lot of practical, everyday aspects. That he would submit that a person versed in the zone wrecker business should be on the Zone Review Board and they feel it could very easily be implemented so that, for example, someone from S & R were on the Board and that company was before the Board for some violation, that they would step down and someone else would fill their place.

He stated in light of the same arguments that went into District Representation, in the power given this Board, especially terminating city contracts or recommending termination of city contracts, and also make decisions that are appealable to the Superior Court in Mecklenburg County, then representation should be a little more broad than outlined in the ordinance proposed today.

Mr. David B. Sentelle, Attorney, stated he represents Beatty Wrecker Service which is different in two respects from anybody who has spoken so far. That No. 1, they are the company that does not have a zone now and No. 2, they like the ordinance as proposed. He stated they caused some of the reasons for being here tonight in the first place by coming in with the annexation, which took most of their county zone and asked the City to do something to give them a fair share of their business back. That they feel what the staff has proposed will give them a fair shot. He stated they do not have any complaints about rates, Review Boards or anything else.

Councilmember Short stated on the second page of the material he has, on the bottom of the page, it says "the evaluation committee will recommend the award of four contracts to the City Council." He stated he would move that it read: "the evaluation committee will recommend the award of four contract to the City Manager." That there is no need for Council to get into these zones every year. He stated Mr. Burkhalter and his assistants can handle that very well. The motion was seconded by Councilmember Locke.

Mayor Harris asked if this change would cause any problem? Mr. Underhill, City Attorney, replied his only reservation with that approach would be that it appears to him this contract represents a franchise and he does not think Council would want to delegate the award of a franchise to the City Manager; this would be something Council would have to act on.

Councilmember Carroll stated staff has done a good job on this and in years to come, it will not take much time when we have a good procedure. That he has three suggestions; one of them, Council already has in the back of their agenda material and that is to clarify where the complaint process starts out, that is proposed addition to Section 20-126. He stated he would like to change this to read: "the Chief of Police shall also designate the head of the Taxi and Towing Unit of the Police Department," rather than just the unit. That he feels it is always appropriate that it make a person, rather than a unit, responsible.

He stated on Page 12, under Section 20-147 (i) Reports, there is a real good provision in the ordinance that now where we have had problems with property losses, the Police Officer on the scene, if the owner or operator is taken off in the ambulance, or whatever, and is not there to sign the report, it says "the police officer on the scene may sign the report", that he feels we should put "shall" in there, so that we emphasize the kind of protection which the ordinance is trying to build in to make sure we do not have problems of property losses or other things in the vehicle. Thirdly, as a follow up on one of the suggestions, in Section 20-130,

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Page 4, the composition of the Board, he agrees with the comments that we should have citizens' input and would suggest that in addition to the three categories which the Manager would appoint, that Council would appoint three members without any restriction in regards to background.

Councilmember Locke suggested two members rather than three and Councilmember Carroll agreed to the change.

Councilmember Carroll stated this would change sub-paragraph (b) to read: "The Board would be composed of three members to be appointed by the City Manager in the following categories, and list the categories, and two members appointed by City Council and the members shall serve for a period of three years."

Councilmember Carroll made a substitute motion to adopt the proposed ordinance with the above changes. The motion was seconded by Councilmember Leeper.

Mayor Harris asked if they would also add the provision about posting the rates; that Ms. Trosch brought this up, and there is nothing in the contract.

Councilmember Trosch stated it would be appropriate to add that on Page 11(c) under Compliance with rate schedules, at the end of the last word "article" add "rate schedules as approved by City Council shall be clearly displayed on each wrecker." Councilmember Carroll stated he would agree to that amendment. Councilmember Trosch stated another one is posting the information.

Miss Loveless, Assistant to the City Manager, stated this is on the receipt which the car owner will receive. She thinks that should be adequate. It will be pre-printed on there so that we have a check, and the customer has a check.

Councilmember Dannelly stated he agrees with Ms. Trosch; his only problem is with that rate schedule printed on the wrecker, and someone has a wreck, and the police will be there; and someone will call the tow, and then there is no need for a tow. It will be confusing for those people looking at the rate on that wrecker. Are we setting their prices for everything; or is it controlled as Ms. Loveless says by the receipt they sign. Maybe it should be required that this be pointed out as the fee schedule. When a person is in a wreck they are upset, and they may not even see it on the wrecker.

Miss Loveless stated they do use their vehicles for other services. If the calls are by the police, then they can negotiate it.

Mayor Harris stated we can try the receipts for a while, and if it does not work then it can be discussed further.

Councilmember Leeper asked what kind of problem there would be to move the line so that Mr. Warren's clinic would be in his zone. Would that be a large problem? Mr. Underhill, City Attorney, replied he does not know. Mr. Warren stated it would be no problem at all to move it over one street; that most of the business comes off Tryon Street that would go to Kiser.

Miss Loveless stated right now S & R is not located in their zone; once staff comes to Council with a recommendation depending on where the companies are located, they might be able to realign the lines slightly.

Councilmember Cox stated he would like to make a substitute motion that incorporates everything that Mr. Carroll's motion said with the addition that we increase the charge to \$15.00 for the second tow. The motion was ruled out of order by Mayor Harris.

The vote was taken on the motion by Councilmember Carroll and carried unanimously.

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Mr. Underhill advised the ordinance did not specify an effective date; that Miss Loveless had told him the staff recommended that the provisions of the ordinance which relate to rates be effective immediately and the other provisions of the ordinance be effective at the time that new contracts come before Council for approval.

Councilmember Selden moved approval of staff recommendations as to the effective dates in the proposed ordinance. The motion was seconded by Councilmember Cox, and carried unanimously.

Councilmember Cox moved that Council increase the second tow charge from \$10.00 to \$15.00. The motion was seconded by Councilmember Selden.

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

YEAS: Councilmembers Cox and Selden.

NAYS: Councilmembers Carroll, Chafin, Dannelly, Frech, Gantt, Leeper, Locke, Short and Trosch.

Councilmember Locke moved approval of the procedure for the selection of the zone wrecker companies. The motion was seconded by Councilmember Chafin, and unanimously carried.

The ordinance is recorded in full in Ordinance Book 26, beginning on Page 62.

ORDINANCE NO. 153-X APPROPRIATING FEDERAL, STATE AND LOCAL FUNDS FOR THE PURCHASE OF PORTABLE RADIOS TO BE USED BY POLICE FIELD OFFICERS.

Motion was made by Councilmember Locke, seconded by Councilmember Dannelly and unanimously carried, adopting subject ordinance appropriating federal, state and local funds for the purchase of 43 portable radios to be used by Police Field Officers, for a total of \$49,450.

The ordinance is recorded in full in Ordinance Book 26, on Page 78.

ORDINANCE NO. 154-X APPROPRIATING FEDERAL AND LOCAL FUNDS FOR LAW ENFORCEMENT TRAINING FUNDS.

Councilmember Short moved adoption of subject ordinance appropriating federal and local funds for Law Enforcement Training Funds for a total of \$9,106. The motion was seconded by Councilmember Carroll, and unanimously carried.

The ordinance is recorded in full in Ordinance Book 26, at Page 79.

ORDINANCE NO. 155-X APPROPRIATING FEDERAL, STATE AND LOCAL FUNDS FOR THE PURCHASE OF A 911 RECORDER SYSTEM.

Upon motion of Councilmember Locke, seconded by Councilmember Dannelly, and unanimously carried, subject ordinance was adopted appropriating federal, state and local funds for the purchase of a 911 recorder system for a total of \$47,783.

The ordinance is recorded in full in Ordinance Book 26, at Page 80.

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ORDINANCE ESTABLISHING A CODE OF ETHICS FOR CITY OFFICIALS, AS AMENDED,
TO LIE ON TABLE FOR TWO WEEKS.

Council was presented a proposed ordinance establishing a Code of Ethics for City Officials.

Councilmember Frech suggested that Section 1-8 (a) (1) be amended to read: "The City Official shall be deemed to have an interest in the affairs of any person in his immediate household or of his or her parents" on the grounds that property parents own, the children usually know perfectly well they have an interest in and may inherit.

She stated another amendment would be in Section 1-8 (a) (3), which should read: "any business entity in which the stock of, or legal or beneficial ownership of any stock of the total stock or total legal or beneficial ownership, is controlled or owned directly or indirectly by the City Official."

She suggested another amendment, Section 1-11, Page 4, to read: "....
....the city official and spouse shall give the name of his or her employer or, if self-employed, state the nature of his work.

Councilmember Frech stated the fourth amendment would be in the last section, on Page 7. That this section should be deleted as is it not really relevant to the Code of Ethics.

Councilmember Selden suggested a change on Page 4, about the 8th line down, to read: "Legitimate political contributions shall not be considered as gifts under the provisions of this paragraph (f)."

Councilmember Carroll suggested another change on Page 4 would be to add another paragraph after (f) to read: "(g)No City Official shall grant any special consideration or advantage to any citizen beyond that which is available to every other citizen."

He also suggested that on Page 4, under paragraph (f), that it be changed to read: "...or accept or receive any gift having a value of fifty dollars (\$50.00)" to read "\$25.00."

The vote was taken on the first suggested amendment, to include the word "parents", and failed to carry as follows:

YEAS: Councilmembers Frech, Chafin, Carroll and Trosch.

NAYS: Councilmember Cox, Dannelly, Gantt, Leeper, Locke, Selden and Short.

The vote was taken on the suggestion to change "in excess of five percent of the total stock" to read "any stock", and carried unanimously.

The vote was taken on the suggestion to change the figure \$50.00 to read "25.00" on Page 4, Paragraph (f), and failed to carry as follows:

YEAS: Councilmembers Carroll and Trosch.

NAYS: Councilmembers Chafin, Cox, Dannelly, Frech, Gantt, Leeper, Locke, Selden and Short.

The vote was taken on changing the wording on Page 4, under (f) Gifts. to read: "Legitimate contributions.....", and carried unanimously.

The vote was taken on adding an additional paragraph (g), after the (f), to read: "No City Official shall grant any special consideration.....", and carried as follows:

YEAS: Councilmembers Carroll, Chafin, Gantt, Leeper, Locke, Selden and Trosch.

NAYS: Councilmembers Cox, Frech, Short and Dannelly.

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The vote was taken on adding the word "spouse" to Section 1-11 (a) to read: "Additionally, the city official and spouse shall give the name of his or her employer or, if self-employed, state the nature of his or her work.", and carried unanimously.

The vote was taken on eliminating Section 1-15 relative to Meetings and carried as follows:

YEAS: Councilmembers Carroll, Chafin, Cox, Gantt, Leeper, Locke, Selden and Trosch.
NAYS: Councilmembers Frech, Short and Dannelly.

Mayor Harris advised the changes that have been approved are as follows: "any stock" instead of 5%; adding the word "Legitimate" to "political contributions, on Page 4, adding an additional paragraph (g), after paragraph (f) on Page 4 and adding the word "spouse" to Section 1-11 (a).

Councilmember Gantt moved adoption of the approved changes and moved to allow the proposed ordinance to lie on the table for one week. The motion was seconded by Councilmember Chafin, and carried unanimously.

Mr. Underhill, City Attorney, advised the proposed ordinance, with the approved amendments, would be on the Council Agenda for August 7th.

NOMINATION BY COUNCILMEMBER CHAFIN TO THE CHARLOTTE HISTORIC DISTRICT COMMISSION, WITHDRAWN.

Council was advised there were two vacancies on the Charlotte Historic District Commission; one, as a member of the Planning Commission and one as the resident/owner representative. That two nominations had been made: Councilmember Chafin had nominated Mr. Michael Tye and Councilmember Selden had nominated Ms. Nancy Betty.

Councilmember Chafin stated she would like to withdraw her nomination of Mr. Tye and make another nomination at the appropriate time.

APPOINTMENT OF MS. NANCY BETTY TO CHARLOTTE HISTORIC DISTRICT COMMISSION AS RESIDENT/OWNER REPRESENTATIVE.

Council was advised that Ms. Nancy Betty had been nominated to the Charlotte Historic District Commission to fill an unexpired term as resident/owner representative.

The City Clerk advised the vote by ballot of Ms. Betty was unanimous.

Mayor Harris announced that Ms. Betty has been appointed for a term to expire June 30, 1980.

APPOINTMENT OF KELLY ALEXANDER, JR. TO THE AIRPORT ADVISORY COMMITTEE FOR A THREE YEAR TERM.

The following nominations to the Airport Advisory Committee were considered:

- (1) Kelly Alexander, Jr., nominated by Councilmember Gantt.
- (2) Johnny W. McCoy, nominated by Councilmember Selden.
- (3) Jean Zimmerman, nominated by Councilmember Locke.

The results of the first ballot were announced as follows:

- (1) Kelly Alexander, Jr., Councilmembers Trosch, Frech, Short, Dannelly, Gantt, Leeper, Chafin and Carroll - 8 votes
- (2) Johnny W. McCoy, Councilmember Selden - 1 vote.
- (3) Joan Zimmerman, Councilmembers Cox and Locke - 2 votes.

Mayor Harris announced that Kelly Alexander, Jr. has been appointed to the Airport Advisory Committee, for a three year term.

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NOMINATIONS TO THE CHARLOTTE-MECKLENBURG COUNCIL ON AGING.

Council was advised there were 11 vacancies on the Charlotte-Mecklenburg Council on Aging. That two members are to be appointed for one year terms to expire June 30, 1979; two members are to be appointed for two year terms to expire June 30, 1980; and seven members are to be appointed for three year terms to expire June 30, 1981.

The following nominations were made for one year terms:

Councilmember Leeper nominated David Garris;
Councilmember Trosch nominated Angus Simpson;
Councilmember Cox nominated Mrs. Gilbert F. Hambley.

The following nominations were made for two year terms:

Councilmember Chafin nominated James Hawkins;
Councilmember Frech nominated Ms. Betty Watson;
Councilmember Carroll nominated Mac Webb.

The following nominations were made for three year terms:

Councilmember Dannelly nominated Dr. Winson R. Coleman;
Councilmember Carroll nominated Ms. Hattie Harris;
Councilmember Leeper nominated Ms. Elizabeth Wigfall;
Councilmember Frech nominated Willie Joplin;
Councilmember Trosch nominated Angus Simpson;
Councilmember Cox nominated Ms. Gilbert F. Hambley;
Councilmember Selden nominated Richard Elmore;
Councilmember Chafin nominated Mary Selden;
Councilmember Short nominated Elizabeth Weekly Gibson.

NOMINATIONS TO THE MUNICIPAL INFORMATION ADVISORY BOARD.

Council was advised there was one vacancy on the Municipal Information Advisory Board to fill an unexpired term to expire on April 30, 1979.

Councilmember Leeper nominated Ms. Belinda Stinson;
Councilmember Chafin nominated Ms. Kay Turner;
Councilmember Frech nominated Donald Young.

CONTRACT AWARDED TO PALMER'S ROWAN STATIONERS, INC. FOR CITY AUTOMOBILE LICENSE DECALS.

Upon motion of Councilmember Gantt, seconded by Councilmember Short, and unanimously carried, subject contract was awarded to the low bidder, Palmer's Rowan Stationers, Inc., in the amount of \$7,784.00, on a unit price basis, for City Automobile License Decals.

The following bids were received:

Palmer's Rowan Stationers, Inc.	\$7,784.00
Weldon, Williams & Lick, Inc.	8,988.00

CONTRACT AWARDED NATHANIEL JONES FOR DEMOLITION FOR DISCOVERY PLACE.

Councilmember Short moved award of contract to the low bidder, Nathaniel Jones, in the amount of \$38,900.00, on a unit price basis, for demolition for Discovery Place. The motion was seconded by Councilmember Cox.

Councilmember Dannelly stated it is his understanding that when bids are made involving demolition, there is an understanding in the contract as to what will be left in the facility to be demolished and what goes to whom. That it is also his understanding that bids are made on the basis of what materials can be salvaged which might make a low bid more worthwhile to the contractor.

He stated he was advised that on this bid, the former owners went in and more or less gutted the place, removed marble from the walls, removed heating and air conditioning system units, other kinds of materials, plumbing materials, etc. That it seems to him this is unfair to a person after they have placed a bid. He stated he does not know how true this is but it was told to him.

Mr. Hopson, Public Works Director, replied they have a very difficult situation here. That they may have to go back to the tenants who have been in there during the last few days or to other people they are trying to identify, and work with the City Attorney to take some action on this.

He stated he is not happy with this any more than Mr. Jones is happy with this. That he has discussed this in detail with him because these people are not only stealing from him but also stealing from the City if this has occurred. He stated possibly Mr. Jones himself was involved in taking some of this ahead of time.

He stated he will assure Council that he is looking into this, working with the City Attorney, not only on the store fronts on Tryon but on the Turner property itself. That they will work out a reasonable response to Mr. Jones.

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

The following bids were received:

Nathaniel Jones	\$38,900.00
Piedmont Grading & Wrecking Co.	42,500.00
Moretti Construction Co.	60,500.00

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CONSENT AGENDA APPROVED.

Motion was made by Councilmember Locke, seconded by Councilmember Chafin, and carried unanimously, approving the consent agenda as presented with the exception of the Item No. 40 - Encroachment Agreements for water and sewer lines:

- (1) License permitting Federal Aviation Administration to install additional Navigational Aids at Douglas Municipal Airport for the operation of the new runway.
- (2) Supplemental lease agreement permitting the Federal Aviation Administration to install control cables from the Air Traffic Control Tower to the Navigational Aids at Douglas Municipal Airport.
- (3) Loan Agreements:
 - (a) Maria P. Kaperonis, 216 North Irwin Street, Third Ward, in the amount of \$7,500.
 - (b) Margaret R. Brown, 1005 West Fourth Street, Third Ward, in the amount of \$13,350.
- (4) Open non-exclusive contract for Real Estate Broker's Service with Harris Associates, in Brooklyn Urban Renewal Project No. N. C. R-43.
- (5) Ordinances affecting housing declared unfit for human habitation:
 - (a) Ordinance No. 156-X ordering the demolition and removal of the unoccupied dwelling at 218 Frazier Avenue, located in CDRS area.
 - (b) Ordinance No. 157-X ordering the demolition and removal of the unoccupied dwelling at 2304 Tate Street.

The ordinances are recorded in full in Ordinance Book 26, at Pages 81 and 82.

- (6) Contracts for water and sewer extensions:
 - (a) Contract with Robinson-Davis Company for construction of 145 linear feet of 2-inch water main to serve Bojangles Restaurant, 3900 Brookshire Boulevard, inside the city, at an estimated cost of \$650, all at no cost to the City.
 - (b) Contract with Carmel Land Company for the construction of 605 linear feet of 6-inch water main to serve Montibello Subdivision No. 10, Phase II, outside the city, at an estimated cost of \$5,350, all at no cost to the city.
 - (c) Contract with Carmel Land Company for the construction of 2,220 linear feet of 6-inch water main to serve Montibello Section 10, Phase I, outside the city, at an estimated cost of \$17,750, all at no cost to the city.
 - (d) Contract with The Ralph Squires Company for the construction of 1,275 linear feet of 8-inch sewer main to serve Heathergate I-C, outside the city, at an estimated cost of \$25,000, all at no cost to the city.
- (7) Acquisition of one parcel of real property at 200 Cemetery Street, in the Five Points Community Development Target Area, from Robert L. Shirley, at \$22,000.00.
- (8) Resolution providing for public hearings on Monday, August 21, 1978, on Petition Nos. 78-40 through 78-44 for zoning changes.

The resolution is recorded in full in Resolutions Book 13, at Page 384.

(9) Property transactions:

- (a) Acquisition of 15' x 129.24' of easement, plus a temporary construction easement, at 7000 block of Virginia Circle, from Belle McGinsey Sisk, at \$140.00, for Annexation Area 8 Sanitary Sewer.
- (b) Acquisition of 15' x 512.43' of easement, plus a temporary construction easement, at 7001 Tuckaseegee Road, from R. D. Whitley and wife, Beatrice, at \$1,000.00, for Annexation Area 8 Sanitary Sewer.
- (c) Acquisition of 20' x 413.53' of easement, plus a temporary construction easement, at 6109 Paw Creek Road, from Donald M. Schueller, at \$414.00, for Annexation Area 8 Sanitary Sewer.
- (d) Acquisition of 15' x 1,359.64' and 20' x 974.51' of easement, plus a temporary construction easement, on 61.17 acres at 5600 block of Freedom Drive, from Call-Bro Investment Company, at \$2,335.00, for Annexation Area 8 Sanitary Sewer.
- (e) Acquisition of 20' x 331.20' of easement, plus a temporary construction easement, at 5832 Thrift Road, from Carolina Christian Ministries, Inc., at \$332.00, for Annexation Area 8 Sanitary Sewer.
- (f) Acquisition of 15' x 383.00' of easement, plus a temporary construction easement, at 5500 block of Freedom Drive, at \$600.00, for Annexation Area 8 Sanitary Sewer; from William & Rita Davis.
- (g) Acquisition of 21.28' x 41.99' of easement, plus a temporary construction easement, at 6309 Elmwood Circle, from Donald R. Miller and wife, Mary A., at \$42.00, for Annexation Area 8 Sanitary Sewer.
- (h) Acquisition of 15' x 110.71' of easement, plus a temporary construction easement, at 6501 Elmwood Circle, from Robert L. Holt and wife, Cheryl S., at \$110.00, for Annexation Area 8 Sanitary Sewer.
- (i) Acquisition of 15' x 113.46' of easement, plus a temporary construction easement, at 901 Little Rock Road, from Robert L. Bryant and wife, Ruby, at \$114.00, for Annexation Area 8 Sanitary Sewer.
- (j) Acquisition of 15' x 57.61' of easement, plus a temporary construction easement, at 815 Little Rock Road, from James H. Bryant and wife, Brunell, at \$60.00, for Annexation Area 8 Sanitary Sewer.
- (k) Acquisition of 15' x 398.68' of easement, plus a temporary construction easement, at 715 Little Rock Road, from Mary S. McCall, at \$600.00, for Annexation Area 8 Sanitary Sewer.
- (l) Acquisition of 15' x 63.24' of easement, plus a temporary construction easement, at 6200 block of Sullins Road, from Ezra Vernon Moss, at \$64.00, for Annexation Area 8 Sanitary Sewer.
- (m) Acquisition of 7.5' x 164.94' of easement, plus a temporary construction easement, at 6725 Sullins Road, from Robert J. Blackman and wife, Debra C., at \$165.00, for Annexation Area 8 Sanitary Sewer.

- (n) Acquisition of 15' x 729.74' of easement, plus a temporary construction easement, at 2800 and 2900 block of Starnes Road, from H. L. Neal and wife, Lillian G., at \$730.00, for Annexation Area 8 Sanitary Sewer.
- (o) Acquisition of 15' x 123.43' of easement, plus a temporary construction easement, at 2943 Starnes Road, from William F. Miller and wife, Penny B., at \$124.00, for Annexation Area 8 Sanitary Sewer.
- (p) Acquisition of 15' x 293.54' of easement, plus a temporary construction easement, at 2600 block of Starnes Road, from H. L. Neal and wife, Lillian G., at \$294.00, for Annexation Area 8 Sanitary Sewer.
- (q) Acquisition of 15' x 102.85' of easement, plus a temporary construction easement, at 7004 Delisa Drive, from Lowren E. Furr and wife, Carolyn M., at \$250.00.
- (r) Acquisition of 7.5' x 203.88' of easement, plus a temporary construction easement, at 6716 Manderley Drive, from Jasper Douglas Forbes and wife, Dixie P., at \$204.00, for Annexation Area 8 Sanitary Sewer.
- (s) Acquisition of 15' x 1,315.01' of easement, plus a temporary construction easement on 26.58 acres off Little Rock Road, from Letha R. Eppes, at \$1,315.00, for Annexation Area 8 Sanitary Sewer.
- (t) Acquisition of 7.5' x 245.30' of easement, plus a temporary construction easement, at 6515 Pawnee Drive, from James B. Medlin and wife, Frances F., at \$246.00, for Annexation Area 8 Sanitary Sewer.
- (u) Acquisition of 7.5' x 298.57' and 15' x 110.15' of easement, plus a temporary construction easement, at 2300 Burkholder Road, from J. C. Beachum and wife, Juanita P., at \$409.00, for Annexation Area 8 Sanitary Sewer.
- (v) Acquisition of 15' x 419.61' of easement, plus a temporary construction easement, at 2524 Burkholder Road, from Myrtle B. McLaughlin, at \$420.00, for Annexation Area 8 Sanitary Sewer.
- (w) Acquisition of 15' x 285.66' of easement, plus a temporary construction easement, at 2031 Highland Street, from George Harold Burkholder and wife, Patricia, at \$286.00, for Annexation Area 8 Sanitary Sewer.
- (x) Acquisition of 15' x 154.32' of easement, at 2600 Burkholder Road, from George Perry Burkholder and Linda B., at \$155.00, for Annexation Area 8 Sanitary Sewer.
- (y) Acquisition of 15' x 156.27' of easement, plus a temporary construction easement, at 2700 Daleview Drive, from R. A. White, Sr., and wife, Vivian W., at \$157.00, for Annexation Area 8 Sanitary Sewer.
- (z) Acquisition of 15' x 108.45' of easement, plus a temporary construction easement, at corner of Verns Avenue and 4800 block of I-85, from Vernon Marshall Moore, and wife, Virginia, at \$109.00, for Annexation Area 8 Sanitary Sewer.

- (aa) Acquisition of 15' x 717.33' of easement, plus a temporary construction easement, on 29.50 acres on Westerwood Drive, from Ella Springs Black, at \$718.00, for Annexation Area 8 Sanitary Sewer.
- (bb) Acquisition of 15' x 345.40' of easement, plus a temporary construction easement, at 7300 block of Everett Drive, from Glenn O. Reynolds and wife, Mary B., at \$346.00, for Annexation Area 8 Sanitary Sewer.
- (cc) Acquisition of 15' x 115.24' of easement, plus a temporary construction easement, at 2309 Toddville Road, from William Merle Eaves and wife, Evelyn N., at \$400.00, for Annexation Area 8 Sanitary Sewer.
- (dd) Acquisition of 15' x 115.39' of easement, plus a temporary construction easement, at 2316 Toddville Road, from Jack W. Flannigan and wife, Colene B., at \$400.00, for Annexation Area 8 Sanitary Sewer.
- (ee) Acquisition of 15' x 103.21' of easement, plus a temporary construction easement, at 2400 Toddville Road, from Milton C. Bradham and wife, Myrtle H., at \$104.00, for Annexation Area 8 Sanitary Sewer.
- (ff) Acquisition of 17.83' x 104.99' of easement, plus a temporary construction easement, at 2622 Toddville Road, from James Eric Helle and wife, Sherry L., at \$299.00, for Annexation Area 8 Sanitary Sewer.
- (gg) Acquisition of 15' x 1,034.18' of easement, plus a temporary construction easement, at 2600 block of Toddville Road, from Mary S. Collins, at \$1,042.00, for Annexation Area 8 Sanitary Sewer.
- (hh) Acquisition of 15' x 53.70' of easement, plus a temporary construction easement, at end of Mary Ann Drive, from Lloyd Elwood Stiffler and wife, Elizabeth M., at \$54.00, for Annexation Area 8 Sanitary Sewer.
- (ii) Acquisition of 15' x 35.05' of easement, plus a temporary construction easement, at 2800 block of Dogwood Drive, from Paul H. Burton and wife, Nelle M., at \$36.00, for Annexation Area 8 Sanitary Sewer.
- (jj) Acquisition of 15' x 1,117.03' of easement, plus a temporary construction easement, at 5418 Tuckaseegee Road, from A. J. Little and wife, Mary H., at \$1,118.00, for Annexation Area 8 Sanitary Sewer.
- (kk) Acquisition of 15' x 571.52' of easement, plus a temporary construction easement, at 2607 Toddville Road, from Terry A. Whitehurst and wife, Nancy W., at \$572.00, for Annexation Area 8 Sanitary Sewer.
- (ll) Acquisition of 7.5' x 496.63' of easement, plus a temporary construction easement, on 2.444 acres at end of Marmac Road, from Vance J. Burleson and wife, Wilma A., at \$497.00, for Annexation Area 8 Sanitary Sewer.

- (mm) Acquisition of 7.5' x 748.73' of easement, plus a temporary construction easement, on 3.35 acres at end of Marmac Road, from Hugh T. McDaniel and wife, Agnes W., at \$748.73, for Annexation Area 8 Sanitary Sewer.
- (nn) Acquisition of 7.5' x 105.00' of easement, plus a temporary construction easement, at 2709 Marmac Road, from Vance E. Huggins and wife, Lois H., at \$105.00, for Annexation Area 8 Sanitary Sewer.
- (oo) Acquisition of 7.15' x 210.00' of easement, plus a temporary construction easement, at 924 Lundy Lane, from Vance J. Burlison and wife, Wilma A., at \$210.00, for Annexation Area 8 Sanitary Sewer.
- (pp) Acquisition of 7.5' x 200.05' of easement, plus a temporary construction easement, at 2718 Marmac Road, from Mary M. Cathey, at \$200.00, for Annexation Area 8 Sanitary Sewer.
- (qq) Acquisition of 7.5' x 210.00' of easement, plus a temporary construction easement, at 2727 and 2733 Marmac Road, from Roy E. Rogers and wife, Edna R., at \$210.00, for Annexation Area 8 Sanitary Sewer.
- (rr) Acquisition of 7.5' x 132.36' of easement, plus a temporary construction easement, at 5906 Tuckaseegee Road, from Hugh T. McDaniel and wife, Agnes W., at \$133.00, for Annexation Area 8 Sanitary Sewer.
- (ss) Acquisition of 7.5' x 38.17' of easement, plus a temporary construction easement, at 5814 Tuckaseegee Road, from J. E. Marks, Jr., and wife, Bulah B., at \$39.00, for Annexation Area 8 Sanitary Sewer.
- (tt) Acquisition of construction easement on 5.48 acres off Arrowood Road, from Qal Real Estate Corporation, at \$1.00, for Big Sugar Creek Interceptor.
- (uu) Acquisition of 15' x 964.54' of easement, at 6100 block of Plaza Road, from John Crosland Road, at \$1.00, for Sanitary Sewer to Fairmarket Place.
- (vv) Acquisition of 10.02' x 152.34' x 10.01' x 152.16' of property on east side of Sardis Road at McAlpine Creek, from Pearl L. Clemmer, at \$200.00, for Sardis Road Bridge at McAlpine Creek.

ENCROACHMENT AGREEMENTS WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR WATER AND SEWER LINES, DEFERRED.

Councilmember Carroll asked if these encroachment agreements are plans to lay new water and sewer lines; or are they existing lines? Mr. Dukes, Utility Director, replied he will have to look at them. Councilmember Carroll stated he is interested in knowing if we have already approved the extension of water and sewer lines into the areas these agreements would cover - if this Council has? Mr. Dukes replied if there is a problem he would rather Council would defer these items and let him bring these answers back to Council.

Motion was made by Councilmember Carroll, seconded by Councilmember Trosch, and carried unanimously to defer the encroachment agreements.

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RULES SUSPENDED TO ALLOW ITEM PLACED ON THE AGENDA.

Councilmember Trosch moved that Council suspend its rules to place an item on the agenda. The motion was seconded by Councilmember Locke and carried unanimously.

PORTION OF RESOLUTION ESTABLISHING CHARLOTTE-MECKLENBURG HISTORIC PROPERTIES COMMISSION SUSPENDED TO ALLOW MR. HUNTER TO SERVE FULL THREE YEAR TERM.

Councilmember Trosch moved that the City Council suspend that portion of the resolution establishing the Charlotte Mecklenburg Historic Properties Commission that limits a member to serving no more than six years as it applies to the appointment by City Council of Mr. Ernest Hunter to the Commission to allow him to serve a full three year term as a member of the Commission; it is the purpose and intent of this motion to suspend the operation and effect of the resolution as may be applicable specifically to the reappointment of Mr. Hunter, and for no other purpose. The motion was seconded by Councilmember Short, and carried unanimously.

REQUEST TO PLACE ITEMS ON THE AGENDA.

Councilmember Chafin stated she has two items which she would like placed on the agenda. First is a nomination of a representative of the Planning Commission to the Historic District Commission. She moved that the item be placed on the agenda. The motion was seconded by Councilmember Short.

Mayor Harris asked the City Attorney if there is any problem with this. That she is making a nomination. Is it necessary to following the procedures for nominations and appointments? Several members of Council stated it has to be advertised. Mr. Underhill stated as he understood the idea behind the resolution was to allow an opportunity to comment. Councilmember Short stated this is already on the agenda for another name; so the subject matter is on the agenda. That Ms. Chafin has withdrawn the nomination that was on the agenda.

Councilmember Chafin stated what she is doing is the result of considerable input from citizens.

Councilmember Selden stated he does not have any other names; but some other Council member might want to put a name on since the position is open. He would ask that it be placed on the agenda for the next meeting for nominations.

Mayor Harris stated we will receive nominations at the next meeting.

MOTION TO RECESS FOR EXECUTIVE SESSION.

Councilmember Chafin stated her second motion is to place on the agenda a motion to recess this meeting and go into executive session. The motion was seconded by Councilmember Trosch.

Councilmember Chafin stated this pertains to the report from Mr. Sentelle. Councilmember Carroll asked that the record show he has been excluded from these discussions by Council at a previous meeting.

Councilmember Dannelly stated this Council has been going for nine hours and twenty minutes. If we go into an executive session to hear a report from Mr. Sentelle, it is his assumption that we will have to sit and listen for another hour; and possibly listen to 11 to 33 questions and answers; and then possibly decide whether or not we are going to do anything. Not knowing at this point whether or not Council is going to do anything after the report, he will make a substitute motion to recess this meeting until a designated time tomorrow to hear that report while Council Members are fresh.

Councilmember Chafin stated she appreciates the substitute motion, and Mr. Dannelly's feelings in this matter, and she raised the question of that possibility. Unfortunately, Mr. Sentelle will be tied up in court all day

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tomorrow. That she feels while Council is here most of them anticipated doing this, although certainly not at this hour.

Mayor Harris stated Ms. Chafin has shared her motion with him, and it does say for the purpose of receiving a report and advice. Councilmember Dannelly stated he recognizes that; but he thinks some of the members are pretty fatigued, and he would like for everybody to be here, and he knows that is a difficult thing. He does not know how many other Council persons knew that this would be coming about before they arrived here today. But by the same token he thinks we are pushing it a little hard. He recognizes that Council expected and the press expected to get a report within a six week period. Tomorrow is a part of the six weeks or the day after is. His point is there has to be a time after resting they can really listen to this the way they should.

Councilmember Cox stated he thinks Mr. Dannelly is right; that he plans to vote to put it on the agenda; but plans to vote against the motion.

Councilmember Dannelly stated he feels some want to hear it so bad - not that they are going to do anything with it.

The vote was taken on the motion to place the matter on the agenda, and carried unanimously.

Councilmember Chafin moved that the City Council recess this meeting and hold an executive closed session for the purpose of receiving a report and advice from Mr. David B. Sentelle, an attorney hired by the City Council to investigate alleged wiretapping and destruction evidence by the Police Department pursuant to the provisions of G. S. 143-318.3(a)(4) and (b), and G. S. 143-318.4(7). The motion was seconded by Councilmember Locke, and carried by the following vote:

YEAS: Councilmembers Chafin, Locke, Frech, Gantt, Leeper, Selden and Trosch.
NAYS: Councilmembers Cox, Dannelly and Short.

Councilmember Carroll having been excused from these discussions left the meeting prior to the discussions and votes on the motions.

MEETING RECESS AND RECONVENED.

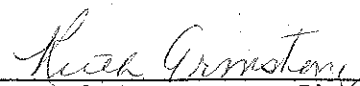
Mayor Harris called a recess at 9:35 P.M., and reconvened the meeting at 11:22 P.M., with all members present with the exception of Councilmember Carroll.

MOTION TO EXTEND CONTRACT WITH DAVID B. SENTELLE WITH TERMS TO BE NEGOTIATED BY THE CITY ATTORNEY AND MR. SENTELLE.

Councilmember Chafin moved that City Council extend the contract with David B. Sentelle, the terms of which should be negotiated by our City Attorney, Mr. Underhill and Mr. Sentelle, to be brought back to Council for approval. The motion was seconded by Councilmember Short, and carried unanimously.

ADJOURNMENT.

Upon motion of Councilmember Locke, seconded by Councilmember Gantt, and carried unanimously, the meeting adjourned.


Ruth Armstrong, City Clerk