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The City Council of the City of Charlotte, North Carolina, met in a regular session, on Monday, October 30, 1978, at 3:00 o'clock p. m., in the Council Chamber, City Hall, with Mayor pro tem Betty Chafin presiding (for the first half of the session), and Councilmembers Don Carroll, 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: Mayor Kenneth R. Harris (for first half of session).

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#### INVOCATION.

The invocation was given by Dr. Jennings B. Reid, Minister of Hickory Grove Presbyterian Church.

#### APPROVAL OF MINUTES.

Upon motion of Councilmember Short, seconded by Councilmember Gantt, and unanimously carried, the minutes of the last regular meeting, on October 16, and the Community Development Performance Hearing, on October 19, 1978, were approved as submitted.

#### AGENDA PROCEDURE AMENDED.

Mayor pro tem Chafin advised that in the Mayor's absence, decisions on the zoning matters would be deferred until his arrival later in the meeting.

#### MS. MICKIE RIDDICK PRESENTED KNIGHT OF QUEEN CITY AWARD.

Mayor pro tem Chafin recognized Ms. Mickie Riddick who will be leaving Charlotte soon, after having served the YWCA, first as assistant director, and as director since 1972; and presented her with the Knight of the Queen City Award. She expressed appreciation on the part of all of the Councilmembers for her contributions to our Community, particularly to the lives of the women of this community; and wished her well in her new position.

Ms. Riddick responded by stating she has had a wonderful thirteen years living and working in Charlotte, and thanked Council for this recognition.

#### ORDINANCE NO. 391-X DESIGNATING THE JAMES C. DOWD HOUSE, LOCATED AT 2216 MONUMENT STREET, AS HISTORIC PROPERTY.

The scheduled public hearing was held on the designation of the exterior and interior of the James C. Dowd House as historic property.

Dr. Dan Morrell, Director of the Charlotte-Mecklenburg Historic Properties Commission, stated information regarding the action of the Commission has been distributed to Councilmembers, but he will go over a few pertinent points.

He stated that the vote of the Commission was made on May 10, 1978 to make this recommendation. That the impact of designation would be basically: (1) The 90-day notice required by the owner for demolition and material alteration - that the owner understands this and assents to this. (2) The owner would be able to defer 50 percent of the ad valorem taxes on this structure annually, which would amount to \$26.46. (3) A plaque would be placed on the property by the Historic Properties Commission.

He stated the recommendation was made regarding this structure for two reasons. First, the Dowd family has been a prominent family and continues to be, in this community. Secondly, because of its association with Camp Greene as a temporary camp headquarters and it is the most imposing artifact which remains of that massive military camp of 1917-1919.

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Councilmember Selden stated he understands that the law requires that properties designated as historic by City Council must meet the criteria of the National Register. Dr. Morrell stated the Historic Properties Commission must make a judgment on all properties it recommends for designation, that in its judgment it does meet the criteria for the National Register, but it does not actually have to be listed in the National Register. He stated the Register had the opportunity to respond and they did not do so within the 60-day period.

Mr. Selden stated he had heard indirectly that the Register did not feel that this property met the National criteria and that is the reason he is raising the question. Dr. Morrell stated the only way he can respond to that is that he had received no official correspondence whatsoever regarding that particular property; that such judgment by the Division of Archives and History, of course, is not required for this Council to take it into consideration.

Councilmember Leeper asked if he normally gets a response at some point in time? Dr. Morrell replied it is generally true that the Division of Archives and History has responded to recommendations that the Commission has made. Mr. Leeper stated he would like to make a few comments; that he would like to commend the Dowd House Preservation Committee who has worked so hard in trying to get this house recognized as a historic site. He stated that particular area of Charlotte does not have any significant recognition for historic sites. That he has gone over and looked at the house on several occasions and believes that the City should recognize that the West Side does have some areas that contribute to the history of Charlotte; that this is particularly significant. That he would encourage Council to do so.

Councilmember Carroll stated that under the National Register criteria, it is not just buildings of architectural significance that are appropriate for the National Register; that this is a building that is significant in our cultural life and in the history of our city and he is delighted that they have this proposed designation before Council because of the fact that it does take into account a significant recent era and an area of the City that they probably have not looked at as closely in the past as they should.

Opportunity was given for any expressions of opposition to the designation and there was no response.

Thereupon, motion was made by Councilmember Leeper, seconded by Councilmember Short, for adoption of an ordinance designating the James C. Dowd house as historic property.

Councilmember Selden stated he raised the previous question with respect to the National criteria, not as an idle question; that he has had several people approach him on the desirability of maintaining a high order with respect to the National criteria designation. Quite a bit of concern has been expressed about making the value of historic designation being so commonplace as to not carry its worth of value in the community. That he recognizes that he is very much in the minority, and he came prepared to portray some of the questions that have been raised. He moved deferral of this designation for a period of two weeks. The motion died for lack of a second.

Councilmember Short stated that apart from the Dowd family, this place was the headquarters of the biggest military installation that has ever been in this city; that it is of historic significance over almost any other building here.

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

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

NAY: Councilmember Selden.

The ordinance is recorded in full in Ordinance Book 26, at Pages 338-340.

RESOLUTION APPROVING THE SALE OF A FIVE UNIT MULTI-FAMILY STRUCTURE AND LOT AT 130 VICTORIA AVENUE TO HOME FINDINGS, INC. IN THE THIRD WARD COMMUNITY DEVELOPMENT TARGET AREA FOR REHABILITATION.

The public hearing was held to consider a proposal by Home Findings, Inc. for the purchase of a five-unit multi-family structure and lot located at 130 Victoria Avenue, in the Third Ward Community Development Target Area for rehabilitation.

Mr. Vernon Sawyer, Director of Community Development, stated that he has received a proposal from Home Findings, Inc., a non-profit association, to purchase and rehabilitate a property located in the Third Ward Community Development project. It is a five-unit multi-family brick structure and each unit consists of a total of five rooms. There is quite a large land area involved - 21,781 square feet - and they have established a disposition value in accordance with the North Carolina Urban Redevelopment law in the amount of \$13,500. They propose to sell this structure to this non-profit organization which will commit to rehabilitate it according to the standards for this project.

Councilmember Cox stated he presumes the City acquired this piece of property some time ago, and asked how much we paid for it? Mr. Sawyer replied the property was acquired by the Public Works Department because they needed a piece of it; that the CD Department bought it from the Public Works Department for \$40,375, and will be selling it for \$13,500. Mr. Cox stated he would like to make a point here; that the point is not that we are going to sell it for \$13,500 but that we bought it at \$40,375. What happened to the value of this property between the time we bought it and the time we sold it that made these experts in real estate appraisal believe that the property went down at that rate? Did a road go by, or did the walls cave in, or what happened to this piece of property that made it go down in value? The point is that he believes, and many of the Councilmembers believe, that we pay too much for properties that we acquire and that we are wasting scarce CD funds for that reason. He stated that he and Mr. Sawyer have talked about this before; that what he would like to know is what happened to the property that made the real estate appraisers say at one time it was worth such and such and now, low and behold, it is worth \$13,500?

Mr. Sawyer replied that he is sorry he cannot give him a complete answer, but he will tell him as much about it as he knows. In the first place, they have heard the accusations time after time that the Community Development Department is doing just what he said - paying too much for property. But, they have federal laws and state laws that they have to follow in arriving at a value. They have to have two independent appraisers value the property when it is acquired and then a third appraiser review those two appraisers' work and make a recommendation to the Department. That is the legal requirement and that is the system. They buy that property in the setting that they find it in at that time. In this case it was probably an occupied property with income that could be accounted for, and just the opposite is true now that they are ready to sell it. They bought it, took a piece of the property off for the right-of-way for the Trade-Fourth connector, so they isolated the property pretty well - it is up on a hill, fifteen or twenty feet into the air. It is now vacant, it has been pretty well vandalized in the meantime - during the time since it was acquired and relocated the occupants and offered it for sale.

Councilmember Cox stated he would like to say that he does not believe any of those are true - it is clearly, and he has seen the property, in worse condition now than it was before. It just makes him furious that the City pays so much money for this piece of property, and countless other pieces of property, when at the same time we are facing a spend-down in CD.

Mr. Sawyer stated he shares his dilemma and his fury, but he does not know of anything they can do about it.

Councilmember Gantt asked if the same appraisers are used, and Mr. Sawyer replied no indeed, they never employ the same appraisers to work on the disposition who worked on the acquisition.

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Mr. Gantt asked Mr. Cox if he is saying that he does not want to vote for the rehabilitation of these at \$13,500. Mr. Cox replied he is delighted to vote for these for rehabilitation at \$13,500; he is trying to make a point and try to stand up and scream and be theatrical to make a point. He cannot do it talking straight with folks - he has to stand up and make a point, and the point is that we pay too much money for these properties and are getting "bamboozled" by the real estate appraisers and he is tired of it!

Councilmember Selden made the request that when these are brought to Council that they give the date of acquisition, who made the appraisals. In other words he would like to know historically what caused this so they can help avoid it the next time.

Councilmember Frech pointed out that she had this same discussion with Mr. Sawyer earlier; and that they are about to approve the purchase of a piece of property in a Community Development area for what looks like a rather high price. That may be the end of the procedure which they may need to be looking at rather than this end.

She addressed Mr. Sawyer stating this is a non-profit corporation, they are going to rehabilitate it and sell it? Mr. Sawyer replied either hold it as an investment property or sell it. He does not know their plans; they probably will hang onto it and rent it. They have conformed to the North Carolina law regulating non-profit organizations that are in this business, and an Assistant City Attorney has reviewed it and says it meets all of the requirements; and they are satisfied that it does. He stated it does not mean they cannot make a profit; it means that they must use that profit for a certain purpose.

Councilmember Leeper stated he shares Mr. Cox's frustration; and moved that they approve this transaction. The motion was seconded by Councilmember Gantt.

Mr. Cox stated it does seem to him that they need to understand better the appraisal process and understand whether they have exhausted every opportunity they have before them, and every technique that appraisers use for appraising pieces of property, so that they can better buy these pieces of property. He is reminded that everytime they see one of the sheets it says "fair market value." That fair market value, as each of them knows, can be determined in many different kinds of ways - income stream being one of the ways. He would like to see a statement of the ways our appraising firms use to evaluate these pieces of property and a statement from the City Attorney or some staff member that we have explored all the techniques available to us and that we are using the techniques that would give us an appraised price for purchase by us that most clearly reflects (a) what we are going to turn around and sell it for later, but (b) what the fair market price for that piece of property is. He stated he has asked for that several times and that is perhaps the source of his frustration - that he has never gotten it. That he decided when he was reading the agenda that he would make a big deal out of it with the hope that he would be able to get that information.

The vote was taken on the motion and carried unanimously.

The resolution is recorded in full in Resolutions Book 13, at Page 473.

CONTRACT WITH FAMILY HOUSING SERVICES FOR GENERAL COUNSELING SERVICES,  
APPROVED.

Motion was made by Councilmember Selden, seconded by Councilmember Carroll, for approval of a contract with Family Housing Services for a Home Management and Improvement Program for Community Development Target Area residents for a total of \$121,475.

Mr. Mario Neal, 403 North Tryon Street, Suite 500, provided Councilmembers with copies of a Program Review of what Family Housing Services is all about. He stated he is Chairman of the Board for the organization; that they were established in 1972 by Myers Park Baptist Church, Myers Park Presbyterian Church and Christ Episcopal Church to provide ownership and

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related counseling for low and moderate income families. They are certified by the Department of Housing and Urban Development as a comprehensive housing agency. The City of Charlotte has recognized the need for housing and an economic development program and has identified many target areas with a large concentration of low income families living in poor and deteriorating social conditions in Charlotte. These families are being relocated, are suffering from rehabilitation problems; facing foreclosures and evictions; they need affordable places to live; they live in substandard housing; they need counseling assistance; help in simple problems. They need information on energy conservation; they need to know tenant rights and responsibilities, money management and consumer education. Family Housing Services deals in all these areas with their clients.

They can be broken down basically in four components - counseling which goes with housing problems, consumer education, neighborhood coordination, and most recently, the area of home rehabilitation. They recently had their grand opening ceremonies. Some of their special projects have been winterization emergency assistance and a job training program. Family Housing's success has been recognized nationally by the Congress through the personal testimony of their director, Barbara Lucas. Their funding comes mainly from the Community Development Department, the Manpower Department of the City of Charlotte; and they have two contracts with the U. S. Department of Housing and Urban Development. That contract can be broken down basically into two parts - counseling and technical assistance where they are funded on a cost reimbursement basis for those who meet their requirements. However, they do not refuse anyone, and this is why some funding comes in through private donations.

He stated they served 1,180 families in 1977. The agency consists of 22 regular staff members, nine trainees; and the Board of Directors has 19 members.

Ms. Barbara Lucas, Director of Family Housing Services, supplied Councilmembers with copies of two reports. She stated that since they last appeared before Council to discuss the contract for the coming year, their staff has met with various persons in the Third Ward and Five Points communities as well as attending meetings to discuss this contract, in particular the neighborhood participation portion of the contract. In addition, they have prepared a report on their relocation activities which indicates that a lot of the problems they encounter in relocation revolve around understanding and misunderstandings of information which is very important to these people's lives.

She stated they are presently working with five cases which are relocatees in Five Points, 24 cases in Third Ward, and 22 cases in West Morehead. They have found that both the Third Ward and the Five Points residents are very concerned as to what source of funds will be used to provide the funding for the neighborhood participation and the relocation intensified counselling. Both communities understand that it will come out of their community budget. She stated she has a hard time understanding the CD budget herself, and to the community that means it will come out of money that should be used to rehabilitate housing.

She stated that should Council decide to pass any portion of this contract over and above the general counseling which comes out of the Human Services budget, they would request that Council specifically designate, in passing the contract, that the funds are to come from administrative monies, rather than from monies which would otherwise go to rehabilitate houses.

She stated that their meetings and various conversations with many of the Third Ward residents have made it clear that Third Ward is satisfied with the services it is now receiving and does not want any additional services from Family Housing, other than their one-to-one counseling. That as she has stated previously, Family Housing Services does not ever want to push itself on any client or community. Therefore, they ask that Council disregard the neighborhood participation for Third Ward. That if the representative from Five Points indicates today they are in favor of the contract, Family Services will be happy to provide services to that area. They believe it is in everyone's best interest to settle this matter today; that she is aware

of a rumor that it may be put off another week. This is very disturbing to her staff; it is disturbing to the CD staff, she believes; and it is also disturbing to the residents. She sees nothing gained by putting it off another week.

Therefore, she will suggest three alternatives: (1) That Council fund the relocation portion for Third Ward, and the total package for Five Points if they speak in favor of it, all out of administrative funds; (2) That they fund only the total package for Five Points, provided they speak in favor, again from administrative funds, with no extra money for Third Ward; (3) That they fund only the general counseling portion of the contract, with no additional monies for neighborhood participation or relocation. Of course, they do have a fourth alternative not to fund the contract at all.

Councilmember Short asked if she is saying that any funding should come from the administrative budget of the CD Department? Ms. Lucas replied any funding over and above their general counseling funding which comes from Social Services. Mr. Short stated any funding over and above the funding they have already been receiving? Ms. Lucas replied she thought that was important.

Ms. Pauline B. McLurkin, 301 Mill Road, representing the Five Points Area, expressed their thanks to those responsible for bringing this activity to their neighborhood. She understands this is the first time any contract has been brought to the community for the community to have input in the process that involves them directly. She firmly believes that it is important that the community be involved in matters of this nature. That the members of Five Points Community have been told that there is an allocation of funds for the improvement of their community. They strongly suggest that these funds allocated for the specific improvement of their community not be used to employ any other program or service. However, they do feel that if there are services available to them without disturbing the already allocated funds, they welcome them; they need all the help they can get. They understand that the pre-relocation counseling service which is being discussed today, should be performed by the Neighborhood Centers Social Service staff. It is apparent that the full thrust of this staff has not been felt at this point in time. They are not suggesting that the City take in any new agencies and certainly not that they delete any. What they really desire is for some agency, whether it is Community Development, Family Housing, or any other agency, get involved with their community and cause things to happen. They appreciate being involved in the type of activities that allow them to look at contracts before they are awarded. It means to them that they are not just rubber stamping a hand-down package that citizens like themselves cannot and do not understand. Due to the time and lack of experience in these matters, they feel they do not have the expertise to deal with the contract at hand. They hope that in the future the dissemination of information can come in whole rather than in piecemeal rumors, or in dribbling fashion. They also hope that with directness of information the community will not find itself in the middle of a squabble between agencies. It is not their intention to have any person, group or agency, hostile toward their community. They understand the circumstances and feel that Council, and Council alone, along with their neighborhood, will make the appropriate and wise decision for this contract.

Councilmember Trosch stated if she understands what Ms. McLurkin is saying - she is saying the full thrust of the services have not been felt at this point for the pre-relocation counseling; that she is asking for whatever administrative agency that is responsible for this, that they come in and do it? That they want the services, but are confused as to whether it is going to take money out of their allocated amount, if they put someone else in there on top of what is already there?

Ms. McLurkin replied they do not want it taken away. If they can find some other money to use for that specific purpose, fine; but anything that is coming out of their budget, they do not want. They can use the services.

Mr. Malachi Green, 825 Cates Street, Apt. A, stated he speaks for the Third Ward neighborhood, and he asks that Council reject the proposed contract with Family Housing Services as it relates to the Third Ward community. It is a generally felt opinion of the residents of the community that saddling

them with another layer of bureaucracy would only stymie their efforts to revitalize their community. Notwithstanding the do-good intentions of the persons who gave impetus to the development of this proposal, there seems to be a residual paternalism resplendent in all of its heinous implications. They have to wonder when is somebody going to stop planning for them. This proposal flies in the face of the recently accepted and long fought for proper partnership of public agencies and neighborhoods in the planning process. The Community Development Department has moved a long way in learning to respect the intentions, aspirations and desires of the residents of the neighborhoods of Charlotte. The partnership in the Third Ward Community is emerging, let them not upset this process. All is not perfect in the Third Ward Community, and with CD; there are many problems yet and their community is in dire need of assistance. However, this is not the way to do it.

Councilmember Leeper directed a question to Ms. Lucas, and perhaps Mr. Sawyer. He stated that Ms. Lucas indicated that the funds should come out of the administrative costs - how does she propose to do that? Ms. Lucas replied she does not know; that she would not want to be responsible for a house not being rehabed in Five Points or anywhere; and it was her understanding that some portion of all the target area money was, in fact, administrative money and not physical improvements money. If that is a possibility, then she would suggest that it come from administrative funds.

Mr. Leeper asked Mr. Sawyer to respond to the effect that what Ms. Lucas is suggesting would have on the administrative budget. Mr. Sawyer replied that the impact on the administrative budget, unless it is increased, would be devastating, because they have no administrative monies. They are short now and he would suggest that he ask the question of the Budget Director. The funds are short this year and they will be shorter next year. If they borrow from next year's to make this up this year, they are only putting themselves farther in the hole next year.

Councilmember Gantt stated what he is really saying is that in order for them to come out even on this, he may have to get rid of some people on the administrative staff. Where did he intend getting these funds from?

Mr. Sawyer replied the amendment was very clear. It said "from the money appropriated for the project." Councilmember Gantt asked if in that appropriation there is not included a line item for administrative expenses in that area? Mr. Sawyer replied there is, yes; and they have allocated a certain percentage of that total allocation for administrative money. Mr. Gantt asked but he did not anticipate getting the money from that particular budget? Mr. Sawyer replied no. Mr. Gantt stated he had not really decided where it was coming from? Mr. Sawyer replied they really have not; they will just have to comb the budget and see where it can be found - from all line items.

Councilmember Leeper stated that in relationship to the neighborhood's comments about their opposition to this, and to Ms. Lucas' comments about not wanting to push something down their throats, he would make a substitute motion that the contract be reduced to the level of funding of the current contract with Family Housing. The substitute motion was seconded by Councilmember Dannelly.

Councilmember Gantt stated that as he read the contract, that would mean they are eliminating a certain number of service units. Ms. Lucas stated that to do that they would be eliminating approximately 1,700 service units, eliminating the neighborhood participation as well as the intensified relocation counseling. Mr. Gantt ask what it would amount to that they would then be approving? And, does he understand that that amount would then be what has initially been put into the budget under the Human Services portion?

Mayor pro tem Chafin asked for clarification from the staff of her understanding that if this is the wish of the Council to do this, then if it is necessary to develop a new contract they need to extend the existing contract for one week.

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Mr. Joe Michie of the Community Development staff replied they could extend it for one week. If they are voting to extend the old contract which would be \$82,500, subtracting out the citizen participation unit and the relocation unit, what they would be doing in the contract is eliminating Parts B and C, leaving essentially the same contract they have had before. There might be a minor amendment that would later have to come before Council to clean up an objective or two, but in essence that is what they would be doing - voting on Section A of the contract for \$82,500.

Councilmember Selden stated if they went with the substitute motion, as he understands it, there has been pre-relocation counseling and resident participation services provided by CD staff prior to this time? Mr. Michie replied yes. They might disagree on the amount, etc., but it has been provided. Social workers from the Neighborhood Centers Department and the CD relocation staff either are, or can easily do this. Mr. Selden asked if that will continue to be provided under the substitute motion? Mr. Michie replied yes. Mr. Selden asked what it will be funded from? Mr. Michie replied those budgets are already set for the Social Service workers. Starting next year it will come out of the General Fund, not involving Community Development and their own budget for citizen participation and relocation. Mr. Selden asked what is the dollar value of those services as CD would provide it? Mr. Michie replied he did not know, he is not sure that he priced that. Mr. Selden asked if he has any idea of what magnitude? Mr. Tom Finnie, Budget Director, stated he has not priced it exactly, but gave an estimate of between \$70,000 and \$100,000.

Mr. Selden stated that carrying his train of thought a little bit further, they have \$39,000 difference between the contract proposed under the original motion and the substitute motion, which is the value of services B and C that would be offered by Family Housing Services; that in effect, something between \$70,000 and \$100,000 is the estimate of the administrative cost of this being provided by CD. Mr. Michie stated they have never broken it down that fine; they have never looked at the problem that way. That perhaps it can be done.

Mr. Selden stated that what he is driving at is that somewhere he would like to see what it is going to cost this coming year for what would have been provided for \$39,000 under the originally proposed contract. To further clarify his comments, Mr. Selden stated that Mr. Michie has said they are going to provide the relocation counselling and the resident participation services which were B and C of the original contract proposal.

Ms. Chafin stated that what he wants is the cost of providing those services to the two target areas? Mr. Selden stated he wants the apportionment of the administrative service cost that will match to that \$39,000; that he wants to see what 1,700 units, in effect, is going to cost us by the alternate route. He is not suggesting that this be deferred; he just wants that information because he wants to see to what degree they are going down the right road or the wrong road.

Councilmember Dannelly stated that Ms. Trosch alluded to something much earlier and it is implied all the way through that there is obviously a lot of duplication of services. That whether the services are being provided by the City agencies or not, the point is the funds are there and the City agencies have the personnel available to do it. If they are not doing it, then what Council is saying is "By golly, get on the ball and do it the way it should be done." Not pay somebody to duplicate the same services, because that is not the proper expenditure of funds. That is basically what his entire thing has been about these services - there is so much duplication, and we have people who are supposed to be capable of doing it; if they are not doing it, then it is up to this Council to see that that is being done.

Councilmember Trosch stated that under this contract, there would have been more people serviced with pre-relocation counseling and neighborhood participation. She asked if the CD staff is saying that they can handle a number of people - they have the manpower - if they had this contract also?



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Mr. Michie replied they always make a real point to say that they have staff that either can, or are now, doing those services. Many of the things listed under citizen participation and pre-relocation counseling that are spoken to in this contract are not presently being done by staff. This comes from what Councilmember Dannelly was saying about a direction to their staff in Community Development and the Neighborhood Centers Department to get on with doing some of the things that were in this contract. That is fine; all they need is some direction or change that they can deliver all of those.

Ms. Trosch asked if he is saying they are not doing them because they did not have the direction from Council? Mr. Michie replied it just has not been their policy or direction at this point to get into some of those areas. That maybe they should have been doing them, he does not know.

Ms. Trosch stated but they have the manpower to do it? Mr. Michie replied he feels they do; for the portion under Community Development, they have the staff.

Mr. Sawyer stated it is a matter of judgment, a perception of need. If they had perceived that the need for these services was there, they would have "broken their backs" to provide them. The question is where do you stop in providing services and what are the real needs. They thought they had a system that spoke to the needs and satisfied the needs. But, if there are additional needs and if they should go further, they will spread their staff to do it. That in doing it, it may slow up something else.

Ms. Trosch asked if he would be taking personnel from something else to do it and Mr. Sawyer replied it would be a shift of emphasis, yes.

Councilmember Frech asked if Family Housing Services has added any people to its staff in anticipation of this contract? Ms. Lucas replied no, they have made some adjustments in their staff, but have not added, although they have promoted some people.

The question was called on the substitute motion and carried unanimously.

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

[ON MOTION OF COUNCILMEMBER SHORT, SECONDED BY COUNCILMEMBER LOCKE, COUNCILMEMBER DANNELLY WAS EXCUSED BY UNANIMOUS VOTE AT THIS POINT, TO RETURN LATER IN THE SESSION, AS NOTED IN THE MINUTES]

Councilmember Gantt stated that Council learned a lesson on this particular contract. They ended up with a little bit of mud on their faces, with very good intentions, he thinks, on the part of this Council. That he will respond to some of the comments that were made. That the City Council did in fact want to provide the maximum amount of services they could to the residents of that area. Unfortunately, the residents construed that to be paternalism since they felt that they were not adequately communicated with. That hopefully, in the future, they will do a little better job of making up what their intentions are and their perceptions of need - not only perception, but understanding the reality of the specific needs. That when they develop the programs to implement the need, that they get back to the neighborhoods and talk with them about that. He has a feeling that those services really were needed in a more expanded way, but he was not about to vote for that when they did not perceive that need.

Mayor pro tem Chafin stated that the result of this is a real mandate to the Community Development Department to communicate with the citizens and to perform the services at a level that is needed.

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COUNCIL RULES SUSPENDED IN ORDER TO DEFER ZONING DECISIONS UNTIL LATER IN THE SESSION.

On motion of Councilmember Cox, seconded by Councilmember Short, and unanimously carried, Council rules were suspended in order to defer the scheduled zoning decisions until later in the session.

PARKING PLAN FOR CENTRAL AVENUE, BETWEEN PECAN AND THOMAS, ADOPTED; PROCESS OF DEVELOPING A LONG-RANGE PLAN FOR REDEVELOPMENT OF THE AREA TO CONTINUE; FINANCE COMMITTEE ASKED TO INVESTIGATE POSSIBILITY OF FINANCING PURCHASE OF PROPERTY FOR PARKING LOT WITH LONG TERM REVENUE BONDS.

Consideration was given to a report from the Central Avenue Task Force on parking problems on Central Avenue, between Pecan and Thomas Avenues. The following actions were recommended:

- (a) A prohibition of parking on the southern side of Central, between Thomas and Pecan, and no parking during peak hours on the northern side. Parking will be allowed on the northern side between the hours of 9:00 a. m. and 4:00 p. m.
- (b) Request approval to have the City proceed to acquire property at the intersection of Thomas Avenue and Central Avenue. The estimated cost of this property is \$24,000; cost of paving is estimated at \$4,100. Purchase by the City will require an additional appropriation of funds.
- (c) Continue the process of developing a long-range plan for redevelopment of the area.

Councilmember Gantt, Chairman of the Task Force, moved for adoption of the recommendations. The motion was seconded by Councilmember Locke.

Mr. Gantt stated there was some question as to whether or not this was a unanimous decision - whether the neighborhood and the merchants are all agreed. That his understanding of the minutes and from participation in the meetings, there was general unanimous agreement. There should not be any question about that. He stated that one other solution they had was to widen the street which would have involved a considerable investment. That this was not agreed to by the neighborhood group but was favored by the merchants as the ideal solution.

The second point he would make is that this is, and should be, considered a temporary solution; it really does not resolve the problem that Central Avenue has. Out of their sessions, they came up with the idea that maybe the City ought to try local revenue sharing in terms of planning, to allow a neighborhood to exert the initiative to do some planning for that area, working in conjunction with the Planning Commission, but maybe even hiring their own planning consultant. That what he thinks has been good about this particular task force is that at least they have gotten the neighborhood and the merchants talking to each other now. That the merchants clearly understand that this is not a final solution; and that the neighborhood certainly does not want it to be a final solution. That Item (c) is probably the most important facet of this whole thing; that hopefully, as he has stated to the people of the Plaza-Midwood Area, the impetus must, in fact, probably come from the neighborhood for the change that they would like to see happen. That the City ought to be prepared to respond to those needs. He referred to the fact that all Councilmembers had received a copy of Ron Morgan's proposal for how this might go forward, commenting that it is an excellent way to probably try to do this.

Referring to Item (b), he stated that both the neighborhoods and the merchants agreed that this property might be utilized for additional parking.

Councilmember Short stated he is not going to vote against this; he will vote for it. If this \$24,000 expenditure is a precedent, it will just have to be that. That it is for a good cause and he commends the committee for what they have done. It was a tough nut to crack. He does think there is one possibility that they should consider. That is, approve today (a) and (c); and hold a little bit on (b) and ask the committee if they can investigate

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the possibility that this could be done with long term revenue bonds. If they can pause a little bit - a week or so - to try to investigate this possibility, they will have de-fused others who may come in and say the City gave them a parking lot, why cannot they have one? He requested that Mr. Gantt respond to that suggestion, if he has any objection to it?

Councilmember Gantt replied he was just trying to think where they would get the revenue to pay off the bonds - that he thinks he is over-estimating the size of the parking lot. He would like to ask Mr. Short to look at that in another way. They are anticipating some long range planning for this area. One of the reasons this became acceptable to the neighborhoods and the merchants is that it is a form of land banking. That particular piece of property strategically might be used for another purpose in the long range plan. Indeed, there were suggestions that the City purchase additional properties in the area - use them for parking places now, but they would become a convenient land bank in which the City may ultimately one day need to respond to certain initiatives developed by the merchants and the neighborhoods. That one of the way that they might respond is buy the land that they then own in terms of the placement of public facilities, in the future long term plans. He has some difficulty believing that \$24,000 ought to be handled in revenue bonds.

Mr. Short responded that it could be done if a bank wants to do it. He asked if there are spaces there now that are being rented, or are there coin machines there? The answer was no.

Councilmember Short offered a substitute motion (with the understanding that he will vote for this in any event) to approve (a) and (c) and ask the Finance Committee to investigate whether it is possible to finance the lot with long term revenue bonds through some local bank. The substitute motion was seconded by Councilmember Leeper.

Councilmember Trosch stated she was not inclined to vote for (b) for several reasons. Not that she was not in support totally of what the committee is doing, but first of all, she felt that other sources had not been looked into as comprehensively as perhaps they could be. Secondly, because she felt that perhaps providing the parking would take the impetus on the businesses' part from continuing the involvement in the process of the neighborhood. Thirdly, because even in the CD funding, or any kind of funding that they do, they always have a plan - they know where they are going when they invest money. She does not feel that sense at this point in this particular process. She asked if Council funded this now, without looking at other sources, would it come from the Contingency Fund? Mr. Bobo replied it would have to at this point. Ms. Trosch stated they have \$244,000 in the Contingency Fund and we are a third of the way through. She would be comfortable with looking at other sources but not with going ahead.

Councilmember Selden stated his understanding is that the area that is proposed to be purchased as a parking lot now has parking in it each day of some degree, so that in effect they are not basically making additional spaces available, except those spaces that are not occupied normally. Mr. Gantt stated they are likely to get a more efficient use of the lot. Mr. Selden stated he is definitely in favor of (a) and (c) but if they go to the bank in terms of (b) they will have to have some source of revenue indicated other than simply land banking, which is a definite value, but they are not going to sell a bank on land banking, he does not think. He suggested that the substitute motion include investigation of parking meters which would provide some revenue as the stimulus to the banking incentive. This would give opportunity for a distribution of parking in this lot other than just the public arena, and make it more palatable. Councilmember Short agreed to this, stating that was his intent.

Councilmember Carroll stated he thought the idea of the \$24,000 for the lot was to go ahead with a planner, along the idea that the committee and Ron Morgan discussed. That he does not want to see the impetus for this drop; that the committee has done a lot of important groundwork to show where we need to go. He asked Mr. Gantt if it was his feeling that the community was going to come back in and ask for that, or should it not be included at this time?

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Councilmember Gantt stated the parking lot situation at this time is more of a concession to the merchants on the street. The community was willing to go along with it because the land banking thing made some sense in terms of a long term plan actually being developed in that area. That what he hears Mr. Carroll saying is that he would have preferred the \$24,000 being used for funding some planning study immediately and leaving the idea off. That makes some sense except it does not make quite as much sense in the delicate compromise with the merchants and the neighborhood. He felt the decision of the committee made some sense in terms of trying to maintain the relationship that is going to be needed before any good plan is going to develop.

Responding to a question from Mr. Carroll as to where that part of it stands, Mr. Gantt replied that first of all there is some work that Council needs to do on its own to decide whether or not this kind of an approach to neighborhood planning or something that works in conjunction with the area wide planning that our own Commission is doing is feasible. But, probably most important is the fact that the neighborhood and the merchants themselves need to light a fire under the Council in terms of their basic strategy. That he has said to Mr. Hatley, the neighborhood representative, that by the time of next year's budgetting for this, the Council ought to be well grounded in the concept that local revenue sharing for planning in neighborhoods might be a very reasonable approach, and we should have a system or mechanism by which to do that. That following the Morgan memorandum, that would likely be as a result of certain kinds of trigger things that would be kicked off in the neighborhood to force the City to consider it. Such as coming to the Council with a strategy for planning, a direction, or some goals that they want to go in; and then the City, reviewing that, would provide funding for them to actually do the planning work and work in conjunction with the Planning Commission. His own feeling is that the \$24,000 is in effect a "carrot" that the City is putting out there to hold that coalition together until they themselves can work toward putting together a proposal to prepare a plan. That Ms. Trosch's point of having a developed plan at this point would really mean that the situation out there would remain in limbo for a considerable length of time, and the temporary plan of simply having the parking, or some of it, now, with the purchase of land for parking would do it.

Councilmember Cox stated that Mr. Gantt is very, very persuasive; but the fact still remains that they will be spending - land banking or not - \$24,000 without a plan. That he will vote against the substitute motion because he wants to get around to voting on whether they should be involved in this particular transaction or not.

Councilmember Frech stated she is very excited over the possibility of doing something that is badly needed in this area, but asked if there was any discussion with the merchants or the property owners about the possibility of their providing some of the money to buy this? She is thinking that most merchants are required to provide parking themselves. Granted they have had parking on the street and now the City is taking it away, but that is something very few merchants in the City have. Mr. Gantt's answer was that the committee did not discuss that. That it is likely that the merchants understand that if any plan ultimately developed here, it is very likely that they will have to make substantial investments themselves. That again, this is a "carrot" and Council has a right to choose whether or not they want to start this thing off at all.

Ms. Frech stated she intends to support it eventually, but feels a little uneasy about making this decision today, without further consideration by the Finance Committee. She asked Mr. Cox if he is saying that he does not support referral to the Committee? Mr. Cox stated that just because he is chairman of the Finance Committee, does not mean that because he votes against it he will take a very subjective look at it; there are five committee members and if it is referred to them they will try to find other sources.

Councilmember Short stated he hopes that both Councilmembers Cox and Trosch will vote for this substitute motion; that he thinks they should handle the emergency out there before getting into a long term intellectual activity

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like planning; that their comments are a little bit like having a house on fire somewhere and they want to stop and reorganize the table of organization of the Fire Department before they send them to put the fire out.

Councilmember Cox replied he thinks he is exactly right; but he also has a problem in buying the lot in the first place, of Council even acting as an agent in buying the lot.

Councilmember Selden stated Asheville has a publicly owned parking lot which is revenue producing and contributes to the payoff of the lot.

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

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

NAY: Councilmember Cox.

Mr. Underhill, City Attorney, advised that Councilmember Carroll had left the chamber before the vote was taken to take a phone call; that his vote will be recorded as yes and he does not know whether that is the way he intended to vote. Mayor pro tem Chafin ruled this was the automatic procedure for an unexcused absence.

CONTRACT WITH HENSLEY-SCHMIDT, INC. FOR A TRANSIT-PARKING COORDINATION STUDY, EXTENDED TO OCTOBER 31, 1978.

On motion of Councilmember Short, seconded by Councilmember Gantt, and carried unanimously, an amendment was approved to extend the contract with Hensley-Schmidt, Inc. for a transit-parking coordination study to October 31, 1978.

TYVOLA ROAD SITE DESIGNATED FOR CONSTRUCTION OF A SPECIAL POPULATION RECREATION CENTER.

Councilmember Gantt moved that the Tyvola Road site be designated for construction of the Special Population Recreation Center, based on the discussion Council had earlier at a luncheon meeting. The motion was seconded by Councilmember Locke.

Councilmember Cox stated Council has heard countless number of speakers on this item; that they had an informal meeting today; and suggested that the Mayor pro tem limit the speakers at this time.

Mayor pro tem Chafin stated Mr. Cox's request is quite appropriate, and ruled that speakers opposing the Tyvola site would be heard; requesting that those who had signed up to speak who supported the Tyvola Road site agree not to speak today. A spokesman for the group advised there was no opposition to the choice of site.

Councilmember Frech stated perhaps this may be the best site according to the recommendations, but there was some concern that Council proceed to see if the City could buy the Plaza Road land as park land because of the very good price. She asked for the procedure for doing that? Mr. Wylie Williams advised that would come back to Council with a recommendation for an alternative use for that site.

The vote was taken on the motion and carried unanimously.

ADDITIONAL PAYMENT IN THE AMOUNT OF \$16,608 AUTHORIZED TO ARTHUR YOUNG AND COMPANY FOR WORK BEYOND THE SCOPE OF THE ORIGINAL CONTRACT FOR WATER-SEWER STUDY.

Consideration was given to a request for additional payment to Arthur Young and Company for their work on the water-sewer study, for a total of \$22,827.

Mr. Bobo, Assistant City Manager, advised that an error was made in the calculation as to what the net cost would be to the City. That they had previously said it was \$5,000; that actually it is \$15,000. It is 87.5 percent

of sewer, not both water and sewer, that will be reimbursed by federal and state governments.

Councilmember Locke moved approval of the additional payment of \$22,827 to Arthur Young and Company for work beyond the scope of the original contract. The motion was seconded by Councilmember Leeper.

Mr. Marion Ward, Chairman of the Community Facilities Committee, stated he has provided Councilmembers copies of the correspondence which was submitted to him by Arthur Young and Company. He stated that both Mr. James Sheridan, former chairman of the Committee and Mr. Bob Beck are present in the audience; that they were both active on the CFC when the study was made.

Mr. Ward stated the services were rendered by Arthur Young in good faith upon instruction from both Council and CFC. The question that he puts before them is that there was no legal revision to the contract at the time even though everyone concerned recognized that the services were required and CFC asked the firm to proceed with the understanding that funds would have to be authorized at a later time. That he is now asking, on behalf of Arthur Young, that Council revise the original contract to authorize payment for \$22,827 for services which were rendered.

He stated he has talked with the Assistant City Manager, Mr. Stuart, concerning one item on the study for additional services which was "Development of Draft Final Report." That he should mention to Council that the City Manager's Office feels that item should have been part of the original contract. He stated he has asked Arthur Young about this and they agree that there is some question. That they feel it was not in the scope for which it was provided but there is some honest misunderstanding there. He suggested that Council might consider two alternatives: (1) The request from Arthur Young for \$22,827; (2) Evaluating the Manager's recommendation that the item of \$6,219 should have been covered, payment of \$16,608 for the expanded scope of the study.

Mr. Sheridan, former chairman of the CFC, stated that conducting a cost of service study such as this is a very complex and difficult subject to begin with; that the Council charge CFC with hiring a firm to do this. They took bids from four firms and the contract was awarded to Arthur Young because of their expertise in the EPA area. That their study was directed mainly at the cost of service; that the committee found that in their first reports there are other things that go into making up water and sewer rates other than just pure cost. That there is an impact on the various customers in Charlotte and Mecklenburg County, and they wanted to look at some alternative assumptions as to how these costs would affect certain customers, and would affect the basic economy of the City and County. They felt that they needed some rate alternatives and some research done into what these rates would do to certain large industrial customers as well as to the individual residents. So, the committee's request of them was to do some additional work that they proceeded ahead at their own risk when they explained to them about the fact that they would have to request additional funds. They also felt that all of these funds would be reimbursed to the City through EPA grants.

Councilmember Trosch stated that Mr. Ward has stated that the City Manager's Office was concerned about the \$6,219 figure; but she understands there was as much concern as to the third and fourth items as to whether they would not be a part of the normal contract. She asked Mr. Stuart to explain the position of the City Manager's Office on this.

Mr. Stuart stated they take primary exception to the \$6,219 item; they felt it ought to be pointed out that it is their opinion, and they think it is called for and implied in the contract, if not directly so, that a normal, natural part of every contract for consulting services, involves interaction - an opportunity for staff, Council and other interested parties to receive the recommendations, to understand them, to go over them, to react to them, and to get their concerns reflected, to the extent the consultant feels it is within their jurisdiction to do so, in their final report. That is why the Manager's staff had some concern with the fact that the items called "interaction" with various parties would involve additional funds.

Councilmember Selden asked the status of the request for the EPA funds? Mr. Stuart replied the request has been made, but the only official commitment they have out of EPA at this time is for a 75 percent funding of the sewer portion of the approved contract - the \$43,598 contract. The sewer portion is around \$31,000; they have committed to fund 75 percent of that.

Mr. Selden stated none of that is in these five items? Mr. Stuart replied these five items are in addition to what EPA has approved; they have had no word from them on those items.

Mr. Selden addressed a question to Mr. Underhill as to the City's position with respect to this request for additional funds? Are we within our rights if Council were to deny it altogether? Mr. Underhill replied what they have here is a dispute between the contract and the City as to whether or not these items constitute extra work. Mr. Selden stated so it could end in litigation if they wanted to take it that far? Mr. Underhill replied affirmatively.

Mr. Selden made a substitute motion, which he stated in effect is a type of compromise, to pay Item One (\$3,071); 50 percent of their request on Items Three and Four (this would recognize the fact that the interactions involved were greater than the City itself anticipated and greater than Young would have anticipated); and the total of Item Five - none of Item Two. This would add up to \$11,205. The motion was seconded by Councilmember Frech.

Mr. Ward stated that although he was not a member of the CFC at the time he has spent many hours reviewing this with a number of people, including Mr. Dukes, the Manager and members of the CFC and Arthur Young representatives. He suggested that it is not a case of services not done; that the services were done. They were done in an expanded scope.

Mr. Selden replied he recognizes that the services were done. The point he was making was that the demand was greater. The services were done but in effect the anticipation of those services was in the original contract. Mr. Ward stated it would appear that way but if Mr. Beck can explain what actually took place at Council meetings and at meetings of the project coordinators, they will understand it better.

Councilmember Cox stated he would like to make sure that Mr. Beck will focus on the right issue; Ms. Chafin added she was somewhat concerned about that too.

Mr. Cox stated this has come up too often lately. That is the issue they need to deal with. Secondly, that the responsibility for the collection of fees is the responsibility of Arthur Young. If they want to work without a contract, then they are taking a risk. That he is starting out with zero and working on a compromise from there.

Mayor pro tem Chafin stated she is a little bit concerned about whether all of the comments were germane to the discussion at hand. That she wants to say before they continue - taking the prerogative of the Chair - that some of the Councilmembers who are new do not realize the tremendous additional demand that Council placed on Arthur Young through negotiations between CFC and the City. That sometimes in a political environment you do make certain demands on consultants that are not true in the business world. There is a difference.

Mr. Bob Beck stated that as Mr. Sheridan pointed out, the CFC and C-MUD were jointly charged with engaging a consultant and making a report back to the City Council. The work that was done by Arthur Young was done jointly with CFC and C-MUD meeting regularly every step of the way to go over everything. When they came up with final recommendations, CFC was happy with them and so was C-MUD, partially. However, when they came up with final recommendations they understood at that point that City Council was going to have to have some other information on which to make its judgment - such things as the comparative effect of this rate on the various types of industries, the comparison of this rate on the rate that was already in effect - a lot of comparison data in order for Council to make the decision of whether or not to accept the recommendation. This was over and above the

information necessary to arrive at the recommendation. He stated that he and Mr. Sheridan met with Arthur Young representatives; they explained to them that the recommendations they had made the CFC was in agreement with; they anticipated some problems as far as presenting this thing to Council and in giving them the broadest scope of background information that they could possibly give them in order to allow them to make the decisions that they had to make. This was over and above the recommendations themselves, and the grounds for their recommendations. This was a broad background of information that Council would use to decide at that point whether or not to accept the recommendations. It was necessary because, in essence, Council would not have had the time to go back and dig into each and all of the underlying assumptions and underlying projections and arithmetic involved. Arthur Young did accept this; they accepted it because he and Mr. Sheridan were convinced that this would be approved. He really believes that had they come into Council in May of 1977 they probably could have gotten the funds approved. They could have said this is our recommendation, we can give it to you now or we can give it to you with these embellishments that will allow you to make a better judgment on it.

Councilmember Carroll stated he believes Councilmember Cox is right; that he settles a lot of lawsuits. This is not at that stage yet, but he appreciates the thoughtful comments that Mr. Underhill gave on the one they dealt with a few minutes ago. He stated they do not have a recommendation from staff in regard to this request; it is impossible after reviewing all of this information pretty thoughtfully - he likes Mr. Selden's idea of compromise - for him to know what is fair in this case. He would like for Council to have a recommendation from staff as to how they think this should be settled. They have been living with it a lot longer than the present Council has; that Mr. Beck is right that they should have come back earlier and asked for an extension to the contract; that Council as trustees of the public purse have an obligation to be more businesslike than some businessmen. They are beyond that point now; the question is how do they do what is fair and respond adequately to this situation. He asked Mr. Stuart if he has a recommendation? Mr. Stuart replied it is in the material presented to Council, indirectly.

Mr. Stuart stated that in spite of the fact that staff feels there were some wrong steps taken along the way with regard to whether approval was sought first, and some other concerns they had about the contract and its performance, there are some things that can be said on Arthur Young's behalf and his opinion is that there is perhaps room for consideration of his request. That he is, personally, most comfortable with recognizing the fact that the City presented a multiple face to Arthur Young - more than one client really existed for them in terms of the CFC, the City Council and the City staff. It was hard to get all of that speaking in the same voice at the same time. Also, it was more complicated than they could have envisioned. He is comfortable, personally, with the range of \$11,000 to \$16,000, depending upon how Council treats those two items.

Councilmember Gantt stated it seems to him that the political process got involved here; that in viewing this in perspective, he can see how they went in with a contract, had a lot of general things that they would do, and they actually came to Council with a proposal on which they had approval from the CFC and those of Council who were there remember all of the kinds of things they put the firm through. That maybe this proposal went a little further than even the consultants expected it would go before ultimately becoming a reality. That the fair thing to do, from reading all of the correspondence, would be to delete Item 2 - a final report is a final report. That after they have voted on the substitute motion, he would like to come back and try to amend the original motion to that effect.

Mr. Ward stated he would like to make two final comments. That included in the agenda attachment is a letter dated April 28 that Mr. Sheridan who was then chairman of the CFC wrote to the City Finance Director in which he says that Arthur Young told him that his request for additional services might very well entail additional costs; and he asked Mr. F. nnell to please put the machinery in motion to authorize those funds. There was an official request made from CFC to take care of the additional expense of the study.



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His comment would be that Arthur Young did a very fine study in behalf of the City and CFC and it is certainly to their credit that they are still working for us; they are still working with the EPA, going to meetings in Atlanta to attempt to assist the City in recovering that \$50,000 to \$60,000 additional money which will not only pay for the study but will return more money than was actually expended for the study. They have no obligation to do this whatsoever. They are doing it because of a sense of responsibility to their clients.

Councilmember Selden stated that actually anything short of the \$22,000 is in effect a negotiated situation; if Council approves any amount short of the \$22,000 they close out any negotiations. That he will alter his substitute motion to move that this be left in the hands of the City Manager - Council has given him a great deal of direction as to how they feel about it - to negotiate a final agreement. Ms. Frech agreed to this change in the substitute motion.

Councilmember Locke stated that from the very beginning CFC and the professional staff had great division over this. That she thinks it is up to Council to resolve this question right here and now, today, and not leave it in the hands of the City Manager.

Councilmember Gantt stated he did not want to bring that issue up, but it does seem to him that that has come into play here, and it is certainly clear that staff did receive notice from the contractor that they felt they needed additional funds. At the least, this should have been brought to the attention of Council, as long as we have a provision in a lot of our contracts that claims for extra work must be handled before doing the work. He agrees with Mr. Cox that Arthur Young went ahead . . .

Mr. Bobo stated they should not misunderstand - they did not bring it to the staff's attention until after the work was performed. Ms. Chafin added that Council requested that performance, too. Mr. Gantt stated Council asked for it, but it seems to him - in trying to follow the letters - that they were requesting it for a long, long time before it finally got into Mr. Fennell's hands. He feels that Council should have been informed of that situation. He is not saying that any one side of this issue is coming out as a fairheaded boy; it does appear to him that the fair thing to do is to delete the services they are requesting additional funds for, such as the final report, and then pay for the additional services.

Mayor pro tem Chafin stated that it is clear they were left with the impression that they would be paid.

Councilmember Cox stated they still have an obligation to come to Council and get the contract before they go ahead and do the work, but they should not dwell on that point; that point should be made for future situations. That Mr. Gantt's assessment of the situation is correct and he hopes Mr. Selden will amend his motion. Mr. Selden agreed to amend his motion to say that they authorize all items except Item Two. Ms. Frech accepted this amendment.

The vote was taken on the amended substitute motion by Councilmember Selden to authorize payment of all the items with exception of Item Two, and carried unanimously.

MEETING RECESSED AND RECONVENED.

Mayor pro tem Chafin called for a recess at 4:45 p. m. and the meeting reconvened at 5:00 p. m. with Mayor Harris presiding.

RESOLUTION EXTENDING SYMPATHY AND HONORING THE MEMORY OF MARTIN LEE.

Councilmember Locke introduced the following resolution which was adopted by unanimous vote of Council:

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WHEREAS, it is with deep regret that the City Council learned of the death of Martin Lee on Monday, October 23, 1978; and

WHEREAS, Mr. Lee contributed generously of his time and talent in the community as an art patron. He served as the first President of the Charlotte Arts Fund, the forerunner of the present Arts and Science Council, and as Chairman of the Fine Arts Committee of the Chamber of Commerce. He also avidly supported and helped create the Festival in the Park. Martin Lee was truly a patron of the arts and the City of Charlotte is indebted to him for his contributions and dedication to this field.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlotte, in regular session assembled this 30th day of October, 1978, that the Mayor and City Council, do, by this resolution and public record, recognize Martin Lee for his significant contribution to the City of Charlotte, and that his death is a distinct loss to the City in which he worked and won deep respect.

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

RESOLUTION COMMEMORATING 93RD BIRTHDAY OF COLONEL J. NORMAN PEASE.

Councilmember Locke read a resolution which was adopted by City Council at its meeting of November 1, 1976 (Minute Book 64, Page 226) recognizing Colonel J. Norman Pease on his 91st birthday. Ms. Locke noted that Col. Pease is in very good health and observing now is 93rd birthday. Council unanimously reaffirmed its previous resolution extending heartiest congratulations and good wishes.

COUNCIL RULES SUSPENDED IN ORDER TO DEFER CONSIDERATION OF ACTIONS TO IMPLEMENT TEST PROGRAM FOR REFUSE COLLECTION UNTIL LATER IN THE MEETING.

On motion of Councilmember Short, seconded by Councilmember Chafin, Item 21 of the Agenda was deferred until later in the meeting to allow for Councilmember Dannelly's participation. The motion carried unanimously.

RESOLUTION AUTHORIZING THE WAIVER OF REQUIREMENTS FOR PERFORMANCE BONDS FOR CONTRACTS INVOLVING PURCHASE OF APPARATUS, SUPPLIES, MATERIALS AND EQUIPMENT.

On motion of Councilmember Gantt, seconded by Councilmember Chafin, and carried unanimously, a resolution was adopted authorizing the Purchasing Director to waive the requirement for performance bonds for contracts involving the purchase of apparatus, supplies, materials and equipment, as recommended by the Productivity Study and allowed under State Law.

The resolution is recorded in full in Resolutions Book 13, at Page 474.

CONTRACT AWARDED E. F. CRAVEN COMPANY FOR ONE LANDFILL COMPACTOR.

Motion was made by Councilmember Short, seconded by Councilmember Chafin, and unanimously carried, awarding contract to the low bidder, E. F. Craven Company, in the amount of \$97,525.00, on a unit price basis, for one landfill compactor.

The following bids were received:

E. F. Craven Company	\$97,525.00
Spartan Equipment Company	105,690.00

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CONTRACT AWARDED REA BROTHERS, INC. FOR SANITARY SEWERAGE SYSTEM IMPROVEMENTS  
1977 ANNEXATION AREA I.

Councilmember Chafin moved award of contract to the low bidder, Rea Brothers, Inc., in the amount of \$1,079,546.54, on a unit price basis, for Sanitary Sewerage System Improvements - 1977 Annexation Area I. The motion was seconded by Councilmember Short, and carried unanimously.

The following bids were received:

Rea Brothers, Inc.	\$1,079,546.54
Blythe Industries, Inc.	1,225,245.00
Sanders Brothers, Inc.	1,339,022.00
Propst Construction Company	1,425,308.00
Ben B. Propst Contractor, Inc.	1,455,495.44

CONTRACT AWARDED JACK D. LONDON FOR BUS SHELTER INSTALLATION.

Upon motion of Councilmember Gantt, seconded by Councilmember Short, and unanimously carried, subject contract was awarded the low bidder, Jack D. London, in the amount of \$11,040.00, on a unit price basis, for Bus Shelter Installation.

The following bids were received:

Jack D. London	\$ 11,040.00
Blythe Industries, Inc.	11,200.00
Moretti Construction Co.	13,960.00

CONTRACT AWARDED LEE SKIDMORE, INC. FOR '78 CIP SIDEWALK - PHASE II.

Motion was made by Councilmember Locke, seconded by Councilmember Short, and unanimously carried, awarding subject contract to the low bidder, Lee Skidmore, Inc., in the amount of \$56,368.00, on a unit price basis, for '78 CIP Sidewalk - Phase II.

The following bids were received:

Lee Skidmore, Inc.	\$56,368.00
Crowder Construction Co.	60,537.00
Blythe Industries, Inc.	60,962.00
T. A. Sherrill Construction Co.	61,089.50
T. L. Harrell Construction Co.	62,094.00

CONTRACT AWARDED T. A. SHERRILL CONSTRUCTION COMPANY FOR FAIRVIEW ROAD  
MEDIAN.

Councilmember Chafin moved award of contract to the low bidder, T. A. Sherrill Construction Company, in the amount of \$212,320.00, on a unit price basis, for Fairview Road Median. The motion was seconded by Councilmember Locke.

Mr. Douglas McMillan, 2460 Jefferson-First Union Tower, stated he is an attorney representing several property owners on the southerly right-of-way line of Fairview Road, on the easterly side of the intersection - the portion of the intersection between Sharon Road and Providence Road. That this subject has generated a great deal of controversy, but he does not want what he is talking about to be confused with some of the more controversial aspects of the proposed median. He is not here to discuss the pros or cons of a planted median in the Fairview Road area between Sharon Road and Providence Road; he is here only to discuss the first 870 feet which has a concrete median extending from the intersection to the beginning of the proposed planted median. That when he appeared previously he was told that he would be allowed to reappear when the contract came up for Council consideration.

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He stated that what he is requesting Council to do, and what they have indicated to him that they would do, is to vote either yea or nay once and for all as to whether the first 870 feet of that median will be constructed as originally planned.

The reasons he is opposed to it, and his clients are opposed to it, are: (1) The concrete median has no aesthetic appeal and will not add to or detract from the idea of a planted median strip in the whole area; (2) A recent editorial in The Charlotte Observer indicated that a median would be an excellent way to control economic and commercial growth in the area. He does not think that is a valid consideration for a body to make as to whether or not a median should be installed. A median is a traffic engineering device and not a means to control economic growth.

He stated when the median was originally planned the area of land that his clients occupy now was more or less vacant, with the exception of one of the clients, LeChateau Management Corporation, which had at that time constructed a restaurant on the Sharon Road side of the intersection. Since that time, there is now under construction and about to open a Burger King Restaurant on the corner of Sharon and Fairview Roads, a Savings and Loan Association has purchased a tract at Savings Place and Fairview Road and there is a small tract of 0-15 property remaining, which may be developed for light office use.

The biggest consideration, in his opinion, that Council has to make is whether or not this median is a safety device. If it is going to enhance the safety of the pedestrians and the traffic in the intersection; and also whether it is going to increase the flow of traffic in the intersection so that it will not be disruptive at the intersection. Their whole point is that when you construct that median from 870 feet back to the intersection, (1) you cut off all access to Savings Place, so that he cannot see how people will ever get to Savings Place, and (2) people are going to have to turn left at Sharon Road to get to this new Burger King restaurant and to the LeChateau Restaurant, as opposed to coming through the back (in the case of LeChateau) without having to go through the intersection. That they would be shifting an enormous amount of traffic from Fairview Road to Sharon Road where there is no median now and where none is proposed. That where they may have resolved a problem on Fairview Road side of the intersection, they have increased an existing problem, and created a greater hazard, on the Sharon Road side of the intersection.

Another consideration which has been a concern of many people is that the people on the other side of the street are going to be denied access to their property. Their point is simply that this concrete median is doing nothing to enhance the flow of traffic; it is merely disrupting the flow of traffic by forcing everybody to turn left and double back. The Burger King restaurant is extremely concerned that people are going to turn left on Sharon Road, turn left into their parking lot and go through their parking lot and double back towards Fairview Road to reach the other property where they are denied access.

Mr. Walter Shapiro, 5228 Carmel Park Drive, stated he is Chairman of the Southeast Homeowners Association; that this issue has been before Council for a long time. Their neighborhoods have stood overwhelmingly in favor of the issue; they hope that Council's good judgment, that the need of the tree-lined median, that the desirability from an ecological standpoint, will be dominant in their minds as they reach a decision.

The vote was taken on the motion to award the contract and carried unanimously.

The following bids were received:

T. A. Sherrill Construction Co.	\$ 212,320.00
Crowder Construction Co.	215,119.00
T. L. Harrell Construction Co.	219,033.50
Rea Construction Company	221,240.70
Blythe Industries, Inc.	225,829.00
Lee Skidmore, Inc.	250,712.70

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CONTRACT WITH LANDMARK ENGINEERING COMPANY, INC., APPROVED.

Upon motion of Councilmember Locke, seconded by Councilmember Trosch, and unanimously carried, subject contract was approved with Landmark Engineering Company, Inc. for FY-79 topographic mapping, at a unit price of \$1,195 per sheet, for a total of \$29,875.

RESOLUTIONS OF CONDEMNATION FOR PROPERTIES IN THE GRIER HEIGHTS COMMUNITY DEVELOPMENT TARGET AREA.

Motion was made by Councilmember Selden, seconded by Councilmember Frech, and unanimously carried, adopting subject resolutions of condemnation for two properties in the Grier Heights Community Development Target Area, as follows:

<u>BLOCK &amp; PARCEL</u>	<u>OWNER AND ADDRESS</u>
*25-32	Fred G. Stephens, Jr. 530 Billingsley Road
*25-33	Fred G. Stephens, Jr. 542 Billingsley Road

\*Partial Taking.

The resolutions are recorded in full in Resolutions Book 13, at Page 475.

CONSENT AGENDA APPROVED WITH EXCEPTION OF CERTAIN ITEMS.

On motion of Councilmember Short, seconded by Councilmember Frech, and carried unanimously, the following consent agenda items were approved (Items 26(a) and (d), 29, 36(a), 41(b) and (c) were considered separately):

1. Adoption of resolutions setting date and time for the following public hearings:
  - (a) Hearing on December 4, 1978, at 8:00 p. m. relative to Resolution of Intent to close a portion of Lissom Lane.
  - (b) Hearing on December 4, 1978, at 8:00 p. m. relative to Resolution of Intent to close a portion of North Kings Drive.

The resolutions are recorded in full in Resolutions Book 13, at Pages 476 & 477.

2. Approval of the sale of 240.29 square feet of property at the southwest margin of New Tyvola Road to the successful bidder, Mr. and Mrs. William Hill, at a bid price of \$200.00.
3. Adopted a resolution approving the sale of land to Charlotte Nephrology Associates, in Brooklyn Redevelopment Project No. N. C. R-43.

The resolution is recorded in full in Resolutions Book 13, at Page 478.

4. Approval of the following settlements:
  - (a) Settlement in the case of Burchmont Land Corporation, et al, for damages incurred in the construction of the North/South Runway at Douglas Municipal Airport, for a total of \$20,052, with the cost of the settlement to be shared 50/50 with the contractor, and the City will pay a total of \$10,026.

- (b) Settlement in the case of the City of Charlotte v. Glenn H. Reynolds, et al, for the Delta Road Extension, for a total of \$18,000, in addition to a parcel of property; and approval of the exchange of properties between the City and Glenn H. Reynolds, et al, with the City property being located on Delta Road Extension, and the Reynolds property located at 4939 Idlewild Road North.
  - (c) Settlement in the case of City of Charlotte v. Annie B. McCoy Bradford and husband, W. O. Bradford, for Discovery Place, in the amount of \$28,000.
5. Approval of the following Loan Agreements:
- (a) Loan Agreement with Airport Drivers' Training School, in the amount of \$9,000, to purchase two automobiles to be used in the training program.
  - (b) Loan Agreement with Family Housing Services, in the amount of \$23,550, for the rehabilitation of house at 1020 Greenleaf Avenue, Third Ward.
  - (c) Loan to Ms. Ellen N. Davis, in the amount of \$75,000, for purchase and restoration of property located at 511 North Church Street, in the Fourth Ward Project Area.
6. Approval of the City Manager's appointments to the Building Standards Board, as follows:
- (a) Appointment of H. M. Steinek, Sr., Engineer, to fill the unexpired term to expire August 31, 1979.
  - (b) Appointment of J. Ken Dowd, Home Builder, to expire August 31, 1981.
  - (c) Appointment of J. Steve Browning, Engineer, to expire August 31, 1981.
7. Adoption of a resolution authorizing the refund of certain taxes, in the total amount of \$120,00, which were collected through clerical error and illegal levy against one tax account.
- The resolution is recorded in full in Resolutions Book 13, at Page 479.
8. Approved the following streets to be taken over for continuous maintenance by the City:
- (a) Executive Street from 300 feet east of Interstate Street to I-85 Service Road;
  - (b) Strangford Avenue, from Dunwoody Road to 79 feet east of Fernleaf Court;
  - (c) Dunwoody Road, from 330 feet east of Langley Road to 165 feet south of Strangford Avenue;
  - (d) Old Saybrook Court, from Fairview Road to 980 feet north of Fairview Road to cul-de-sac;
  - (e) Tobin Court, from Boyce Road to end of cul-de-sac;
  - (f) Madras Lane, from 315 feet west of Terrace Drive to end at cul-de-sac;
  - (g) Sretaw Drive, from 170 feet south of Cutchin Drive to Chaucer Drive;
  - (h) Caucer Drive, from 1,100 feet east of Wamatch Drive to 120 feet east of Sretaw Drive.
9. Approval of contracts for the extension of sanitary sewer mains, as follows:
- (a) Contract with John Crosland Company for the construction of 3,332 linear feet of 8-inch sanitary sewer main to serve Sardis Woods Subdivision, Serton IV, outside the city, at an estimated cost of \$66,640, all at no cost to the City.

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- (l) Acquisition of 6' x 53' x 54' of temporary construction easement, at 4424 Parview Drive, Matthews, from Anne Kemp Davis, for Annexation Area 5 Sanitary Sewer, at \$300.
- (m) Acquisition of 1.68' x 112' of easement, plus temporary construction easement, at 4436 Parview Road, Matthews, N. C., from Town & Country Ford, Inc., for Annexation Area 5 Sanitary Sewer, at \$1.00.
- (n) Acquisition of 1.68' x 175' of easement, plus temporary construction easement, at 4500 Parview Drive, Matthews, from David L. Ballard and wife, for Annexation Area 5 Sanitary Sewer, at \$800.
- (o) Acquisition of 16.24' x 3.90' x 16.54' of easement, plus temporary construction easement, at 6117 Cedar Croft Lane, from Harry A. Palefsky and wife, for Annexation Area 5 Sanitary Sewer, at \$75.
- (p) Acquisition of 15' x 95.40' of easement, plus construction easement, at 6301 Cedar Croft Drive, Matthews, from Eleanor W. Anderson, Widow, for Annexation Area 5 Sanitary Sewer, at \$100.
- (q) Acquisition of 15' x 90.28' of easement, plus construction easement, at 6309 Cedar Croft Drive, Matthews, from George Robert Smith, and wife, for Annexation Area 5 Sanitary Sewer, at \$100.
- (r) Acquisition of 15' x 103.98' of easement, plus construction easement, at 6832 Providence Road, Matthews, from Maynard Anthony (single), for Annexation Area 5 Sanitary Sewer, at \$100.
- (s) Acquisition of 15' x 495.91' of easement, plus construction easement, at 6600 Providence Road, from James Carlin Hansbrough and wife, for Annexation Area 5 Sanitary Sewer, at \$100.
- (t) Acquisition of 15' x 3,096.77' of assignment of easement, at 7020 Tuckaseegee Road, from The Charlotte-Mecklenburg Board of Education, for Annexation Area 8 Sanitary Sewer, at \$2,000.
- (u) Acquisition of 15' x 246.49' of easement, from The Charlotte-Mecklenburg Board of Education, at 7020 Tuckaseegee Road, for Annexation Area 8 Sanitary Sewer, at \$246.
- (v) Acquisition of 15' x 168.96' of easement, plus temporary construction easement, at 2624 Kendrick Drive, from Mildred E. Wilfong, for Annexation Area 8 Sanitary Sewer, at \$3,294.
- (w) Acquisition of 15' x 935.52' of easement, plus temporary construction easement, at 7400 Tuckaseegee Road, from The Charlotte-Mecklenburg Board of Education, for Annexation Area 8 Sanitary Sewer, at \$936.
- (x) Acquisition of 15' x 290.21' of easement, plus temporary construction easement, at 2232 Toddville Road, from Leonard L. McDaniel and wife, for Annexation Area 8 Sanitary Sewer, at \$950.
- (y) Acquisition of 15' x 241.19' of easement, plus temporary construction easement, at 2300 Toddville Road, from Floyd A. Reynolds and wife, for Annexation Area 8 Sanitary Sewer, at \$900.

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13. Approval of the acquisition of 66,000 square feet of property including single family brick residence, at 3610 Besser Drive, from Glenn Edward Dale and wife, at \$57,000, for Airport Improvements.
14. Approval of the following property transactions for Community Development:
  - (a) Acquisition of one parcel containing 33 square feet, at 443 Billingsley Road, from Thurman Threatt, at \$100 for rebuilding of intersection at Billingsley Road and Ellington Street.
  - (b) Acquisition of two vacant parcels of property - 7,500 square feet at 1112 South Mint Street, from Superannuate Endowment Fund of the Western N. C. Conference of Methodist Church, at \$13,000 and 5,532 square feet at 1407 South Church Street, from Luther L. Caldwell, at \$6,500 - for West Morehead Target Area.
15. Adoption of the following ordinances ordering the removal of trash, rubbish, junk, weeds and grass:
  - (a) Ordinance No. 392-X ordering the removal of weeds and grass from vacant lot adjacent to 2011 Woodlawn Road.
  - (b) Ordinance No. 393-X ordering the removal of weeds and grass from 3214 Barfield Drive.
  - (c) Ordinance No. 394-X ordering the removal of trash and rubbish at 1532 Kimberly Road.
  - (d) Ordinance No. 395-X ordering the removal of weeds, grass from vacant lots at 424 and 428 East Boulevard.
  - (e) Ordinance No. 396-X ordering the removal of weeds, grass, trash, rubbish and junk from rear 2700 Monroe Road.
  - (f) Ordinance No. 397-X ordering removal of weeds and grass from vacant lot adjacent to 1231 Belgrave Place.
  - (g) Ordinance No. 398-X ordering the removal of weeds and grass from vacant lots 400 and 416 East Park Avenue.
  - (h) Ordinance No. 399-X ordering the removal of weeds and grass at 414 Roselawn Place (to right).
  - (i) Ordinance No. 400-X ordering removal of trash and rubbish at 1055 McAlway Road.
  - (j) Ordinance No. 401-X ordering removal of weeds and grass at 4419 Monroe Road.
  - (k) Ordinance No. 402-X ordering removal of weeds and grass at 5900 Falstaff Drive.
  - (l) Ordinance No. 403-X ordering removal of weeds and grass from vacant lot adjacent to 320 West Boulevard.
  - (m) Ordinance No. 404-X ordering removal of weeds and grass at 1105 State Street.
  - (n) Ordinance No. 405-X ordering removal of weeds and grass at 1017 Marble Street.
  - (o) Ordinance No. 406-X ordering removal of weeds, grass, trash, rubbish and junk from 2111 Augusta Street.
  - (p) Ordinance No. 407-X ordering removal of weeds and grass from 1817 Finchley Drive.



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- (q) Ordinance No. 408-X ordering removal of weeds and grass from vacant lot to left of 1809 N. Harrill Street.
- (r) Ordinance No. 409-X ordering removal of trash, rubbish and miscellaneous junk from rear of 4939 Central Avenue (Glen Hollow Apartments).

The ordinances are recorded in full in Ordinance Book 26, at Pages 339 through 356.

HEARINGS TO BEGIN THE FIFTH YEAR COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION PROCESS SCHEDULED FOR NOVEMBER 15 AND 16, 1978.

Councilmember Locke moved, seconded by Councilmember Frech, for the agenda item recommending that Hearings to begin the Fifth Year Community Development Block Grant Application Process be set on November 14, 1978, at 7:30 p. m., in the Council Chamber; November 15, 1978, at 2:00 p. m., in the Council Chamber; and November 16, 1978, at 7:30 p. m., at the Education Center.

Councilmember Selden asked why three meetings have been recommended; why can this not be done in two meetings? Mr. Sawyer, Community Development Director, stated they are recommending three because they think they deal with three different segments of the proposed plan and application for CD funds for this year. The first hearing being recommended for November 14 as a night meeting is primarily for the residents of the target areas. The one for November 15 at 2:00 p. m. is primarily for the Social Service agencies with which they have many contracts. They recommend that it be held during the day so that the representatives of these agencies who will be at work can attend as part of their day's work. The one for the November 16 at 7:30 would be for the Housing Assistance Plan and that alone, because that usually generates a lot of interest and the Education Center is suggested as the location to accommodate the expected crowd.

Mr. Selden asked if the meeting of the 16th could not be incorporated in the other night meeting? He made a substitute motion that the hearings be reduced to two meetings, with the HAP meeting being included with the residents of the target areas on November 14, eliminating the November 16th meeting.

During further discussion it was determined that the November 15 and 16 dates were more desirable in order to utilize the Education Center facilities and Mr. Selden changed his motion accordingly. The vote was taken on the motion and carried unanimously.

RESOLUTION PROVIDING FOR PUBLIC HEARINGS ON MONDAY, NOVEMBER 20, 1978, ON PETITION NOS. 78-55 THROUGH 78-58 FOR ZONING CHANGES; PETITION NO. 78-35 FOR REZONING OF A PORTION OF WOODLAWN ROAD DEFERRED UNTIL FEBRUARY, 1979.

Councilmember Selden moved adoption of the subject resolution setting Monday, November 20, 1978, for public hearings on Zoning Petition Nos. 78-55 through 78-58. Included in his motion was a request that Petition 78-35 (Woodlawn Road rezoning) be deleted from the hearing list for November 20 and that the protestors be advised by letter that this is being delayed until February, 1979, so that there will be no possibility of question. The motion was seconded by Councilmember Gantt.

Councilmember Short stated that a memo had been received from the City Manager advising that Mr. Duncan MacRae's attorney had requested deferral of the Woodlawn Road petition, and that the City Attorney had advised that the deferral would have to be made at the time the November zoning hearings were set.

Councilmember Selden explained that the progress being made toward resolving the matter of the Woodlawn Road rezoning is very extensive, however the problems are great. That the attorney, Mr. Tom Ray, has asked that hearing which was set for November 20 not be advertised at this point and

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that it be deferred until February, in order to give more time for the negotiations. He stated this has been discussed with Mr. Underhill and there was some question at first because of the possibility that the protestors would not be advised.

Mr. Underhill stated that he and Mr. Selden had discussed his intentions to make this motion; that his initial reaction was to advise against it because he was worried about the possibility of the people who are in opposition to this petition not being aware of Council's action. There are a number of people in opposition. He stated that Mr. Selden has advised him that through his contacts with both the proponents and opponents that they are aware of this action and would not be opposed to the deferment of the hearing date. That he suggested to Mr. Selden that at the time he made his motion he should request that some formal notification be provided to the people in opposition that the hearing had been postponed until a later date so that there would be no question.

Responding to a question from Mr. Gantt, Mr. Underhill reminded Council that this hearing was first scheduled for the September hearing date; that Council at that time deferred it to the November hearing date, so that it would be included, although not stated as such on the agenda, as a part of the November hearing advertisement.

Councilmember Carroll asked if the people who want to delay it are willing to assume the expense of notifying the opponents. Mr. Selden replied he would pay for it himself if necessary. Mr. Carroll stated that Council does not want to be in a position of someone coming up later and saying that they did not know this; that they need to get some formal indication from someone that they have been notified and have that in the record. Mr. Selden stated his intent only relates to the two leaders of the protest group who actually invoked the 3/4 Rule, not to the 136 names on the petition.

Councilmember Cox stated this relaxation of Council procedures started several months ago and it has developed into the kind of thing that several people, including the City Attorney, warned against from the very beginning. He will vote against this deferral because he does not think it is right; it is not good government for them to be sitting around talking about how and whom is going to be notified about a matter of this kind. He would respectfully suggest to Mr. Selden that, on the other hand - the more positive side - the time for negotiation is perhaps after they have gotten some formal input from Council and the Planning Commission, and not before. Council does not have to act, once a hearing is held; they can take forever. That if petitioners want to request the rezoning of a piece of property, they should go ahead with the process; be aware of the process, and negotiations should follow after the hearing.

Councilmember Selden replied that the direction of the objectives of the group is entirely different from the original petition, so they are really not talking about what was petitioned for in the first place. They could say the alternative would be to withdraw the petition altogether and sacrifice the money that has been put up for the petition, but the best interest of the City of Charlotte, the neighborhood - both the petitioners and the protestors - will be served by the deferment.

Councilmember Carroll stated he is a little concerned; that he wanted to see that everyone would be notified. For that reason, he shares Mr. Selden's real concern in trying to help assist what is a difficult problem to be resolved happily for everyone, but Mr. Cox is right also in his concern about procedure. If they can notify everyone, maybe they can delay it. That there is a certain orderliness which Mr. Cox was suggesting to having a subsequent notification to everyone. He would be hesitant to go along with it unless they did that.

Mr. Bob Landers of the Planning Commission stated that in the notification process they would notify, as a minimum, all of the adjoining property owners to the petition, plus in terms of the neighborhood leadership, those would also be notified. The petition involves eight individual parcels and consequently those abutting them. They would carry out as extensive notification as possible; they would do that not only in this case but in any such situation.

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Councilmember Carroll stated that perhaps another way to lick it would be to have the hearing and postpone it at that time. That what he understands from what Mr. Landers has said, everybody would still not be notified.

Councilmember Selden stated the problem with that is the hearing would be on something totally different from the original petition and the place would be filled with people whose time would be sacrificed in coming down here. The hearing would last for thirty seconds and the identity of the problem would be announced and everybody would go home. He does not think they would resolve the problem by that approach; that they would jeopardize the possibility of a practical solution.

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

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

NAYS: Councilmembers Cox and Carroll.

The resolution is recorded in full in Resolutions Book 13, at Page 480.

**RESOLUTION AUTHORIZING THE CITY MANAGER TO ADVERTISE FOR THE LEASE OF PROPERTY AT DOUGLAS MUNICIPAL AIRPORT.**

Motion was made by Councilmember Trosch, seconded by Councilmember Frech, to adopt a resolution authorizing the City Manager to advertise for the lease of property at Douglas Municipal Airport as required by North Carolina General Statute 160-A-269.

Mr. Irvin Boyle stated he is opposed to the adoption of this motion. The purpose of his representation here is on behalf of Thurston Aviation, Charlotte owned, Charlotte based, a fixed base operator at the Airport. He stated the procedural problem with which they are faced is that the first notice they had that this matter was to come up was in the newspaper yesterday. It is his understanding, from the investigation that has been made, that the Airport Development Task Force did not know anything about this matter. He understands also that the Airport Advisory Committee had some type of hearing or consideration and brought this matter to Council. Unfortunately, Thurston was not advised that the hearing would take place. Their investigation shows also that no other fixed base operator on the airport was furnished any type of notice, nor was the Airport Development Task Force notified of the hearing or consulted about the matter.

He stated it is not a matter of just a simple lease; it is a question of where you are going to cut them off if you start them and what are you going to do to the fixed base operators. He realizes that Council has been in session a long time today, that they have some controversial matters before them.

Mr. B. G. Thurston, President of Thurston Aviation, stated he would be the first to recognize that the fixed base operation on Douglas Airport is not satisfactory; that it is more unsatisfactory to his company than anyone else involved. He does not know that it is anybody's fault; he is certainly not attempting to point a finger or to place blame. It is unfortunate that the runway was held up out there, the master plan has been held up for years now, they yet do not know what is going to happen to the fixed base operators there, they do not know where they will go, they do not know what place they will have. They are told that they will be pushed back from where they are at the Gulf ramp, but how many acres or what investment will be involved they do not know.

He stated they have a capital investment of \$2,286,000 in the fixed base operation on the airport; they originally went in there and had to push the trees back and build the little spot that they have on the north end of the runway. Admittedly, it is not satisfactory. It still cost them \$362,300 to put it there; the City of Charlotte, the federal government, nobody put a dime in it except their own private company. They lost \$683,600 before they were ever able to turn the tide there; they had well over a million dollars involved then. The only way they turned the tide was by buying Cannon Aviation and putting the two together. You could not do it - Cannon was losing money badly and so were they. There just is not enough business there to support the number of operators that were there.

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Mr. Thurston stated they are not going to improve the conditions of the fixed base operation - their ability to serve the public - by taking from them the corporate traffic. That is the lifeblood of the fixed based operator; without that he cannot exist, he cannot make money on the little single-engine aircraft that is there. The only way they can live and exist is to have the large corporate aircraft; if they start letting out leases for the corporations to house their own aircraft, where do they stop? Where would his customers come from as a fixed base operator? He says that inadvisedly because he has no knowledge that they will even be there; they hope they will, but they do not know. They are now keeping a fixed base operation open 24 hours of the day, seven days a week. He thinks they are the only one in this area who does that, and they are doing that to try to serve the public, to try to meet the needs of the travelers who come through.

He stated he will readily admit it is not satisfactory out there; they are on a month-to-month basis in one place and have a short-term lease in the other. They know that has to go; it cannot be renewed. They would like very much to find a place and be able to go out and build an operation. Today they own 19 airplanes - 6 of them are for sale and they have pulled everyone of them outdoors and given the whole hangar to their customers; not a single airplane of their own is in the hangar. They have tried their best to accommodate and do the best they can with the facilities that they have.

He stated that he, personally, has been flying this country for 25 or 30 years; he does not usually have to refer to charts to go where he wants to go anymore - he knows most of the frequencies and a lot of the routes. He goes a lot of places and does not have too many apologies to make for their operation compared with a lot of those into which he goes. He stated that up until now you could not do much planning out there under the conditions. He is not blaming anyone but by the same token, he is saying now that maybe they should go forward and that this proposal is premature; it should be delayed until some plan is made and some real knowledge exists as to where they go from here.

Mr. Paul Ferguson, Vice-President and Secretary of J. A. Jones Construction Company, stated that what they want is a corporate facility for their company and for Gold Bond. That at the airport there is approximately 1.5 acres available for corporate aircraft and that is adjacent to a current operation of corporate aircraft - Celanese. To say that it is 1.5 acres is hardly explaining it because, as Mr. Thurston stated they had to build their land, his company has to build their land also. There is a 30-foot field in back that has to be developed for it.

One of the reason they want a corporate facility is that they do their own maintenance work on their aircraft. They have one at the present time and expect another in March and it works out much better to have your own maintenance crew and your own hangar if you are going to do that.

Gold Bond, one of the new additions to our community, arrived with a Gulf Stream II and unfortunately there is no facility on the airport to take their craft in. They got with Gold Bond and have taken this 1.5 acres and squeezed in two hangars on it to accommodate the craft that Gold Bond has.

He stated they are not in competition with Mr. Thurston; they do not intend to take on any other corporate aircraft except what would go into their own hangar as a tenant. They would not service any of the public that might be coming up to the hangar. No fuel would be pumped to anyone other than the occupants of the hangar. He stated he is here to talk about only the lease of 1.5 acres, not setting a pace for the airport on fixed base operations or what have you.

Mr. Jim Quinley, Assistant to the President of Gold Bond, stated his company has just moved to Charlotte; they have approximately 400 personnel employed in the SouthPark area. That a vital part of their operation is their corporate aircraft. It is a Gulf Stream II and is valued at approximately \$5.5 million - it has a tail that is 24 feet, 6 inches high, and there is not a hangar on the field that will accommodate that tail. They are in a position where they came to town and found there was not a single hangar

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they could put the plane in, nor were there any plans to build such a hangar until approximately 1982. They had two choices. The airplane is a corporate airplane - the Building Products Division uses it approximately 60 percent of the time. It is important to them to have it close to their operations. Their option now is if they do not find something in Charlotte for the airplane, it will go to Dallas to their corporate headquarters where there is ample hangar space at a considerably less price than what they are having to invest here to house the plane.

Because of the fact that they had faith in the City and the fact that they have been working on this program for quite some time and have been through the Airport Advisory Committee and have their approval and thought everything was going well, they brought the plane down from Buffalo and hangared it temporarily in South Carolina. They have to get that airplane out of South Carolina before the first of the year or face some pretty severe tax penalties.

Basically, what they are asking at this point is that they be allowed to at least bring this important part of their business into the community. They are wide open, but there does not seem to be any alternative; there is no other place to put the airplane; if they are not allowed to build a hangar in order to house the plane they will have to take it elsewhere.

Mayor Harris stated that when Ms. Chafin flew up to Buffalo back on March 1st, the first request that he had on his desk was a request for hangar space for Gold Bond's airplane, so it has been going on for some time.

Councilmember Trosch stated that in the information they had received it stated this is consistent with the Master Development Program and Mr. Thurston has stated that we do not have a plan.

Mr. Birmingham, Airport Manager, stated they just have a difference of opinion on what they are doing with fixed base operators. He will just submit to Council that it is unreasonable to exclude some corporate aircraft at a major airport such as Charlotte's. That he feels it is compatible with fixed base operations. That to give them a little background on Mr. Thurston's two leases - one of them has already expired and the other one expires in November of 1981, at which time they propose to make a recommendation to Council that competitive bids be taken from different companies all around the Country that can supply them with first class operations and are willing to bid competitively.

He stated there are a lot who will bid without the corporate jets being included as part of the deal because they do at other places. That it is compatible, they are studying this and hope to have a recommendation on the total fixed base operation within several months.

Another brief comment is that if they were not to do this, then they would be in a position of having to make a recommendation to Council that they either extend the leases of the existing fixed base operators and allow them to put in money and amortize it, or they would have to buy up their leases if they wanted to put it out for competitive bidding. This fixed base operation has a long history out there; it cannot be solved overnight. They need to proceed as they are going; they do have space for some corporate aircraft.

Mayor Harris stated he brought this up with Mr. Birmingham last week because he was interested in the civil aviation side of the field as well; that they do have to do something on the east side of that field; that he believes Mr. Birmingham is on top of it.

Councilmember Locke stated she has heard complaint after complaint about negotiations with corporations that are trying to do the same thing as J. A. Jones is doing; that from different areas of the City she has heard that they have tried to negotiate with Mr. Birmingham and have had some real problems. Now she sees that J. A. Jones is getting this 1.5 acres.

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Mr. Birmingham stated they have the opportunity of upset bidding here.

Ms. Locke stated but this is a ten-year lease; that others have said that he has told them that they could not have an operation out there because they cannot do anything until 1982 when the airport is completed. That what Council needs is some kind of paper telling them the whole history of it and why she hears these complaints about no one can do anything until 1982. When they see something like this, there is some kind of conflict.

Mr. Birmingham replied there are two different entities here - two of their major fixed base operations do not expire until November of 1981, which is almost 1982. He stated they were 20-year contracts; that this is a 20-year contract for corporate aircraft - it has nothing to do with fixed base operations.

Mr. Bobo stated it is therefore outside of any process that he is going to look to in three or four years and Mr. Birmingham stated that is correct. He stated they have a lease that expires on November 1981 and he would not propose to Council that they would recommend extending that lease, as he has told Mr. Thurston several times. He feels they should go competitively with anybody who wants to bid these things, including Mr. Thurston. They would take the best bid for three or four first class fixed base operations.

Councilmember Cox stated Mr. Thurston's problem is that he cannot legitimately do anything until 1982 to service the large corporate aircraft. He is in a hard place. Mr. Birmingham replied he realizes that, but he is enjoying the benefits of his long lease that he has had with the City for all these years.

Mayor Harris stated if this is going right beside Celanese operation, the land is going to have to be built up.

Mr. Birmingham stated Council approved Celanese several years ago and Mayor Harris replied but it is on a little peninsula, separate and apart from the general aviation area.

Ms. Locke suggested that Mr. Birmingham write Council some kind of position paper listing all of these things; and he replied they are coming up with that study, with a financial recommendation for the whole works.

Councilmember Cox stated that personally he does not feel that they should deny the request of J. A. Jones and Gold Bond, but he does feel that some kind of interim policy study is in order.

Councilmember Carroll stated he is interested in what the policy is now regarding what Ms. Locke brought up of other corporate users who do not want to use Thurston, who would like to have their own hangars.

Mr. Birmingham replied that in their fixed based operations study they are conducting they are going to attempt to find some land that they can put corporate aircraft on. That they may have some recommendations to Council that they have four or five corporate hangar locations. They might come back and recommend that instead of having four fixed base operators that they think two would be sufficient.

Councilmember Carroll asked if he foresees that before 1981 or 1982 when they try to get the general aviation mess cleared up that they are going to get other requests by corporate plane users to have their own facility? Mr. Birmingham replied he cannot say for sure; he has not talked with anyone other than Arnold Palmer. Mr. Carroll asked if he has any feeling that proceeding with this one request compromises whatever would be an appropriate plan? Mr. Birmingham replied no, he does not.

Councilmember Leeper stated he wants to be assured that this 20-year lease is going to be consistent with other requests that might be made in regard to leasing property out at the airport. Does he anticipate other corporations desiring to develop out there and would that 20-year lease be in line with those others. Mr. Birmingham replied yes it would; they are following the prescribed general statute as he understands it in all of these and they will continue to do that.

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Mr. Leeper stated the recommendation is that Council authorize the lease in accordance with the General Statute. That Mr. Thurston indicated that he just saw the notice in the paper. He is wondering how this is advertised to make sure that other people who might be interested in that particular piece of property might be aware of this.

Mr. Birmingham replied if Council allows them to do this, the official notice will go out and be publicized in the newspaper and will allow them ten days to respond. Mr. Leeper stated the decision they will be making today is that it will take ten days to give someone else the opportunity to respond to that instrument.

Mr. Underhill replied that is correct. That if an upset bid is filed, then they will continue to re-advertise until they get a final offer.

Councilmember Selden asked that when Mr. Birmingham brings this study to Council that he tell them the remaining time on each of the leases.

Councilmember Short stated that all of them would assume that the building of a new runway will provide a tremendous amount of land and frontage and apron way, and opportunity for this sort of thing. He asked if that is not a part of the picture? He thinks Mr. Birmingham is saying that it is.

Mr. Birmingham stated the master plan as adopted in 1974 and approved by the City Council and the Federal Aviation Administration, delineates the area of fixed base operations on the east side of existing Runway 1836. The reason they have not proceeded with that is that they have two leases over there that do not expire until November of 1981. That both of these FBO hangars that are in those two spots now are in violation of the 1,750 setback line for Instrument Runway 1836.

Mr. Short stated then what he is saying is that although they have rebuilt the airport with a new terminal and a new runway, etc., we still have no additional land that will really be available for general aviation hangars? Mr. Birmingham replied no, he is not saying that; he is saying they do have it, but what they have to do first is one of two things - they have to buy the existing FBO's out on that side, tear down their facilities and move them back; or wait until they expire in November of 1981 and then move them back. That is all he is saying at this time; he could not recommend today which one.

Councilmember Short stated that whatever procedure is used will not be violated by what Mr. Ferguson wants to do - and Gold Bond? Mr. Birmingham replied no, and it will not be violated by the Federal Aviation Administration who control this either. Mr. Short stated that Mr. Thurston is in charter flights and storage of airplanes, etc., that his business is entirely different from Gold Bond who just want to operate an airplane out there? Mr. Birmingham replied he supplies some of the services for this type of thing, but corporate aircraft like Gold Bond's could not be serviced over there.

Mr. Thurston stated if they had a lease and had the opportunity, they could do the same thing they are doing. Mr. Birmingham stated that Council would have to extend their lease for them to do that, and he is saying he could not recommend that at this time.

The question was called at this point by Councilmember Chafin and carried unanimously.

The vote was taken on the motion to adopt the resolution and carried unanimously.

The resolution is recorded in full in Resolutions Book 13, at Page 481.

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ORDINANCE NO. 410-X ORDERING THE DEMOLITION AND REMOVAL OF THE MECKLENBURG HOTEL BUILDING AT 516 WEST TRADE STREET.

Consideration was given to a proposed ordinance ordering the demolition and removal of the building at 516 West Trade Street (Mecklenburg Hotel).

Councilmember Selden addressed a question to the City Attorney, stating there are back taxes on the Mecklenburg Hotel that go back to 1974. At what point does the governing body take over a property such as this for back taxes?

Mr. Underhill replied that the procedure is that you have to foreclose against the property first which is a judicial action brought in Superior Court. That by an agreement and arrangement with the County, the County Attorney's Office handles all tax foreclosures - his office does not.

Mr. Selden asked, under normal circumstances, how many years do you have to go before you foreclose? Mr. Underhill replied, as strictly a guess, two to three, depending on the size of the lien. Mr. Selden stated that what he is leading up to is that economically this is a poor deal no matter how you go with it because as far as the individual is concerned the lien which would be put on his property would be greater than the value of what he has in it in terms of the present land value, if it is torn down. So, if it is going to be foreclosed upon, he does not know whether there is any appropriate and possible land use of the hotel building itself if it were to be taken over before it is demolished. The statement has been made that with \$100,000 you could rehabilitate the building; that perhaps that is a land use that ought to be considered before a decision is made on this particular situation.

Mr. Bill Molyneux, Assistant Superintendent of Building Inspection, stated this item has been brought to Council in a routine manner, although they will notice that it is not routine because they have tried to call their attention to the sad economic picture. That is the only way in which this is not routine. They have gone through all of the motions of having the hearings and declaring the building unsafe - this is all behind them. The only thing they are attempting to do now is to get an ordinance authorizing the demolition of the property. They have reached the extent of their authority in the matter and now they are bringing it to Council for resolving. They consider this to be a very imminent hazard downtown. It is not in danger of any imminent structure collapse at this moment, but it is a very severe fire hazard and a hazard to life in the event of fire. They think it needs to be taken care of.

He stated the owner has defaulted in his responsibility with the result it is a public responsibility. That in the information Council has been provided it gives the sad economic picture on this; it also mentions \$100,000 for rehabilitation. He submits to Council that is the wildest guess he can imagine - that \$100,000. It just depends on what they want to do with the building. He would suggest that the \$100,000 is probably a bare minimum that would not make it marketable necessarily for any useful purpose.

Motion was made by Councilmember Selden, seconded by Councilmember Locke, for adoption of the ordinance.

Councilmember Carroll stated he feels the economics of the rehabilitation are not with it on this building. He requested that some 90 days or so after a lien is imposed for the demolition that the matter be brought back before Council for enforcement of the lien.

Mr. Molyneux stated the matter will come back to Council if the ordinance is authorized today; that action will merely entitle them to take bids and then they will have to come back again for authority to award a contract. At that time, their sticky fingers will be out to ask for contingency funds to be supplemented to their budget so that they can pay for it.

Mr. Carroll stated his request went beyond that; that once that occurs, assuming it will, and the building is demolished, it would be appropriate for them to go ahead and enforce the lien and acquire title to the property.



The vote was taken on the motion and carried unanimously.

The ordinance is recorded in full in Ordinance Book 26, at Page 357.

ACQUISITION OF INDUSTRIAL PROPERTY AT 712-20 NORTH BREVARD STREET FROM HFS INVESTMENT CORPORATION FOR FIRST WARD TARGET AREA.

Motion was made by Councilmember Trosch, seconded by Councilmember Gantt, approving the acquisition of 99,846 square feet of industrial property at 712-20 North Brevard Street from HFS Investment Corporation, at \$353,000 for First Ward Target Area.

Ms. Trosch asked what the schedule of demolition for this property is, or is there one? It has become a real concern at First Ward School because of the safety there at night.

Mr. Sawyer replied as quickly as they can now take bids. If Council approves the purchase today, as far as he knows there is no relocation problem unless there is some storage there. It is not a business as such, therefore they think the problems will be minimal. That for a large structure like this he thinks they should advertise for a period longer than the minimum which is two weeks, in order to get adequate bids. Then they will bring that to Council with a recommendation and proceed as rapidly as possible.

Ms. Trosch asked if they will be talking with the School Board about the use of that; that she noticed the reason for acquisition is to provide First Ward School with additional land to improve its service delivery and create recreation space but her understanding is they have not talked with the School Board.

Mr. Sawyer replied they have had long conversations with the School Board and have a letter right now requesting that the School Board have the opportunity to buy it. It has been verbal until that was firmed up, but the School Board's interest in it goes back several years.

The vote was taken on the motion and carried unanimously.

[COUNCILMEMBER DANNELLY RETURNED TO THE MEETING AT THIS POINT AND WAS PRESENT FOR THE REMAINDER OF THE SESSION.]

ACQUISITION AND DEMOLITION OF RESIDENTIAL UNITS ON CEDAR STREET FROM SCHWARTZ & SON, INC. DEFERRED UNTIL INSPECTION IS MADE FOR CONFORMANCE TO CITY CODE.

Councilmember Carroll moved approval of the acquisition and demolition of five occupied and three vacant residential units at 225, 229, 237 and 245 South Cedar Street, from Schwartz & Son, Inc., at \$36,680; and four occupied and two vacant residential units, at 319, 325, 329, 333, 401 and 405 South Cedar Street, from Schwartz & Son, Inc., at \$16,620, for Third Ward Target Area, as recommended by the Community Development Department. The motion was seconded by Councilmember Chafin.

Mr. Carroll addressed a request to Mr. Sawyer that in the relocations that occurring in this that special priority be given to these people if they would like to remain in the Third Ward Area, particularly with the houses that are to be rehabilitated on Greenleaf and several of the other units that are underway. He does not know what the residents' wishes are but there has been a general concern expressed that after they have their options to go elsewhere they have a first shot at some of the rehabilitation that is being done in the area. Mr. Sawyer replied they would certainly give them that opportunity.

Councilmember Trosch asked if she is correct in her understanding that the City will be basically paying to improve a man's property - take a structure off so that he can use it as a junk yard?

Mr. Sawyer stated they are paying for buying the structures and removing them and relocating the families. Ms. Trosch asked if the purpose of that is so that the families can have the relocation assistance? Mr. Sawyer replied it is, and it is also to remove the opportunity for residential use right next to the junk yard.

Ms. Trosch stated she is not sure the blight will be removed by removing the structures and allowing the purpose for which he purchased the land which was to extend his junk yard. Mr. Sawyer stated he agrees the junk yard apparently is going to continue to operate there. That their protection of the neighborhood from that junk yard is planned to occur on the opposite side of the street - on the west side - where with Council's approval they will propose to construct some feature that will lower the noise, screen the view, etc.

Ms. Trosch replied she understands that across the street, but she is asking if there is no other alternative; that she feels, as Mr. Cox expressed earlier, that they are purchasing things at more expensive prices and then turning around and selling them for less. Here they are really taking houses down and allowing the property to be used for a junk yard. This gives her great concern and yet she wants those people to have relocation assistance.

Mr. Sawyer stated this is the only way unless through code enforcement they were forced to relocate, but they have not to this date.

Ms. Trosch asked if through code enforcement they would be forced to relocate? Mr. Sawyer replied if the properties were inspected and found to be in such a state of disrepair that it would cause the occupant to have to move to bring that structure up to the code standards, then they would offer relocation benefits. But, that would merely make the structures more liveable inside; it would not improve the environment.

Ms. Trosch replied the junk yard does not improve the environment - this is a neighborhood. Mr. Sawyer stated we are stuck with the junk yard; that is what the owner bought the property for.

Councilmember Carroll stated the reason he made this motion was that he was concerned that the residents in most of these buildings have the benefit of the relocation program that we have. He was not aware that they could also code enforce and relocate them. That the way they are doing this is a very expensive way; they are removing housing which on sight is very substandard and paying the owner to remove it and giving him the bonus of not only the free removal but some cost of what the house is supposedly worth. That he believes what Mr. Sawyer is saying is that beyond that there is the concern that they promote the plan that we have for Third Ward and the role that this plays in that. He asked if Mr. Sawyer knows if the owner plans to expand the junk yard into this area.

Mr. Sawyer replied he does not know; he assumes that since he stated some time ago that his purpose for buying these properties was to expand, that he would do so at an appropriate time. That it was years ago that he purchased the properties, but he made this statement about a year ago at several of the meetings which were held in the Third Ward Area.

Councilmember Cox stated this is an unwise use of public funds; that he could offer a substitute motion to deny this but that would not accomplish any purpose, but he will vote against it. It is wasteful; it is not a good use of CD funds or federal funds.

With Councilmember Chafin's approval, Councilmember Carroll withdrew his original motion and moved that action be deferred on this and asked that the units in question be inspected to see how they stood vis-a-vis the Code and that at that time Council could make a decision which would tell them whether or not the residents would benefit from relocation and what the economics of that would be.

The vote was taken on Mr. Carroll's second motion and carried unanimously.

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Mayor Harris commented that having observed the Third Ward Area today it makes him almost believe the City should get into the rehabilitation business - the moving of houses, renovating them and all these things. That it is always good for the free enterprise sector, but sometimes he feels they are not getting any competition in that area - real competition.

Councilmember Carroll stated that some of the Councilmembers went on a tour in Asheville last week and saw what they are going in this area. They saw a number of houses which were being moved, plus some creative in-fill that they were doing and it was being done much more inexpensively than it looks like our present program is being done.

ORDINANCE NO. 411-X AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE OF THE CITY OF CHARLOTTE AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY ON THE NORTH SIDE OF FAIRVIEW ROAD, BEGINNING AT McMULLEN CREEK AND EXTENDING WESTERLY, AS PETITIONED BY McGUIRE PROPERTIES, INC.

Councilmember Selden stated there has been a good bit of investigation regarding the adequate agency control of the property that is the western section by the petitioner, who he believes is present. While it appears the agency control is there, according to Mr. Underhill, it does not appear that the actual ownership, which is vested in Mr. Harris, is knowledgeable of the conditions under which he is being placed for Mr. McGuire as agent. Mr. McGuire feels an additional three weeks would help to clarify matters on this.

Councilmember Selden moved that it be deferred until the November 20th meeting. The motion was seconded by Councilmember Dannelly.

Responding to a question from Councilmember Short, Mr. Selden stated Mr. McGuire is asking for the deferral.

Mayor Harris asked Mr. Landers of the Planning Staff to respond to Mr. Selden's report about the understanding of the owner of the land, asking Mr. Landers if that was correct. Mr. Landers replied in his understanding - first in terms of the actual initial petition of the agent for Mr. and Mrs. Harris - Joun Harris did participate and provided written consent as agent for the property owners. It is also his understanding there is knowledge of the conditional plans and the number of units by contractual agreement; that contractual agreement is not a part of the official petition that has been submitted; that is outside the petition.

Mayor Harris asked Mr. Underhill to speak to the legalities involved. Mr. Underhill stated that perhaps he would just elaborate on what Mr. Landers has said. That the question did arise, as to his understanding, at least he was asked the question so he assumed that it did arise last week, as to whether or not the conditional zoning district classification was proper for this petition since the petition was submitted by someone other than the property owner. That the Code says that a conditional zoning district classification shall be considered only by application of the owner of the subject property or his duly authorized agent. That at the time this petition was submitted, Mr. John Harris, agent for Mr. and Mrs. James J. Harris, submitted a letter to the Planning Commission, to the Council, indicating that the Harris's were aware of the petition and did approve the petition by McGuire Properties to zone the property for multi-family use. In addition to that, Mr. McGuire has shown him a contract that his company has with Mr. and Mrs. Harris which indicates that they are aware that the conditional zoning is being considered for this property that Mr. McGuire has, and that conditional zoning is likely to be considered by the City Council for this particular property; and that they are aware of that and that they are aware of the conditions, including the density that will be placed on the property in accordance with the site plan if the zoning is approved. That he thinks the Code has been satisfied.

Councilmember Short asked if he meant that the owner knows about this? Mr. Underhill replied the owner is aware of it.

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Councilmember Selden stated that he would like to clarify with Mr. Underhill if he interprets the owner's letter, etc. to indicate the owner understanding the fact that you cannot do speculative development; and also whether he understands the three year period in which the development should occur?

Mr. Underhill replied that, in reading between the two documents - that is the April 5th letter and the contract that Mr. McGuire's company has with Mr. and Mrs. Harris - that is not explicit within the materials. There is, as members of the Council likely know, a provision in the City Code that pertains to conditional district zoning that provides that within three years after the date of approval of a conditional zoning district, the Planning Commission is to examine the progress made to develop the property according to the approved plans. If there are no active efforts to so develop, then the Planning Commission is required to report that to the City Council for any further actions the Council might wish to initiate. He does not know as to the extent of the knowledge of Mr. Harris concerning this particular provision of the Code. Councilmember Short stated they are assumed to know the laws.

Councilmember Gantt made a substitute motion that the petition be approved as recommended. The motion was seconded by Councilmember Locke.

Councilmember Short stated in view of the attitudes, it seems evident here to approve this. He asked if he is saying Mr. McGuire wants to delay it? Councilmember Selden stated he will withdraw his motion.

Councilmember Short stated in looking at the map of the zoning shown approved for the SouthPark Plan, the property does not appear to be eligible for multi-family at all. However, if you read the text on Page 20, there is a paragraph that seems to refer specifically to the McMullen Creek Flood Plain, and the area there; and it makes it plain there is intended that this piece of property could be used for this purpose. While it is a little bit in conflict he thinks it is obvious this is in keeping with the plan; that is important to him because Council approved this plan only a month or two ago.

Councilmember Trosch asked about the density on these two site plans, six and ten, and the allowable amount is two more units under the zoning being asked for. A note on the site plan itself, the answer she received a week ago, is that the site plan cannot be changed; if six is a density it has to be six. Not by an administrative change can it be changed, it has to come back to the Council; the same with the ten. However, a note on the site plan says number three density or total unit count shown here is based on an approximate acreage shown. Final unit count will not exceed the number allowed under the zoning ordinance. Would that allow any change without coming back to Council, up to the allowable new density under the zoning ordinance?

Mr. Underhill replied she was going to have to help him out on that - where on the site plan is that located? She stated it is a note #3. That it is on the site plan itself and that is what causes her concern. The answer which she received last week was the density on the site plan cannot be changed, but the note is on the site plan also.

Mr. Landers stated he thinks there are two things. Number one, the overall density is specifically restricted to ten units per acre on the westside and six units per acre on the east side, regardless of the approximate acreage of the total project involved. So, he would say that that specifically would take precedence. Secondly, in terms of the overall site plan, and the schedule of units, that the number of units would not be increased nor the buildings, by number of buildings, would be increased.

Councilmember Trosch asked even though it says on the site plan that final unit count will not exceed number allowed on the zoning ordinance? He replied yes, and that he can assure her that, from the Planning Commission's standpoint and from staff standpoint, recognizing the history of this case, if there were wording which would unintentionally increase the number of units, the Planning Commission would not, based on its limited authority to modify a plan. Quite frankly, when they reviewed the plan, they were considering more the problems of discomputing acreage.

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Councilmember Gantt stated he would just like to be assured that they would bring that back to Council.

Mr. Underhill stated that it might be prudent to delete that sentence on both site plans. Councilmember Cox asked if that could be done today? Mr. Underhill replied that he thinks Council can because the site plans are before them for their review today; that Council should keep in mind that this is a conditional district zoning and Council is to review the site plans.

Councilmember Trosch stated she would like to delete that on the site plans. She asked Mr. Gantt to accept that as a modification to his motion. Mr. Gantt agreed, as well as Ms. Locke who had seconded the motion.

Mr. Gantt stated what this is doing is limiting the unit count to what is given on the plans. Ms. Trosch replied as given on the plans, except by and act of Council. Mr. Underhill stated the density could not be increased by administrative decision in any event; that it would require further modification and approval by Council.

Mayor Harris stated there is a motion to approve. He asked if everyone understands by this that they are approving the extension of Colony Road? Councilmember Cox replied not necessarily. Councilmember Gantt stated the road that will go through there will be put in by the developer. Mayor Harris stated he wants to make sure that everyone understands this is approving Colony Road Extension. Councilmember Cox stated by that thinking Sir John's Hill's site plan has already done it. Councilmember Selden stated it is only approving that particular section that adjoins this piece of property. Mayor Harris stated from Fairview to Sharonview.

Councilmember Trosch stated she would not want her vote to indicate necessarily that she is approving the Colony Road Extension. Mayor Harris stated he is raising the point because he thinks in the site plan everything is east and west of Colony Road Extension; they are using that as a boundary.

The vote was taken on the motion to approve with the modification, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 26, at Page 358.

ORDINANCE NO. 412 AMENDING THE ZONING ORDINANCE BY AMENDING SECTION 23-8 RELATING TO THE ADOPTION, MODIFICATION AND INTERPRETATION OF THE ZONING MAPS.

Motion was made by Councilmember Chafin, seconded by Councilmember Short, and carried unanimously, to adopt the subject ordinance.

The ordinance is recorded in full in Ordinance Book 26, beginning at Page 359.

ORDINANCE NO. 413-Z AMENDING THE ZONING ORDINANCE BY AMENDING THE ZONING MAP TO CHANGE THE ZONING OF PROPERTY LOCATED TO THE REAR OF 511 QUEENS ROAD - SUTTON HOUSE APARTMENTS - ON PETITION OF THE PLANNING COMMISSION.

Councilmember Locke moved adoption of the subject ordinance 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, on which a protest petition had been filed sufficient to invoke the 3/4 Rule. The motion was seconded by Councilmember Short.

Councilmember Chafin made a substitute motion to deny the petition, which motion was seconded by Councilmember Carroll.

Councilmember Chafin stated she realizes it seems like a small routine. The recommendation of the Planning Commission suggests the property is undevelopable. She does not think we have complete assurance of that; she thinks there is some possibility that it could be developed for parking or some other purposes and would destroy the tree cover, and would encroach on Dartmouth. That, in the spirit of the original Myers Park rezoning, she would like to see Council deny the petition. It will leave the property as presently zoned, unconfirming. That she has been assured this is a very minor thing.

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Mr. Short stated the original zoning of this property was imposed on Mr. Gillis by the Council; and was done so by mistake. That is a little bit of an overreach for city government. To render Sutton House, a multi-million dollar piece of property, a non-conforming use in those circumstances is a little bit out of order.

Councilmember Selden stated he talked with Mr. Ewing after it was determined unquestionably that the additional footage was required. And Mr. Ewing indicated under the circumstances this could change the matter.

Councilmember Cox stated there needs to be one other thing said here. That is, a message from at least one member of Council, the fact if this petition is approved today, that clearly does not invite any multi-family rezoning to the adjacent property. He wanted to say that because there has been some speculation that Mr. Gillis is trying to get this done so that he can move on. That should not be interpreted from any vote he makes; it would not be true.

Councilmember Gantt stated he hears Mr. Selden say the fact they did need the additional area? Councilmember Selden replied the number of units in the Sutton House requires 60,000 square feet of land; there is 56,000 plus now, and the rezoning of this back gives them 60,800 square feet. Councilmember Gantt stated the reason he bought it originally was to comply with that requirement? Mr. Selden replied that is right.

Councilmember Carroll stated this is a situation where it does not matter either way.

The vote was taken on the substitute motion to deny, and lost on the following vote:

YEAS: Councilmembers Chafin and Carroll.

NAYS: Councilmembers Cox, Gantt, Frech, Leeper, Lock, Short, Selden and Trosch.

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

The ordinance is recorded in full in Ordinance Book 26, at Page 362.

ORDINANCE NO. 414-Z AMENDING THE ZONING ORDINANCE BY AMENDING THE ZONING MAP TO CHANGE ZONING OF PROPERTY ON THE NORTH SIDE OF IDLEWILD ROAD: AND A PARCEL NEAR THE NORTHEAST CORNER OF INDEPENDENCE BOULEVARD AND IDLEWILD ROAD INTERSECTION, ON PETITION OF GRIER WALLACE.

Motion was made by Councilmember Locke, and seconded by Councilmember Selden to adopt the subject ordinance changing the zoning from R-9 to O-15 property fronting on the north side of Idlewild Road, about 600 feet from the Idlewild Road and Independence Boulevard intersection consisting of approximately 8.45 acres; and change from R-9 to B-2, a 5.8 acre parcel located near the northeast corner of Independence Boulevard and Idlewild Road intersection, as recommended by the Planning Commission.

Councilmember Trosch made a substitute motion to defer decision on the subject petition. The motion was seconded by Councilmember Frech.

Councilmember Trosch stated there is a B-2(CD) petition for an additional 150 feet behind this property that was worked out as some kind of compromise for conditional use as parking that will come before Council in November. She has a feeling about this property. This is going back 200 feet; and then on the 20th they are coming back for 150 more feet back. Councilmember Short stated even with that they will only have the same arrangement that Borough-Lincoln Mercury has now. Mrs. Trosch stated she is not judging on the addition of the 150 feet; but she feels she needs to judge on that one when the hearing is held, and make her decision at that time.

Councilmember Gantt stated he has talked with Ms. Trosch about this. She is right this should be judged right now on its merits. What we would have is a lining up of the B-2 zoning along Independence which is consistently 600 feet back. If we then wanted to allow some additional B-2 conditional parking (off street parking) this would be an additional 150 feet, we would then align even further the existing landuse situation that now exists along Independence Boulevard, which in effect is automobile usage for an 800 foot depth off Independence Boulevard. To defer it to discuss an issue of 150 feet zoning with the 200 foot area that is still unresolved in terms of its use, seems to be the wrong

way to go about it. He thinks Council should decide the B-2 issue as to whether it wants to extend that; then decide whether or not to give more parking and an opportunity to further setback on Independence Boulevard. So he is going to support the motion to approve it.

The vote was taken on the substitute motion and lost on the following vote:

YEAS: Councilmembers Trosch, Frech and Carroll.

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

Councilmember Trosch asked when the B-2 abuts the residential does a buffer have to be provided? Mr. Landers of the Planning Staff replied yes; under the zoning ordinance general screening requirement for the business property which abuts a residential district is required to place screening along that property line. Ms. Trosch asked if the storm water detention ordinance would be effective also? Mr. Landers replied the storm water detention ordinance would apply to the development of this tract. Just the 200 foot additional depth to the existing property gives you five acres of land as opposed to the minimum of 20,000. He thinks it is very competent to say that would be figured.

Councilmember Trosch stated if they will look at the map, this particular thing does landlock that piece in the back. She as an individual Council Member and she realizes we have a petition behind this one, and it is a little difficult to say this here; but she would not want - this is actually an act of the property owners who owns the vacant land behind further encroaching with business onto that R-9 land. She guesses she is making a statement like Mr. Short says he made years ago that he would never go with something.. The choice is being made of the property owner here to come back further taking the R-9 land, landlocking that R-9 land. There is a real problem in the interior streets behind there, and she would not want this to be an indication to come back as a hardship case later in relationship to any kind of development of that landlocked piece of land except as residential.

Councilmember Gantt asked what she means by landlocked? Councilmember Trosch replied there is no access here. Councilmember Gantt replied there is; there is a stub street which means if it is ever developed as residential property that is the only logical access. Ms. Trosch replied that is right; and that is why she feels she will vote for this because it will in fact encourage residential single family here as opposed to something she feels the interior street cannot take.

The vote was taken on the main motion to approve the petition, and carried unanimously

The ordinance is recorded in full in Ordinance Book 26, at Page 364.

ORDINANCE NO. 415-Z AMENDING THE ZONING ORDINANCE BY AMENDING THE ZONING MAP TO CHANGE THE ZONING OF PROPERTY FRONTING THE EAST SIDE OF BELHAVEN BOULEVARD AND NORTH HOSKINS ROAD INTERSECTION, ON PETITION OF FRED HARGETT.

Councilmember Selden moved adoption of the subject ordinance changing the zoning from R-6MF to O-6(CD) a parallel conditional district, limited to an office use, as recommended by the Planning Commission. The motion was seconded by Councilmember Locke, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 26, at Page 365.

PETITION NO. 78-43 BY JAMES HILL FOR A CHANGE IN ZONING TO ACCOMMODATE AN AUTO REPAIR GARAGE ON PROPERTY FRONTING THE WEST SIDE OF DELTA ROAD, TABLED.

Motion was made by Councilmember Gantt and seconded by Councilmember Dannelly for discussion to approve the rezoning of property from R-12 to B-2(CD).

Councilmember Gantt stated there are a couple of points made in this; and he feels some concern on their side. Number one is the business has been there

for years wanting to improve itself in an area that has a minimum amount of residential development at this point in time. It seems to him we may be doing some damage to Mr. Hill and his homestead there. There is what he considers a real serious technical question raised in regards to the number of units even on the site as to what is the primary building on the site. If the garage is considered a primary building, then the residence cannot be there. One or the other will have to go. So it boils down to a question of whether the Hills are going to stay and live on the land and work there too - apparently he cannot do both. If this is approved or denied, the technicality is still there.

Mr. Landers of the Planning Staff stated he has discussed this with the zoning administrator, and this situation has come up once in the past. It was a very minor residential use, or minor use. This was also a Mr. Hill on Nations Ford Road, and that is when it first became apparent. The zoning administrator's position on the matter was, and would be in this instance, that if Council approves this it is a conditional plan and they would issue permits according to that conditional plan. It is important that Council be aware that what is proposed for approval is in that technical instance inconsistent with the ordinance requirements. But it would be honored for building permit purposes if Council so approves.

Councilmember Short asked if Mr. Hill is not better off traveling as a non-conforming use. As a non conforming use he has 30-40 automobiles out there; and apparently as a non-conforming use he can do what he used to do. And he use to have 30 to 40 automobiles out there, and he still can have it. But under the plan he has sought here, he has limited it to a good number less than that. He wonders if we do not serve him best by simply advising him he is better off now than anything we can do for him.

Mr. Landers stated he is not sure he understands the question. Councilmember Short stated as a non-conforming use he has all the cars he can pile in there because under the grandfather clause apparently that is what he was doing; so he is still doing it. If Council imposes the conditional plan sought here, his right to do that has been cut out? Mr. Landers replied under the plan that is correct. He has provisions for 14 spaces, and there should be no more than 14 automobiles on the property. In fact of those spaces, only 11 will be available for service. Mr. Short stated seemingly no matter what he puts out there now, Mr. Long of the Enforcement Division cannot complain. But if this plan is imposed, Mr. Long will be out there and restrict his operation. Mr. Landers replied it would be an enforcement situation. With automobiles especially, and some other kinds of uses, that is the kind of thing you can go out today and say there are 14 cars; and then come back next week - it is a daily enforcement.

Councilmember Trosch stated this is an area of Planning Study that is going on in District 5; this is a pivotable area - the kind of thing she said that in the future she would hope staff would comment to the Planning Commission when we hit zoning requests in this area of the planning study that might be affected by the whole study. She considers this as setting a precedent for the whole road. There are a lot of cases around that road, in that immediate vicinity - that we have a grandfather situation across the street she knows they are working very closely with in Charlotte Aircraft, and what the future will be there. This is another grandfather situation. She asked if Mr. Landers feels a decision on this is perhaps going to have some impact on the ultimate decision the planners will make in four to six months? Mr. Landers replied strictly from the planning perspective they consider it a very typical kind of situation that you have a non-conforming existing use, a successful use; but one to which there are implications - potential implications. Yes, down the road you do have the heavy equipment operator; very portable but over the years it has been there as a very permanent use; there is Delta Aircraft. From a standpoint of staff, they have concerns about development along Albemarle Road, now with Delta Road being connected up, extending along and up to Hickory Grove. From a planning



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perspective they view this as a critical kind of situation; and would be concerned. We do have other situations that are equally persuasive from their non-conforming position.

Councilmember Trosch made a substitute motion to deny the petition as recommended by the Planning Commission. The motion was seconded by Councilmember Frech.

Councilmember Leeper stated speaking to Mr. Short's remarks about imposing a zoning on Mr. Hill, he is not so sure we are imposing a zoning on him; that he is aware as this was the request made for B-2(CD). What we did as a city was impose a non-conforming use on him, which had been there for sometime. You are talking about restrictive; that he agrees B-2(CD) is restricted, and he thinks that is advantageous from the community's standpoint as well as from Mr. Hill's standpoint. This is going to be an improvement to the area; it is going to be an improvement also to this business which he is trying to operate. Certainly it will be restricted, and he will not be allowed to have 30 to 40 automobiles out there; he will only be allowed to have those for which he has parking spaces. He thinks it will be restrictive; but it will be of benefit to the total area as well as Mr. Hill.

Councilmember Short asked if Mr. Hill knows if this is approved he will have to move? That he cannot live there any longer? Councilmember Leeper replied that is really not true. Mr. Landers has just said if this is rezoned to B-2(CD) that house will remain as a non-conforming use.

Councilmember Carroll stated hard cases sometimes make bad law. This is kind of one of those. We have a very difficult problem dealing with the fact we have a minority business which is flourishing and needs space to expand; yet we are looking at getting a plan to deal with kinds of development along this area which may not be compatible with that.

He suggested that the people who made and seconded the substitute motion consider deferring this until we get that study back from the Planning Commission; and at the same time ask Hoyle Martin and his staff to see if it would be possible to work out some assistance by us to Mr. Hill that might involve his relocation and business in a way that would be consistent with the planning that is presently going on. He would hate to see us with our desire to accommodate Mr. Hill create some precedent for bad decisions that would go on down the road. Because he can continue to use the property that is grandfathered in, that we do not really harm anyone by a little delay at this point.

Councilmember Leeper stated if he really thought that was something Mr. Hill was interested in doing, he would not have any problem in not changing the zoning because hopefully at some point in time that piece of property would become a conforming use. He does not think Mr. Hill has any interest in moving, or any plans for moving. He is not increasing his business. All he is doing is trying to make some improvements there. As a matter of fact he will be decreasing - not necessarily decreasing his business - but decreasing a number of automobiles he is allowed to accumulate on his property over a long period of time. He does not see that as being something that will change that.

Councilmember Dannelly stated Mr. Carroll has said a part of what he planned to say about the fact we had a successful minority business, and we are always glad to see that, and we are not sure whether they are able to do the kind of relocation that would be necessary since with Community Development and the money we have talking about bonds today, and how reasonable it is to take the land we have and do something with it rather than go somewhere to buy it, and putting the land all together, and then proceed to develop. This businessman seems to be that kind of situation. He is assuming at this point that Mr. Hill is aware of the fact that he will be limited to 14 vehicles on that property at one time. If he is not aware of it, then he should have been since he asked for it. He assumes he saw this, and is aware of this.

Councilmember Selden stated the thing he is really concerned about is this Council has frequently gone on record of desiring to relate properties and zoning in a given area. For instance, the areas around SouthPark, and the relationship of one to another. As long as he is a non-conforming operation as

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he is now, grandfathered, he can continue. When he dies or moves away, or decides to go out of business, it basically goes back to the residential character and zoning and it will not be a replacement by another garage. If we grant the conditional zoning there will be one foot in the door with respect to other properties in that area, and that property per se, in terms of other business uses. He thinks the proper long term view is to deny it.

Councilmember Gantt stated he thinks the critical question is whether or not this is a pivotable site or not - whether it is or is not a pivotable site with respect to what we want to see happen along Albemarle Road and Delta Road. That he thinks all members of Council received a letter from someone who was a disinterested party talking about the fact that this particular property was chosen as a test case by the people in that area; there were some interesting implications there. He can recall that this Council has done a number of different kinds of things with regard to zoning; he can recall a number of cases in which we have had existing businesses in residential areas - the Hoskins-Thomasboro Area last year, Council debated; another piece of property off Tyvola Road and Beatties Ford Road we did the same thing for someone. We gave them a CD classification with the understanding that what we are not doing is providing a general classification. One has to sort of look at all the property, all the little property lines along this road and ask how many other businesses are out there. Whether or not we have other non-conforming uses that exist in a large measure along that road. Maybe we need to ask the Planning in their study - maybe that road belongs in the business category. What he sees in terms of the visual impact of this particular piece of property the amount of frontage that it actually has on Delta Road, the fact it is a triangular piece of property with only the apex of the triangle fronting on the road, with the other portions set quite far back and with this many trees on the property. To allow him to go for another ten years with the shack, or whatever he has there, at a non-conforming use with 30 to 40 cars is not as visually pleasing as treating the zoning as CD, and letting the rest of the study go on to evaluate whether that one zoning will impact the entire area. He does not think it will. We have made concessions in the past for very similar situations. The only difference now this happens to be a priority area that we are looking at; then we have to question whether it is pivotable.

Councilmember Carroll moved to table this matter until we get our area study back. The motion was seconded by Councilmember Chafin, and carried by the following vote:

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

NAYS: Councilmembers Dannelly, Gantt and Leeper.

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PETITION NO. 78-45 BY CATHERINE HUDGINS FOR CHANGE IN ZONING OF PROPERTY FRONTING ON SOUTH SIDE OF McALWAY ROAD, REFERRED BACK TO PLANNING COMMISSION FOR CONSIDERATION OF B-2(CD) ZONING.

On motion of Councilmember Trosch, seconded by Councilmember Cox, and unanimously carried, the subject petition for a change in zoning from O-6 to I-2 of property fronting 50 feet on the south side of McAlway Road, approximately 100 feet north from the intersection of Craig Avenue with McAlway Road, was referred back to the Planning Commission for consideration of B-2(CD) zoning.

PETITION NO. 78-46 BY B. B. HOWARD FOR CHANGE IN ZONING OF PROPERTY LOCATED IN THE 2500 and 2600 BLOCKS OF ARNOLD DRIVE, REFERRED BACK TO PLANNING COMMISSION FOR CONSIDERATION OF A REPORT FROM TRAFFIC ENGINEERING ABOUT THE IMPACT OF DEVELOPMENT AT BOTH R-6MF AND R-9.

Councilmember Frech stated she has given a lot of thought to this, looking at it from the position of what constitutes good zoning for the area and for the protection of the neighborhood; that one of her chief interests for a long time has been neighborhood preservation. She stated that Council does not have adequate information on which to make a decision on this petition at this point. That Mr. Gantt asked the Planning Commission to ask Traffic Engineering, or to get information about the impact of traffic, if this property was developed at R-6MF or if it was developed at R-9. The Planning Commission did not take that information into consideration.

She stated it is her opinion that what exists there now is not good zoning in the interest of the neighborhood. She moved that this petition be referred back to the Planning Commission in order that they would get a report from Traffic Engineering, or from their own traffic planning staff, about the impact of development both at R-6MF and R-9; and also that they have a report from the Planning Commission staff as to what would be the effect on the property, or the feasibility, of lowering the density to either R-9MF or R-12MF. She had considered moving for R-12MF but she did not really want to make that decision without more input from the staff. Her concern is that she really does not think that this petition got very careful consideration; that Council does not, at this point, have information on which to base such a decision. The motion was seconded by Councilmember Trosch.

Councilmember Short stated it is hard to combat what she is saying, although he has already told Ms. Frech he does not agree with her on referring it back. The point is this is a third party petition and to just simply study it, and study it and study it, and refer it back, etc. is difficult for an owner and all of those many people out there who have indicated they want to leave it as it is. It seems to him that they as a Council have a sort of courtesy duty that they owe to a third party who is caught in this kind of trap to get them out of it as quickly as possible, and relieve them of the necessity to continue to hire lawyers, etc. which has cost them a lot of money. He stated the Planning Commission has spoken unequivocally; they did not give a lot of details, but they have spoken flatly on this. He does not think it is real good for Mrs. Davis to send it back for further study.

Councilmember Trosch stated her main concern is for good planning in this area. If they need more information to get that she feels it should go back. She does not think they know the traffic situation.

Councilmember Chafin stated they should not treat this petition any differently from an owner initiated petition, for the reasons Ms. Trosch indicated. Mr. Short replied he does.

Councilmember Gantt stated he does not see the point of referring it back to the Planning Commission; he would just as soon have the information put before Council regarding the traffic question. Then if they need to have staff or the Planning Commission staff to advise them on what the impact of the traffic will be, then defer it until they get that information.

Councilmember Frech stated she will amend her motion to defer a decision until Council gets the information on the traffic impact; and also the staff's opinion as to what would be the impact of lowering the density to R-9MF or to R-12MF.

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Councilmember Cox referred to an article a week or so ago in The Charlotte News about a "zoning time bomb." He stated he agrees with that; that Council is, in a sense, responding to the zoning time bomb by the area plans that they have talked about today, one of which the Planning Commission has already initiated. That is a very commendable effort. He stated we have many zoning problems out there today that need to be corrected and this is one of them. He has a problem with a third party petition for two reasons. One is philosophical; the second one is it makes good sense for, during this interim period, before they get area plans, for the Council to be the initiator of zoning petitions. Therefore, whenever this comes back he is going to vote against it. That does not mean that he feels it is good zoning the way it is; that what he feels is that they have to have the right kind of procedure during this three to five year interim time period, where this zoning time bomb is ticking, and yet they do not have at that time much penetration of the area plan.

Councilmember Locke stated she would also like to emphasize that she is not in favor of third party petitioners either and when it comes back she plans to vote to deny this petition.

Councilmember Selden stated he will add a third comment to that which might make some decision as to whether to defer it or not. Ms. Locke stated it is important to hear this information about traffic, but the vote by the Planning Commission was eight to one and they set out good reasons for their recommendation to deny it and she stands with that decision, but she does not see any problem with the traffic information coming back to them.

Councilmember Frech stated she is a little disturbed by what she hears some members of Council saying; that is, that they make these zoning decisions on the basis of philosophical principles; she does not see how they ever expect to achieve anything for this city on that basis. She stated she wishes that people would consider what is good zoning, would consider the advice of the Planning Commission staff, which she suspects would not agree with the recommendation of the Planning Commission, that people would think more about what they can do to preserve neighborhoods, preserve further deterioration - Fountain Square in that area has been a disaster for the whole neighborhood. She wishes Council would think a little bit about what they can do to help preserve a neighborhood that needs some help.

Councilmember Cox stated he is disappointed that perhaps some of those comments came his way, because he hopes she understands he has consistently voted to preserve neighborhoods. His problem with this is philosophical; but on the other hand it is just as strong on the good planning involved. He might be able to get around the philosophical thinking if it were not for the good planning involved. He does not think it is very good planning to allow third party petitions, particularly in this interim time between area plans. That these kinds of zonings need to take place; that is something they have always said, but they need to take place in a greater context, and they need to take place in a non-fragmented way. When they criticize themselves for the petitions they have approved in the past, one of the most frequent words he hears is fragmented zoning. That is exactly what this is. He would hasten to say that if this were in a larger context, and if it were presented by the City Council as a kind of control or choke point in this interim period, he would not have any problem going along with it. But, his position does reflect very sound zoning principles and principles to which they have all reflected themselves over the past times.

Councilmember Locke reminded Council that they appoint the Planning Commission and it was the Planning Commission's recommendation to deny this by an eight to one vote. The third party petitioner asked to rezone 70 percent of that land which was not theirs, which is crucial. That Mr. Cox makes a good point that during this interim period they should not allow third party petitioners until after they look at all of these areas very carefully. Had this been looking at the whole thing, like they did Myers Park and Elizabeth, then she could . . . she thinks they should go with the Planning Commission's recommendation because Council appoints them, and not look to staff - that has been one of the problems in years past.

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Mayor Harris reminded Council that they were getting astray from the point. That rather than debating the issue of non-owner petitions, they are talking about this one zoning request. However, since everyone has stated his position about this, he will state his since evidently he will be voting; that he will be voting for denial, but it will not be based on any reasons of non-owner or whatever.

Councilmember Gantt stated the problem he has is that it is not good zoning either way. If it stays multi-family it is not good zoning because it projects too deeply into the residential development; if you make it single family you have a case of spot zoning. They are not going to come to a very good resolution of that problem one way or the other without splitting this thing up and doing something very difficult.

He stated it is also clear to him that a motion to defer for the traffic information is not likely to change the very strong positions he has heard around the table. That since it will require a 3/4's vote he sees no point of going any further.

Councilmember Chafin stated that in response to Mr. Gantt's point, the additional information may give them a chance to look at it in the context of some zoning in between that does make some sense.

Mr. Short stated that he has told Ms. Frech that he would vote for some other version of multi-family but would not vote to refer it back because it is a third party petition.

The vote was taken on the motion to defer a decision on the petition until the traffic information is received and carried as follows:

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

PETITION NO. 78-41 BY GRIER WALLACE FOR CHANGE IN ZONING OF LAND LOCATED IN NORTHEAST CORNER AT THE INTERSECTION OF INDEPENDENCE BOULEVARD AND IDLEWILD ROAD, DENIED.

Consideration was given to the subject petition requesting a change in zoning from R-9 to R-9MF of a 22.2 acre tract of land located generally in the northeast corner at the intersection of Independence Boulevard and Idlewild Road, and approximately 600 feet from Independence Boulevard.

Councilmember Short moved, seconded by Councilmember Chafin, that the petition be denied on recommendation of the Planning Commission. The motion carried unanimously.

Councilmember Trosch asked how they can come back and request, after a denial for B-2(CD) for additional parking, before two years? She stated the original request was for R-9MF and they are coming back with B-2(CD) for off-street parking.

Mr. Landers stated the reason they would be able to do this is because it includes only a part of the original petition. Ms. Trosch stated does he mean if you petition a tract, you can divide it in half and come back? Mr. Underhill asked Mr. Landers what the original zoning petition was for? Mr. Landers replied it was for R-9MF for the tract behind the business zoning on Independence. This request is for B-2(CD) that would be petitioned, or is anticipated being petitioned. It has been filed for B-2(CD) for a 150 foot ribbon along the property line, parallel with Independence. He stated they have discussed this with the petitioner and Mr. Bryant in terms of the ability to come back in face of the two year time period, and it is not considered the same total tract of land.

Mr. Underhill stated the zoning classification that is now requested is something that the Council could not have considered within the framework of it being a different petition. That is the reason.

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PETITION NO. 78-48 BY ROBERT PHILLIPS FOR A CHANGE IN ZONING OF PROPERTY LOCATED IN THE SOUTHWEST CORNER OF MONROE ROAD AND RAMA ROAD INTERSECTION, DENIED.

Motion was made by Councilmember Chafin, seconded by Councilmember Selden, and carried unanimously to deny the subject petition for a change in zoning from O-15 to B-1 of the 1.5 acre parcel, as recommended by the Planning Commission.

ORDINANCE NO. 416-Z AMENDING THE ZONING ORDINANCE BY AMENDING THE ZONING MAP TO CHANGE THE ZONING OF PROPERTY AT THE SOUTHEAST CORNER OF PROVIDENCE ROAD AND SHARON ROAD INTERSECTION, ON PETITION OF LUTHER CREEL, ADOPTED.

Councilmember Selden moved adoption of an ordinance changing the zoning from O-15 to B-1(CD) for restaurant use, property at the southeast corner of Providence Road and Sharon Road intersection, as recommended by the Planning Commission. The motion was seconded by Councilmember Trosch.

Councilmember Short stated he would prefer this expansion of Cafe Eugene be made in accordance with the "grease pit" procedure. What is being done now is putting B-1 zoning along some 200 feet of frontage of Providence Road at a point where there is not any other business zoning - nothing but residential within a mile or so of either direction. An area that has been greatly protected at a great effort and expense by Councils over the last 14 or 15 years, which he can personally certify.

He thinks Council could do this by the "grease pit" decision, which would not put business zoning on Providence Road. If Council did it by this method it would look a lot better on the zoning map, and three or five years from now a Council would not be faced with some citizens coming in and saying there is 200 feet of business zoning on Providence Road.

The "grease pit" is a method used some years ago at a service station in Newell. The service station was a non-conforming use and was very much in a residential area where all the neighbors wanted this person change their oil in their automobile; but no one wanted the station to be rezoned. The result was that Council with the aid of Mr. McIntyre zoned the grease pit, an area approximately seven feet by twenty feet, and it was zoned industrial; for miles and miles in all directions there was no other industrial zoning, but that one little confined area. It allowed this person to make the expansion of the station he wanted to make.

Councilmember Short moved that Council refer this petition back to the Planning Commission staff, and ask them if we cannot utilize some form of zoning of the literal brick and mortar area itself, of this former bank, and allow the petitioner to do what he wants to do and not expose Providence Road, 200 feet of business. The motion did not receive a second.

Councilmember Short stated this is a procedure that could be used according to Mr. Bryant, Acting Planning Director. That he would like to explore this method before exposing Providence Road in this way. It would be bad to impose this on Providence Road, and this kind of danger, over what is a minor matter to a lot of people - although it means a lot to Mr. Patrick, he is sure.

Councilmember Carroll stated when the petition was before Council at the hearing, there was a property owner in the immediate vicinity who indicated there was some opposition; but if it was rezoned, they might come in and ask their property be rezoned. He stated for the record that he does not see this as being a precedent for any changes in business zoning of any of this area; and the conditional use being suggested, along the lines of what Mr. Short is suggesting, and because it is CD(conditional) with a site plan, that we can accomplish the grease pit; that we are utilizing what is presently ongoing, in an existing structure, and we are not setting any precedent of changing the zoning in the area. Councilmember Short replied it will mess up the zoning map when someone comes in and looks at the maps.

The vote was taken on the motion, and carried unanimously, with the ordinance being recorded in full in Ordinance Book 26, at Page 366.

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COUNCILMEMBERS CHAFIN AND SHORT EXCUSED FROM REMAINDER OF MEETING.

Motion was made by Councilmember Trosch, seconded by Councilmember Frech, and carried unanimously to excuse Councilmember Chafin from the remainder of the meeting.

Motion was made by Councilmember Carroll, seconded by Councilmember Trosch, and carried unanimously, to excuse Councilmember Short from the remainder of the meeting.

TEST PROGRAM FOR ROLL-OUT CONTAINER REFUSE COLLECTION, APPROVED.

(a) Motion was made by Councilmember Gantt, and seconded by Councilmember Frech to approve a lease agreement with Zarn, Inc., effective December 4, 1978, for 1,800 roll-out containers and 8 lift devices, for a total of \$9,300, in addition to deliver and installation charges, with the lease cost to be applied to a future purchase agreement.

Councilmember Dannelly asked how the four areas indicated in the papers were determined? Mr. Hopson, Director of Public Works, replied the areas were chosen with the key people in Sanitation relative to social economic standards, terrain, trying to get groups together like Grier Heights. It is purely a case of judgment; and they came up with the best ones they think will serve as a cross section of our community. One was requested by Dilworth; one was requested by the Beautification Committee of Grier Heights; they met with the Westerly Hills-Ashley Park Community.

Mayor Harris asked Mr. Dannelly if he wanted an area? Councilmember Dannelly replied he thought about it; he thought about it from a standpoint that with the largest minority population being away from the sites they have selected, they could have found one in that large populated area. He thinks they would also want to be concerned of what happens with them with the other people in the same general area around those persons being experimented with. It would also give staff a feeling as to how people may treat it. Take for instance, Grier Heights is a nice little pocket; but you are not going to find out how other minorities will treat the situation because they are practically blocked in. When you move out from minorities there, you are moving into a semi-integrated kind of neighborhood to a majority neighborhood. Mr. Hopson replied he does not question Mr. Dannelly's thoughts; but they had to go somewhere, and if they had a lot more time they might go to another area. They did consider a dozen areas before they got down to these four areas. He believes with the press here today, and the press they will have in the educational program everyone will know what is going on. He does agree it might have been better if they had an area just below the Westerly Hills-Ashley Park.

Mayor Harris stated the Dilworth Community asked to be included, the DCCA. Mr. Hopson replied it was an action of their Board saying they would cooperate with them on the program. Mayor Harris asked if they are forcing something on someone as a test? Mr. Hopson replied they may; and if they get in that position, they may have to come back and change areas; if there is a small group that does not want the containers in their backyards, then they will have to take that into consideration. Mayor Harris asked if someone on a street says they do not want the container, what will he do? Mr. Hopson replied in that case, they would probably go ahead and serve them from the rear door if it is just a few, or one or two. Other cities have not run into this. Mayor Harris asked why we do not take one area at a time. Start with one area and try it for a little bit, and then go to another area? Mr. Hopson replied their thought was to have a cross section of the city. Mayor Harris asked simultaneously? Mr. Hopson replied yes; and they get that except in Mr. Dannelly's case. If anyone had invited them in, they would have gone in out there. Mayor Harris stated what he is trying to say if a person says he or she does not want to be involved and do not want it in my yard. What is going to happen to this house? Mr. Hopson replied they will have to serve them with the regular container. If it gets to be too many in an area, they do not want to force themselves on them.

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

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(b) Motion was made by Councilmember Locke, seconded by Councilmember Dannelly, and carried unanimously, approving a lease agreement with Rubbermaid Applied Products, Inc., effective December 4, 1978, for 1,800 roll-out containers and 8 lift devices, for a total of \$9,300, in addition to delivery and installation charges, with the lease cost to be applied to a future purchase agreement.

(c) Motion was made by Councilmember Trosch, and seconded by Councilmember Leeper to accept the four areas recommended for the pilot program - Westerly Hills/Ashley Park, Grier Heights, Sardis Road/Rama Road and Dilworth.

Councilmember Leeper stated he has mixed emotions about the area in District 3 - Westerly Hills/Ashley Park. He is glad to see the area close by so that he can observe for himself what is really taking place. That Westerly Hills is a very broad, representative area, economically and racially. He thinks that is a perfect area to get a feel from the minority as well as low and middle income community. Councilmember Dannelly stated what he is saying is that Westerly Hills and Dilworth are just about the same. Mr. Leeper replied probably so; he thinks it is a little different in terms of the economics of it.

Councilmember Cox stated Dilworth is a very unique community; it seems to him that what we need as test sites are representative communities. Dilworth represents Dilworth - North Dilworth, South Dilworth; it does not represent anything except Dilworth. Dilworth is a very special community. He really believes we need a more typical community than Dilworth. That Sardis/Rama Road is pretty typical, and for the same reasons. He would invite comments from Council about changing the designation of Dilworth to some other place - a more unspacial place.

Councilmember Selden stated actually Dilworth is unique. Although the Dilworth Board invited this situation, he has heard from a number of people in that area who are opposed to it. He stated for the fact there is very little that goes on in this City that Dilworth does not have a finger in makes it an ideal place to test it.

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

ORDINANCE NO. 417 AMENDING CHAPTER 13 OF THE CITY CODE BY DELETING SECTION 13-18.

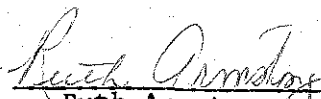
Councilmember Carroll stated Mr. Short has left the meeting, and he failed to bring up the item he wanted to bring in, and he would like for Council to suspend the rules and allow him to place the matter before them.

Councilmember Carroll moved that Council adopt an ordinance to repeal the ordinance which has been declared unconstitutional by two District Judges, being Section 13-18 of the City Code, and further request that Council get additional input from the City Attorney and the Police Attorney on legislation to deal with this problem. The motion was seconded by Councilmember Locke, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 26, at Page 367.

ADJOURNMENT.

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

  
Ruth Armstrong, City Clerk