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A regular meeting of the City Council of the City of Charlotte, North Carolina, was held on Monday, January 10, 1972, at 3:00 o'clock p.m., in the Council Chamber, City Hall, with Mayor John M. Belk presiding, and Councilmen Fred D. Alexander, Patrick N. Calhoun, Sandy R. Jordan, James D. McDuffie, Milton Short and Joe D. Withrow present.

ABSENT: Councilman James B. Whittington.

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INVOCATION.

The invocation was given by Councilman James D. McDuffie.

MINUTES APPROVED.

Upon motion of Councilman Alexander, seconded by Councilman Short, and unanimously carried, the minutes of the last meeting, on Tuesday, January 4, 1972, were approved as submitted.

CITY OF CHARLOTTE EMPLOYEE PLAQUE PRESENTED TO C. A. ALLEN, POLICE DETECTIVE, ON RETIREMENT.

Mayor Belk recognized Mr. C. A. Allen and stated he has been a detective in the Charlotte Police Department; that he was employed on August 10, 1938 and retired as of December 31, 1971. He congratulated Mr. Allen on his retirement and presented him with the City of Charlotte Employee Plaque.

NAMES OF CONTRACTORS WILLING TO BUILD LOW INCOME HOUSING IN LOTS OF 25 OR LESS SUBMITTED.

Reverend Horne of the North Charlotte Action Committee stated Mrs. Charles Mangieri could not be present today and requested him to present the following letter:

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Councilman Fred Alexander:

I have personally contacted the following contractors who are willing and glad to build Low Income Housing in lots of 25 or less:

Rushing Construction Company  
P. O. Box 267  
Indian Trail, N. C., Telephone - Office 821-7605  
Home 882-1680

Mr. Leroy Rushing

Rustin Constuction Company  
Mr. Jason M. Rustin  
200 Tyvola Road  
Charlotte, N. C., Telephone - 525-3704

Also, Realty Investment Trading Enterprises expressed their desire to build any number of houses, or apartments in whatever amount you want.

Please present this to the Council today.

Thank you,

Mrs. Charles Mangieri."

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ITEM NO. 21 ON AGENDA AMENDED TO SHOW THAT MRS. CHARLES ROGERS HAS BEEN PLACED IN NOMINATION TO SERVE ON THE CIVIL SERVICE BOARD RATHER THAN THE ZONING BOARD OF ADJUSTMENT.

Councilman Short stated at the last Council Meeting he placed in nomination the name of Mrs. Charles D. Rogers to serve on the Zoning Board of Adjustment. He stated he would like to amend the nomination, and he moved that Item No. 21 on the agenda today be amended to nominate Mrs. Charles Rogers to the Civil Service Board. The motion was seconded by Councilman Jordan, and carried unanimously.

MONDAY, JANUARY 17 PROCLAIMED AS MARTIN LUTHER KING DAY.

Mr. Humphrey Cummins, representing the Black Student Union of the University of North Carolina at Charlotte, requested that Council take action to proclaim January 17 a legal working holiday in memory of Dr. Martin Luther King. He stated they feel that Dr. King's life and contributions touched the life of practically every member of this community. Dr. King was a man of courage and simplicity. He witnessed a world of war, of racial and economic oppression and hatred. Dr. King, in an humble and courageous manner, set out to change, improve and better his country through the eradication of these ills.

Mr. Cummins stated his birthday is January 15; however, that falls on a Saturday. When they say a working holiday, they mean a day in which all agencies would meet, but business as usual would not transpire. That is to say an agency would meet on January 17, but its business would be about the things that Dr. King contributed his life to. That is, how can this agency today begin to start anew to eradicate hunger, to bring about peace, to rid itself of oppressive action, and so forth.

He stated he would like for Council to pass a resolution for the Charlotte-Mecklenburg School Board saying Council would support their school system using that time to engage in activities that would help the school system alleviate itself of racist attitudes, and racist personnel, and racism that causes disruption in the school system.

Mayor Belk advised that the School Board is an elected group, and it does not come under the jurisdiction of the City Council, and suggested that Mr. Cummins approach that Board.

Councilman Alexander moved that Council proclaim January 17 as Martin Luther King Day; that this would not include this as a legal holiday. The motion was seconded by Councilman Short.

Councilman Calhoun stated this would open the door to countless similar situations; it would set a precedent and he thinks it is unnecessary.

Councilman Short stated he thinks Council has already set the precedent; this sort of thing has been done repeatedly. That individuals, as well as various retail and other type of promotions have been given this kind of recognition. That Dr. King was a controversial figure, but in Council recognizing him as a respected citizen among a large segment of the population, he does not think necessarily endorses his views about controversial matters.

Councilman Calhoun stated because previous mistakes have been made, is no reason to indicate any furtherance of those same mis-steps. In his opinion, this is a step in the wrong direction.

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

YEAS: Councilmen Alexander, Short, McDuffie and Withrow.  
NAYS: Councilmen Calhoun and Jordan.

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CONSIDERATION OF THE PETITION OF WILLIAM TROTTER DEVELOPMENT COMPANY AND WILLIAM TROTTER REALTY COMPANY APPEALING THE DECISION OF THE PLANNING COMMISSION TO EXTEND BROOKTREE DRIVE.

Councilman Withrow moved that action on the subject matter be deferred for one week. The motion was seconded by Councilman Calhoun.

Mr. Fred Bryant, Assistant Planning Director, stated with the adoption of the comprehensive regulations concerning the development of multi-family apartment projects about a year ago, it created a situation where apartment developments automatically came under the provisions of the subdivision ordinance as well as the provisions of the zoning ordinance. In the process of administering the apartment regulations, this has opened the way for appeals in matters relating particularly to street situations. One of the controversial aspects of the regulations was a requirement that would open the way for certain circulation ways within an apartment project to be designated as public streets in lieu of private streets or just private drives. With this thought in mind, there has now come about a situation in which the planning staff, and later the planning commission itself, indicated a desire to designate a circulation way within an apartment project known as Park Fairfax as a public street instead of allowing it to remain as a private drive. This was brought to the Planning Commission on appeal from the planning staff decision sometime ago, and the Planning Commission upheld the staff's position, and in effect instructed the developer to plan his development with the public street being in the plan. The developer has now taken the option to appeal to the City Council for the granting of a variance from this requirement, which would say that a public street would not be necessary, and the development can be approved with the private drive.

Mr. Bryant referred to several graphics, and stated the area is along and north of Freedom Drive. The property in question lies north of Thrift Road and east of Toddville Road. There is in existence a public street coming through most of the Westchester Subdivision by the name of Brooktree Drive. The question revolves around whether or not that street will be extended across Paw Creek and thence into Toddville Road as a public street or as a private street under the provisions of the multi-family regulations. He pointed out the Westchester Subdivision and the Allenbrook Elementary School.

He stated there are four principal points as to why the Planning Commission feels this should be continued as a public street rather than a private street:

- (1) Toddville Road forms a part of the major thoroughfare plan as a westerly segment of the Eastway Drive Belt Road. Brooktree Drive is already an important neighborhood collector street and it is the feeling this street should be continued to tie in a logical connector from the Westchester area over to the major road, Toddville Road, and over to the west. This is the last opportunity to achieve such a connector from the Westchester area over into the Toddville Road area.
- (2) There has been, for some time, a need for such a street. Back in 1969, when Mr. Trotter was requesting that property be annexed west of Paw Creek, there was, in effect, an agreement reached between the Planning Commission, the Engineering Department, and Mr. Trotter, at that time, if the property west of Paw Creek was developed, that the street would be extended.
- (3) The third reason is related to a logical circulation pattern which would be established in this area. It adds to that, the fact that Allenbrook School has need of adequate circulation from all directions. Right now the only way into that school, and the only way into the Westchester Area is from Freedom Drive. This would provide an alternate way of entrance into the general vicinity from the west and would not afford all the traffic wanting to go either west or north to go out to Freedom Drive, and thence, to their destination.

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- (4) They very carefully weighed the advantages and disadvantages of a private street as far as serving what they felt to be the neighborhood needs in this respect. It was the conclusion the private street, while if constructed accordingly and if properly located, could serve, as far as physical location is concerned, the needs of the neighborhood. As long as it remains a private street, there is no guarantee of public circulation through the area. If it remained a private street, access could be cut off at any time.

Mr. Bryant stated they recognize the fact that private streets have their place in apartment development, and they have made an effort to not require any more public streets in these projects than is absolutely necessary. Last Wednesday evening they presented a report to the Planning Commission relative to the numbers and the types of projects that had been approved under this ordinance since it went into effect. Of sixteen projects which have been approved under this ordinance only three of them were submitted with public streets a part of them. These were public streets that were necessary in order to provide access to the areas. In no instance did they ask for additional public streets.

Mr. Bryant stated in the instance of Brooktree Drive, the Staff and the Commission feel a public street is warranted.

Councilman Withrow asked the projection for Toddville Road, and Mr. Bryant replied portions of Toddville Road are existing now. Toddville Road is serving as a major north-south connector in this area. There is no way to go in a north-south direction between the Thomasboro area and Toddville Road. Toddville Road now begins at Tuckaseegee Road, and is in existence from Tuckaseegee Road northward, crossing Thrift Road, continuing on northward and goes all the way up to Mt. Holly Road. There is a proposed realignment of this roadway as part of the major thoroughfare overall plan. This realignment will go on and tie into the old Rozzells Ferry Road and go from that point on around and tie back into Highway 16. Eventually there will be a continuous connection north and south from Highway 16 all the way into the area, back and into Interstate 85 and back and turn into the Airport Parkway.

Councilman Calhoun asked why Tar Hill Road would not be a more logical road to run through, rather than Brooktree Drive? Is there not an industrial park just above it? Mr. Bryant replied that is part of the reason there is no longer any possibility of getting a way out to the west for the residents of this area. The industrial area begins immediately at the rear of lots and block it off from a north-south inner-connection. There is no access between the residential area and the industrial area. This has contributed to the need for providing a way for the people to get in and out. Mr. Bryant stated Tar Hill stops at one point, and eventually it may be carried out to Toddville Road, and perhaps there would be a possibility to effectuate a connector, in the area that is not subdivided, from Brooktree Drive Extension. But it would still have to cross the creek before it would have any possibility of going back into Tar Hill. One of the possible objections to that is that it would then provide a direct connector between an industrial area and a residential area. This runs the risk of channeling industrial traffic down through the residential area.

Councilman McDuffie stated there are examples of this type of dead-ends and ties up all over the city, and we need to do more planning and implementation rather than seeing only a little bit in front of our noses. Council is planning for 20 and 30 years ahead. When it comes time to get down to the brass tracks of making an agreement effective, we sometimes back up. That he would hope this would be approved with the understanding that it might be detrimental to some people on Brooktree and some people in the apartment complex. But it has been pointed out the difficulty of emergency vehicles and garbage collection trying to get into large apartment complexes where there are hundreds of garbage cans down the back alleys, and between the houses, and no access to them. The more we can put apartment houses on public streets and have access and control, the better off the city will be.

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Mr. W. H. Trotter of William Trotter Company passed around information on the subject and some pictures of the existing Park Fairfax Apartments and stated Park Fairfax is conceived as a very high quality apartment project. It is more than the usual project; it has none of the objectionable features because it is already developed with a system of private streets. These private streets are in accordance with standards actually higher than the city ordinance. He stated they did not stop Brooktree Drive extension themselves; this land was developed by Ervin Construction Company, the developer of Westchester; although they do control this property, they do not propose to develop it at this time, and have no need for a connector across the stream.

Mr. Trotter stated Mr. Bryant made reference to the city's policy on the use of public versus private streets, and yet it crept back into his argument that the private street has a certain disadvantage of speed limits. Whereas, actual city policy reads, as follows: "The determination of whether interior roads to multi-family projects shall be public or private, will consider only the minimum needs of the public for public streets, and will recognize the privacy, security and safety advantage of private streets." He stated in Mr. Bryant's presentation, his argument is split on both sides of this question. He recognizes that the Planning Commission does prefer in accordance with the adopted city policy private streets in apartment projects; and public streets are to be used only when necessary. He stated this is their viewpoint and that of their land planners.

Mr. Trotter stated one of the key points being used against them, is the so-called agreement to extend Brooktree Drive. He stated having written this letter, he asserts he knows the intent of it. That it did not intend to, nor does it commit, his company to anything except filing a preliminary subdivision plan on the little piece of land. That is what they did and that is what they agreed to do. The pertinent part of the text says "...that we commit ourselves to include in our subdivision planning." He stated in other words if they do not subdivide then they do not plan it that way. They committed themselves to extend this street only if they subdivided. They are not subdividing. At the time the letter was written it was by no stretch of the ordinance or definition or any other way that if you built a big apartment project, that this was subdividing. It was not subdividing then, and it is not subdividing now. While they did commit themselves to include in any subdivision planning a stream crossing, recognizing if it was to be developed as single family, it would be normal planning procedure in Charlotte to include such a street. But they did not expect to subdivide it, and they do not intend to do so now.

Mr. Trotter stated he does not believe that any fair-minded person could infer from the letter that they agreed to extend a street to Toddville Road. Toddville Road is not mentioned; although it does allude to crossing Paw Creek; it does not say how far beyond Paw Creek they would go. At the time the letter was written, they were in consultation with the Planning Commission and the Engineering Department, and they were concerned about access for garbage trucks and the like between Brooktree and here, and suggested in effect some back door to the apartment project, rather than two good front doors. They agreed to include it in their planning and to extend if this land was subdivided. They never intended to extend the street as they never intended to subdivide, and they are not doing so at this time.

Mr. Bryant stated at the time this was written, an apartment development was not a subdivision; the new regulations make it a subdivision and make it subject to the provisions of the subdivision ordinance. Obviously they were concerned about access to the west side regardless of the type of development.

Councilman Short asked if it is not true that any understandings here would be a moral commitment because the city could not engage in annexation on a contract basis? Mr. Underhill, City Attorney, replied there are too many other conditions of prerequisite that have to be met. That he would consider this at best as a moral commitment. Mr. Trotter replied they consider it a moral commitment which they would live up to unless released by the City.

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Mr. Trotter stated their preference and proposal at this time is to not have any kind of connection at Brooktree. Their second choice would be the use of private streets and Brooktree would end as a public street and would pick up as a private street in this area. Their third proposal would be an extension of Brooktree to tie in with an already platted street. There are streets in this industrial park which are in existence. It would have the advantage of providing the circulation and will answer most of the points which Mr. Bryant raised about giving another kind of backdoor entrance out of Westchester without this straight shot through to Toddville Road.

Mr. Trotter stated good planning does not mean putting a fast road right through the middle of residential communities. It would do great damage to an orderly well-planned community. They think there are three other solutions to the problem that are better than this straight shot to Toddville Road which has been presented by the Planning Commission.

Councilman Jordan stated he would like to look at this property again.

Councilman Short asked what this involves in money? Would not Mr. Trotter wind up paying for the bridge? Mr. Trotter replied under two of their three solutions that they propose they would be putting in the bridge. The cost is not their main point. The main reason for their objection is the mess it will make out of the apartment neighborhood.

Councilman Alexander asked if the Planning Staff has looked at these alternatives? Mr. Bryant replied they have not. That Council will notice the last sentence of the letter from the Planning Commission to Mr. Trotter indicated the Commission was concerned about whether or not a straight shot through the middle of the property was the best solution, or that some slight alteration could be made and to place it on the property line would not be possible. He stated they did not receive any response to this suggestion.

Councilman Calhoun asked Mr. Bryant if his answer is still the same that it is not feasible to make the connection with Tar Hill Road or Wabash Avenue? Mr. Bryant replied this would create cross traffic between a residential area and an industrial area. Also, this property is zoned industrial and if the street was brought up and dead-ended, the extension of it would depend upon whether or not the property owner found an industrial user to buy the whole property and never go through the subdivision process. The only way to get it from this point on would be provided the property owner wanted to subdivide the property into a smaller tract and came in for subdivision approval.

Also speaking against the street extension was Mr. Rolland Blythe, Chairman of the Westchester Committee against the extension of Brooktree Drive. Mr. Blythe stated they are requesting that Brooktree Drive not be extended beyond its present end. He filed a petition containing 249 signatures with the City Clerk.

The vote was taken on the motion and carried unanimously.

Councilman McDuffie stated in the past, the subdivision ordinance did not take care of building to a creek and stopping. He asked if Mr. Burkhalter, City Manager, can be instructed to draw subdivision ordinances in connection with Mr. Bryant, with several solutions to the problem of dead-end streets that are supposed to be extended and never are. When each side is developed, an open culvert is left with no bridge. That this continues to be a problem, and goes on year after year. There should be some method where the subdivider has to put in escrow his half of the culvert so that when the other side of the creek is developed, or if the city chooses to open the street, then we will have the funds available.

Mr. Bryant advised they are working on this now. Some weeks ago they received instructions to this effect. This is something that has been with us for a number of years; they have tried to reconcile this problem over the years. There are some fairly simple ways you can go about it, but all have side problems that we have to be aware of and study.

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PETITION NO. 71-63 BY N.C.N.B., EXECUTOR AND TRUSTEE FOR MARY S. HAYES FOR A CHANGE IN ZONING OF LAND ON THE SOUTH SIDE OF TUCKASEEGEE ROAD, WEST OF BROWNS AVENUE, DEFERRED FOR ONE WEEK.

Councilman Alexander moved that the subject petition be deferred until January 17. The motion was seconded by Councilman Withrow.

Councilman Withrow stated Mr. Potter, Attorney for the Petitioner, has agreed to an R-12MF zoning. He asked if the deferment will be for the study of R-9MF or R-12MF zoning, and Councilman Alexander stated both can be considered.

The vote was taken on the motion and carried unanimously.

ORDINANCE NO. 340-Z AMENDING THE ZONING ORDINANCE BY AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY ON THE NORTH SIDE OF MONROE ROAD, BEGINNING ABOUT 180 FEET WEST OF COMMONWEALTH AVENUE.

Councilman Short moved adoption of subject ordinance, changing the zoning from R-9MF to B-1 of property on the north side of Monroe Road, beginning about 180 feet west of Commonwealth Avenue, as recommended by the Planning Commission. The motion was seconded by Councilman Calhoun, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 18, at Page 440.

ORDINANCE NO. 341-Z AMENDING THE ZONING ORDINANCE BY AMENDING THE ZONING MAP BY CHANGING THE ZONING OF PROPERTY ON THE WEST SIDE OF MCALWAY ROAD AT CRAIG AVENUE.

Upon motion of Councilman Short, seconded by Councilman Calhoun, and unanimously carried, the zoning of subject property was changed from R-6MF to B-2 and adjusted to permit a driveway in line with Craig Avenue, as recommended by the Planning Commission.

The ordinance is recorded in full in Ordinance Book 18, at Page 441.

DISPOSITION OF VETERAN'S RECREATION CENTER DEFERRED AND PARK AND RECREATION COMMISSION AND CHILDREN'S THEATRE REQUESTED TO CONTACT N. C. ASSOCIATION FOR MENTALLY RETARDED CHILDREN FOR ADDITIONAL INFORMATION.

The consideration of the disposition of the Veteran's Recreation Center was presented. Council was advised that the building is presently being used for the legal storage of data and accounting records.

Councilman Alexander stated under any conditions the city will have to have a building for storage. The City Manager stated not if this building is not disposed of; the city has to have a certain amount of storage space.

Councilman Short stated the facts indicate a possible expenditure of \$70,000 in operating money as well as capital improvement money within the next year for the handicapped facility, plus \$25,000 for the storage building. That is \$95,000. He asked if it is possible with \$95,000, using land provided by the Park & Recreation Commission, the City cannot build a building that would accommodate both of these useages - the handicapped and the Theatre, and leave the storage where it is. With this steel frame type construction and the land provided by the Park & Recreation, for \$95,000 we should be able to accommodate all three uses.

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Councilman Jordan stated he does not think this building is the type building that should be used just for storage alone; it is built just for what these people need as well as the handicapped people. Just to put a storage place in this building alone is wrong. The City Manager stated the original recommendation to Council was to sell this building for \$87,500 and take \$25,000 and build the storage building and put the remainder into the contingency or wherever Council wished. Even if the city keeps this building, it would be better to build a storage building rather than using this type building for storage.

Councilman Alexander moved that Council accept the proposal as submitted by the Children's Theatre and authorize the leasing of the building to the Children's Theatre. The motion was seconded by Councilman Jordan.

Councilman Calhoun stated it is a question of who is going to come out on the short end of the horn. In any event, you have one of about three propositions. The best thing as far as the city is concerned is probably to sell the building for \$87,500 and then look at the division of the proceeds.

Mr. Lewis Davis, representing the Mecklenburg County Association for Retarded Children, stated the \$70,000 for the first year for the Park & Recreation Commission includes the operating budget, so this is only talking about \$40,000 in capital expenditures and renovations. In years past this community and City Councils have neglected the needs of handicapped citizens. This City Council is one of the first to take some forward looking action in that it provided for a Director of Recreation for the handicapped, and provided for the funds through the Park & Recreation Commission. He stated a very outstanding young man, Mr. Tom Johnson, was hired for this job. In the opinion of the parents of retarded children he is doing a fine job; his program is being well received and is very effective. Mr. Davis urged Council to continue with this enlightened outlook. Recreation is of greater importance to the handicapped child than it is to a normal child. For many retarded children, recreation is about the only form of recreational education they are capable of assimilating. It is true that another building could be substituted for the Veteran's Center; but this is a nice building; it is centrally located and they do want their program and their building to be something well received by the parents. It is important that the parents support the program and be willing to bring their child.

Mr. Davis urged Council to take favorable action to permit the Park & Recreation Commission to use the building; or should Council decide that some other use or the sell is more advisable, they urge Council to make these operating funds available to the Park & Recreation Commission so they can provide the programs through some other facility.

Councilman Calhoun stated last week when Mr. Whelchel was before Council, he gathered that he felt the City Council had to provide \$70,000 or the Park & Recreation was not interested in this property. That there were no funds available through the Park and Recreation Commission. If Council could not provide the money, then he was willing to step aside and be assured the building would be available for Children's Theatre.

Mr. Davis stated he has not had an opportunity to talk with Mr. Whelchel. He would think any building would be of use as right now about the only thing they have for retarded citizens is the director, Tom Johnson. They are operating presently a modest program from the Third Ward Center; they are not properly equipped or staffed or funded.

Councilman Jordan asked if there is no way both these bodies can use this building? There are two floors. Council was told last week by Park & Recreation if Council let them have the building, they would use it six or seven days a week which eliminate its use by anyone else. He asked if there is no way that both could use the building - one operating upstairs and the other downstairs, or use the entire building together? Mr. Davis replied as far as he knows no member of the Association for Retarded Children was consulted on this; that he does not know what discussions took place, but he would hope

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they looked into this thoroughly. That Mr. Walker, Chairman of the Park & Recreation Commission, is also a member of the Board of the Children's Theatre, and he believes Mr. Walker is fairly familiar with the needs of the Retarded class. Councilman Jordan stated Council would like to help both organizations if at all possible; the consensus of the Council was that perhaps both organizations could use this building, and that would be a solution. But according to the information Council received last week, Park & Recreation would use it continuously and it would leave the Little Theatre group out.

Councilman Alexander asked Mr. Davis if his group has not had any conversation at all with the Park and Recreation and the Children's Theatre group on the joint use of this building? Mr. Davis replied not to his knowledge. The City Manager advised that Council is dealing with the Park & Recreation Board, not with the Retarded Children's Association. Councilman Alexander stated he thought it was the intent of Council to defer this matter so that the two groups could get together, and he does not see how they could get together without having some feedback from this Association. Mr. Burkhalter stated his report to Council earlier was of a meeting his staff was requested to have with the Park & Recreation and the Children's Theatre; that he does not know if they had involved this Association in any of their discussions. He stated the point is the two groups said it was not practical to use this building together.

Councilman Alexander stated since the Park & Recreation Commission proposed to operate this program in conjunction with Mentally Retarded Children, that he would have thought they would have been a part of the decision as to whether or not joint use could have been made of this building. If the Association was not involved, then he would withdraw his motion.

Councilman Alexander withdrew his motion and asked that all these groups get together and have discussion on this matter. Councilman Jordan, who seconded the motion, agreed to the withdrawal.

Mr. Robert Robinson, Attorney for the Children's Theatre, stated during their meetings with Park & Recreation, Mr. Diehl and Mr. Whelchel stated some representatives of an association for handicapped children had conferred with the Park Commission in the past. That at that time they did not have any funds to maintain this building for any period of time. Mr. Robinson stated Mr. Walker is on the Advisory Board to the Children's Theatre and he has disqualified himself from any participation in this.

Councilman Withrow asked if anyone has ever looked into the possibility of building an addition, and then joint use could be made? Mr. Robinson replied they have not considered this and they do not have any funds.

Mr. Robinson stated if the Park & Recreation Commission have the availability of this building, and Council is able to fund the program, then the Children's Theatre will not attempt to compete with them for the operation of the building. If the funds are not available for Park & Recreation Commission to operate this building for this group - handicapped children - then the Children's Theatre wants the building and as a part of the program of Children's Theatre they intend to instruct children and operate partially for the handicapped children. That is not their primary function, but it is one area in which they will operate, and will accommodate as many as they can.

Mr. Robinson stated this location is so ideal for the children who come from all segments of the city, and that is a major factor, and the building lends itself to the use of it for the Children's Theatre.

Mr. Burkhalter stated the Park & Recreation budget, even when Council adopted it, was in very, very close conditions. At the last day of the budget, Council gave additional supplement to their budget which was not enough to operate the Park and Recreation Commission as it should be operated. Of all

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the city departments, they are probably in the worse need of any group at this point in the budget year for current operating funds; they may have to re-trench this year in order to operate in the black. Unofficially, he understands they will probably come to Council before the end of the fiscal year for additional monies. That before Council starts appropriating more money for the Park and Recreation Commission, it should be considered very seriously. He stated this was probably in the minds of some of the Commission members when they said they would like to do this as it is an excellent program, but they are not able to do what they are already committed to do.

The City Attorney advised due to a change in the state law effective January 1, 1972, the lease or rental of any property now cannot be longer than a 10-year period unless it is leased or rented under the same conditions as real property can be sold. It would have to be handled on a negotiated basis or at public auction. The lease or rental of any property can be done only pursuant to a resolution after 10 days public notice is given in a newspaper that announces the Council's intent to lease or rent the property, and the property has to be described and the annual rental lease stated in the publication.

Councilman Jordan stated Council should get all this information together and decide on the disposition of the building at another time; and at that time notify these people to come to the meeting.

Councilman Withrow asked the City Attorney to speak to selling the property and dividing the money in half? He asked if this can be done legally? Mr. Underhill replied the city is not authorized to contribute money to the Children's Theatre as it is not a public purpose; that public funds can be spent for public purposes unless there is a specific legislation that would allow the use of funds for such other purposes.

Councilman Calhoun stated three Bodies are involved in this - the Mentally Retarded and Physically Handicapped, Children's Theatre and the Park and Recreation Commission. He suggested that all three Bodies be instructed to get together and explore and look into all contingencies involved in this matter before it comes back to Council again, and Mr. Carstarphen, Assistant City Manager, be asked to coordinate the effort.

Mr. Davis stated his Association would not restrict the use of its facilities to any child that is handicapped and who would be able to participate in the program. That this group is the largest one, and the only one that really operates programs involving this much activity and that requires this type of support. He stated some children are not able to participate in this type program as they require physical therapy rather than recreation.

RESOLUTION APPROVING PURCHASE OF LAND FROM REDEVELOPMENT COMMISSION IN REDEVELOPMENT SECTION NO. 4, BROOKLYN URBAN RENEWAL AREA, PROJECT NO. N. C. R-43.

Motion was made by Councilman Short, seconded by Councilman Withrow, and unanimously carried, adopting subject resolution approving the purchase of 22,649 square feet of land by the City of Charlotte from the Redevelopment Commission, at a total purchase price of \$47,037.18, in Redevelopment Section No. 4, Brooklyn Urban Renewal Area, Project No. N. C. R-43.

The resolution is recorded in full in Resolutions Book 8, at Page 31.

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RESOLUTIONS AUTHORIZING REFUND OF CERTAIN TAXES COLLECTED THROUGH ERROR.

Councilman Withrow moved adoption of the following resolutions authorizing the refund of certain taxes collected through error, which motion was seconded by Councilman Calhoun, and unanimously carried.

- (a) Resolution authorizing refund of certain taxes in the total amount of \$25.00 which was levied and collected through clerical error against Barnett Nursery.
- (b) Resolution authorizing refund of certain taxes in the total amount of \$353.46 which were levied and collected through clerical error or illegal levy against 12 tax accounts.

The resolutions are recorded in full in Resolutions Book 8, beginning at Page 32.

CONTRACTS FOR CONSTRUCTION OF SANITARY SEWER MAINS AND TRUNKS, APPROVED.

Upon motion of Councilman Withrow, seconded by Councilman Short, and unanimously carried, the following contracts were approved for the construction of sanitary sewer mains and trunks:

- (a) Contract with John Crosland Company for the construction of 4,837 lineal feet of 8-inch main and 440 lineal feet of 8-inch trunk to serve Firestone Subdivision, outside the city, at an estimated cost of \$42,000.00. A deposit in the amount of \$1,699.93, which represents the proportional share of previous sewer contracts, has been received and is nonrefundable. The contractor will construct the lines at his own expense and turn them over to the city upon completion.
- (b) Contract with Doctors Franklin Pattishall and Ed Bonomo for the construction of 640 lineal feet of sanitary sewer to serve property at Rama Road and Florence Avenue, outside the city, at an estimated cost of \$7,647.30. A deposit in the full amount has been received and will be refunded as per terms of the contract.

STREETS TAKEN OVER FOR CONTINUOUS MAINTENANCE.

Motion was made by Councilman Alexander, seconded by Councilman Jordan, and unanimously carried, taking the following streets over for continuous maintenance by the City:

- (a) Hilo Drive, from North Tryon Street to 1,570 feet northwest of North Tryon Street.
- (b) Donegal Drive, from Rama Road to Knell Drive.
- (c) Coatbridge Lane, from Donegal Drive to 150 feet south of Knell Drive.
- (d) Knell Drive, from Coatbridge Lane to 124 feet east of Donegal Drive.
- (e) Tartan Court, from Coatbridge Lane to 280 feet west of Coatbridge Lane.

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CONTRACT WITH PITOMETER ASSOCIATES, INC. FOR WASTEWATER SURVEY, APPROVED.

Councilman Withrow moved approval of a contract with Pitometer Associates, Inc., in the amount of \$6,500.00, for wastewater survey in the eastern half of the Charlotte Water Distribution System. The motion was seconded by Councilman Short, and carried unanimously.

ELECTRIC SERVICE AGREEMENT WITH DUKE POWER COMPANY, APPROVED.

Upon motion of Councilman McDuffie, seconded by Councilman Calhoun, and unanimously carried, the subject electric service agreement with Duke Power Company was approved, supplying power to the Irwin Creek Wastewater Treatment Plant.

ENCROACHMENT AGREEMENTS WITH STATE HIGHWAY, APPROVED.

Motion was made by Councilman McDuffie, seconded by Councilman Withrow, and unanimously carried, approving the following encroachment agreements with the State Highway Commission:

- (a) Agreement with the State Highway Commission permitting the City to construct a 30-inch sanitary sewer line within the right of way of Independence Boulevard for the Upper Briar Creek Interceptor.
- (b) Agreement with the State Highway Commission permitting the City to construct a 21-inch sanitary sewer line within the right of way of Arrowood Road for the Kings Branch Outfall.

PROPERTY TRANSACTIONS AUTHORIZED.

Councilman Calhoun moved approval of the following property transactions, which motion was seconded by Councilman Short, and carried unanimously:

- (a) Acquisition of 10' x 72.30' of easement at 5208 Carriage Drive, from James C. Prather and wife, Noreen B., at \$100.00, for Tamerlane Sanitary Sewer Relocation.
- (b) Acquisition of 80.30' x 80.32' x 1.14' at 831 East Morehead Street, from Addison Realty Company, at \$1.00, for South McDowell Street Widening.
- (c) Acquisition of 2,011.9 square feet at 2810 Providence Road, from Trustees of Providence United Methodist Church, at \$1,000.00, for Sharon Lane Widening.

ACQUISITION OF PROPERTY IN APPROACH ZONE OF RUNWAY 18-36, APPROVED.

Motion was made by Councilman McDuffie and seconded by Councilman Short to approve acquisition of 1.55 acres of property, consisting of a one-story brick duplex, with 2,540 square feet of living area, in the total amount of \$42,500.00, from Coy B. Nash and wife, Maxine M. Nash and Roy L. McCraven and wife, Myrtle B. McCraven, at the corner of Byrum Road and Bell Oaks Drive.

After explanation by the Airport Manager, the vote was taken on the motion and carried unanimously.

MAYOR LEAVES MEETING AND MAYOR PRO TEM PRESIDES.

Mayor Belk left the meeting during the following discussion, before the vote, and Mayor pro tem Alexander presided for the remainder of the Session.

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APPOINTMENT OF MRS. MARY S. ROGERS AND DR. LIONEL H. NEWSOM TO THE CIVIL SERVICE BOARD.

Councilman Alexander stated Mayor Belk has to leave the meeting, and he requested Council to consider appointments to the Civil Service Board, which is Item 21 on today's agenda.

Mr. Underhill, City Attorney, stated with three members on the Civil Service Board, it is presently set up so that no more than one member's term expires in a given year. Enlarging the Board to five members creates a little problem with the staggering. With two new members appointed to three year terms each, it is possible that three member's terms will expire in one year. He stated this can be overcome by appointing one member to a three year term initially and the other member appointed to a two year term.

Councilman Alexander moved that Dr. Lionel H. Newsom be appointed to the Civil Service Board for a three year term. The motion did not receive a second.

(Mayor Belk left the meeting at this time, and Mayor pro tem Alexander presided for the remainder of the session.)

Councilman McDuffie moved that Dr. Newsom be appointed to the Civil Service Board for a two year term and Mrs. Mary S. Rogers be appointed to the Civil Service Board for a three year term. The motion was seconded by Councilman Short:- Calhoun. (As amended on January 31, 1972, MB 56 - Page 369.)

Councilman Jordan made a substitute motion that consideration of appointments to the Civil Service Board be postponed for one week. The motion was seconded by Councilman Withrow.

The vote was taken on the substitute motion to postpone and failed to carry for lack of four (4) affirmative votes, as follows:

YEAS: Councilmen Jordan, Withrow and Calhoun.  
NAYS: Councilmen McDuffie and Short.

Councilman Short moved that Council go to the next item on the agenda. The City Attorney ruled there is a motion on the floor and it will have to be disposed of.

Councilman Jordan stated this is wrong. That he seconded Mr. Short's motion to withdraw Mrs. Roger's name from nomination to the Zoning Board of Adjustment and place her name in nomination to the Civil Service Board. That Mrs. Rogers is a very capable person. But in all due respects, Mr. Alexander did nominate Dr. Newsom first; he was the only one in nomination until today.

Councilman Short moved that the item be tabled for the moment. The motion did not receive a second.

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

YEAS: Councilmen McDuffie, Short, Calhoun and Jordan.  
NAYS: Councilman Withrow.

Later Councilman Withrow stated he has nothing against Mrs. Rogers or Dr. Newsom. That he disagrees with the way it has been handled and that is why he voted the way he voted.

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ACTION AWARDED CONTRACT TO LAIL ELECTRIC COMPANY RESCINDED AND CONTRACT AWARDED NEXT LOW BIDDER, AIR MASTERS, INC. FOR ADDITION TO WEST CONCOURSE.

Motion was made by Councilman Jordan, seconded by Councilman Short, and unanimously carried, rescinding Council's action of December 20, 1971, awarding electric contract to Lail Electric Company and awarding contract to the next low bidder, Air Masters, Inc., in the amount of \$16,431.00, for the addition to the West Concourse.

ORDINANCE NO. 342-X AMENDING THE 1971-72 BUDGET ORDINANCE AUTHORIZING THE TRANSFER OF FUNDS TO COVER THE COST OF REPAIRS ON WATER FUND EQUIPMENT.

Councilman McDuffie moved adoption of subject ordinance authorizing the transfer of \$12,500 in the Water and Sewer Fund Contingency Account to cover the cost of repairs on water fund equipment. The motion was seconded by Councilman Jordan, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 18, at Page 442.

DISCUSSION OF REFUSE COLLECTION PRACTICES, DEFERRED FOR ONE WEEK.

Councilman Short moved that the subject item be deferred and put on the agenda for meeting next week. The motion was seconded by Councilman Withrow.

Councilman Jordan stated he proposed an ordinance last week regarding the trash ordinance. That again he has been asked to postpone this matter for another week; that Council has spent enough time in the past on the matter of trash and garbage. That we have people who come up here every week, and Council continues to postpone it. That he will go along with this postponement for one week, and next week he will make his proposal again, and ask that it either be accepted or turned down.

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

Speaking on the subject were Reverend Horne of the North Charlotte Action Committee and Mr. Roy Alexander.

ORDINANCES AMENDING THE CITY CHARTER BY DELETING THE OFFICES OF POLICE CHIEF AND FIRE CHIEF FROM THE LIST OF DEPARTMENT HEADS APPOINTED BY COUNCIL, AND CONFERRING SAID DUTY UPON CITY MANAGER.

Upon motion of Councilman Short, seconded by Councilman Calhoun, and unanimously carried, Ordinance No. 343-X amending Section 4.22 of the City Charter by the deletion of the office of Fire Chief from the list of department heads appointed by City Council was adopted and is recorded in full in Ordinance Book 18, at Page 443.

Councilman Calhoun moved adoption of Ordinance No. 344-X amending Section 4.22 of the City Charter by the deletion of the office of Police Chief from the list of department heads appointed by City Council. The motion was seconded by Councilman McDuffie and carried unanimously.

The ordinance is recorded in full in Ordinance Book 18, at Page 444.

RE-APPOINTMENT OF MR. JOE MILLSAPS TO THE FIREMEN'S RELIEF BOARD OF TRUSTEES FOR A TERM OF TWO YEARS.

Councilman Jordan moved the re-appointment of Mr. Joe Millsaps to the Firemen's Relief Board of Trustees, for a term of two years. The motion was seconded by Councilman Short, and carried unanimously.

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**SPECIAL OFFICER PERMIT AUTHORIZED.**

Motion was made by Councilman Jordan, seconded by Councilman Short, and unanimously carried, approving the issuance of a Special Officer Permit to Mr. Alfred E. McKay for a term of one year for use on the premises of Jefferson First Union National Bank. Mr. McKay has been approved by the Police Department.

**TRANSFER OF CEMETERY LOTS, AUTHORIZED.**

Upon motion of Councilman Calhoun, seconded by Councilman Withrow, and unanimously carried, the Mayor and City Clerk were authorized to execute deeds for the transfer of cemetery lots, as follows:

- (a) Deed with Cornelius Benson and wife, Mary F. Benson, for Lot No. 253, Section 6, Evergreen Cemetery, at \$320.00.
- (b) Deed with Clarence Earl Moreland and wife, Helen Pethel Moreland for Lot No. 501, Section 8, Oaklawn Cemetery, at \$320.00.

**MOTION REQUESTING EACH BOARD, COMMISSION AND AUTHORITY TO SEND A COPY OF MINUTES OF MEETINGS TO BE MAINTAINED IN THE CITY CLERK'S OFFICE, DID NOT RECEIVE A SECOND.**

Councilman McDuffie asked if it is proper to ask each Authority, Board and Commission of the City to send a copy of minutes of each meeting to the City Clerk's Office for citizens who desire to read the minutes of the Housing Authority, as an example, they would be available in the Clerk's Office.

Councilman McDuffie moved that Council request each of the agencies to provide a minute book and after each meeting, send a certified copy of their minutes to be available in the Clerk's Office. The motion did not receive a second.

Mayor pro tem Alexander asked if the minutes are not available in the offices of the authorities? Councilman McDuffie replied the point is if any Councilman is interested in the minutes of an agency he could ask the Clerk to provide a copy of the minutes. The Clerk would keep a minute book and they would be available to anyone desiring to read the minutes of the last meeting of any of the agencies and boards the city is involved with.

Councilman Short stated he does not feel too quick to second the motion because of the situation that exists with Mr. McDuffie where there may be a case where the court would order the use of the discovery laws in order for him to get some of this. Mayor pro tem Alexander stated he does not feel this is determining a court issue; it is determining a process of a matter of procedure of an authority that comes under the supervision of the City Council. Councilman Short stated what worries him is whether Council in fact is determining a court issue and he hopes Council is not as he thinks the idea is a good one.

Councilman McDuffie asked if these minutes are not public information? The City Attorney replied, yes, the minutes are definitely a matter of public information, and any member of the general public is entitled to access to them.

Mayor pro tem Alexander asked if any citizen wanted to ask for the minutes of any of these authorities, would they not be entitled to them? The City Attorney replied they would be.

Councilman McDuffie stated he has not been able to get some minutes of a public agency, and he does not think everyone else should have to go through a law suit to be able to get them. Council had an opportunity today to make those records available.

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STATEMENT REGARDING APPOINTMENTS TO HOUSING AUTHORITY, AND LIMITING TERMS.

Councilman McDuffie stated he is sorry that Mayor Belk had to leave because his next statement is something that would be directed toward him as he makes the appointments to the Housing Authority. That it would be far better to say nothing and let silence say he approved the conduct and the public relations that have been exhibited by the Housing Authority in recent weeks, according to numerous new reports. It appears that Solomon himself could not solve all the problems that have been mentioned concerning the administration of low income housing and the selection of future building sites. That he mourns the passing of an opportunity of City Government for constructive changes in leadership. Last week when the present leadership of the Authority displayed an apparent lack of concern for the rights of governed citizens to be fully aware of meetings, of time and place and what was to be on the agenda. That he had not fully decided to say anything today until this morning at a meeting, a friend of his said he approved of the present administration of the Housing Authority wholeheartedly because he does not think there is going to be any concentrated effort to move housing around, but rather to leave it concentrated in one or two parts of the city. This friend happened to live in the southern part of the city. Councilman McDuffie stated he expects to be criticized by those in the community who hold to this view. That he does not advocate that he knows the answers on how to solve the complex problem of housing and the present neighborhoods. However, this Council's actions in recent months to expand boards and commissions, and moving towards some agreement to limit the terms to two or three years, or at least 8 to 10 years maximum service seems to have suffered a setback.

Councilman McDuffie stated he would have liked to have honored those people who have served with proper recognition, and to have said thank you for a job well done, but it is time for someone else to take over and to administer these tough departments. To have seen some new faces to assume these difficult positions would have been wonderful, especially on the leadership of the Housing Authority. That he does not agree with critics who call for forced retirement; but to appoint to another five year term seems to compound the situation and it offers no solution to the many questions that have been raised recently.

Councilman McDuffie stated these are appointed boards and commissions that the public has no direct access to in changing their makeup. These are important positions, and he speaks to the question with all of them in mind, and not just the Housing Authority. That he does not raise the question just for the Housing Authority but the Planning Commission, Auditorium-Coliseum, Park and Recreation, Airport and Redevelopment Commission. All of these are performing functions of city government and if they are not responsive, City Council is the one responsible. More people involved in city government has been stressed by City Hall. That he would hope in the future, there will be positive action toward this, not just words. He stated he hopes this has been taken in the light of constructive criticism; not saying to someone that we don't like the way your are operating per se.

LIMITING TERMS OF APPOINTMENTS TO BOARDS AND COMMISSION REQUESTED PLACED ON THE AGENDA FOR THE NEXT BREAKFAST MEETING OF COUNCIL FOR DISCUSSION.

Councilman Withrow asked what has happened to the recommendation on appointments to the various boards and commissions of the city? That Council was supposed to receive a recommendation limiting the terms.

Councilman McDuffie stated information was brought to Council and it was deferred. Councilman Short stated that list seems to indicate that much of this was done by Statute so there was very little the Council could do. Councilman Calhoun stated there were a number of those agencies and boards that Council could not limit the terms on, but Council did have jurisdiction over a number of them.

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Councilman McDuffie asked if the new home rule bill changed any of this? Mr. Underhill, City Attorney, replied it very obviously changes any of those boards and commissions established by Charter if you accept the Attorney General's opinion that the Charter can be amended by ordinance as was done in the case of the Civil Service Board. That he would assume the Attorney General's reasoning would apply to any other board, commission or agency created by Charter, such as the Park and Recreation Commission, Auditorium-Coliseum, Civic Center Authority, and others.

Councilman McDuffie requested the City Manager to bring this list back to City Council with recommendations. He stated he would like to limit terms to three years with no more than three terms allowed which would be a total of nine years.

Mr. Underhill stated limiting or decreasing terms is a different question; that Council can probably enlarge or decrease the size of the Board, but decreasing the terms may be a different question.

The City Manager stated they will look at each one and tell Council what can be done.

Councilman Withrow moved that this be placed on the agenda to be discussed at the next Breakfast Meeting of Council. The motion was seconded by Councilman Short, and carried unanimously.

#### NOMINATION OF TOM FINLEY TO THE PLANNING COMMISSION.

Councilman Short stated there is an appointment that can be made to the Planning Commission and he placed in nomination the name of Mr. Tom Finley to the unexpired term on the Planning Commission, to lie on the table for one week.

Councilman Short stated Mr. Finley is a very fine local citizen who is employed by the American Commercial Insurance Agency, and is an associate of Don Denton.

#### COUNCILMAN SHORT TO BE INSTALLED AS PRESIDENT OF PIEDMONT REGIONAL COUNCIL OF GOVERNMENTS ON WEDNESDAY NIGHT.

Mr. Burkhalter, City Manager, reminded Council that the Piedmont Regional Council of Governments, at its dinner meeting Wednesday night at 7:00 o'clock, at the Royal Villa, will install Councilman Short as President of its group.

#### COUNCIL ADVISED THAT COUNCILMAN WHITTINGTON IS DOING WELL AFTER OPERATION, AND APPRECIATES ALL THE CARDS AND LETTERS HE HAS RECEIVED.

Mr. Burkhalter, City Manager, stated Mrs. Whittington asked him to convey to the Mayor and Council appreciation for the consideration and concern about Councilman Whittington. That he is proceeding well, but is still in the danger of infection and is still not allowed visitors. That he appreciates all the cards and letters, and Mrs. Whittington will advise us as soon as he is allowed visitors and telephone calls.

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AIRPORT MANAGER COMMENDED ON REPORT GIVEN DURING CONFERENCE SESSION, AND COUNCIL REQUESTED TO SCHEDULE FURTHER DISCUSSIONS ON LIMOUSINE SERVICE BEFORE TAKING ANY OFFICIAL ACTION.

Mayor pro tem Alexander stated during the Conference Session today, he commended Mr. R. C. Birmingham, Airport Manager, for the fine report on ground transportation serving the City and the Airport. That he also commented this was the first report on the subject in such depth since he has been serving on the Council. Mayor pro tem Alexander stated he also requested that before any official action is taken on providing limousine service, he would like for Council to have further scheduled discussions on this subject.

ADJOURNMENT.

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

  
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Ruth Armstrong, City Clerk