

JOINT MEETING
CITY COUNCIL &
COUNTY COMMISSION

July 15, 1968

Commissioner's Room
County Office Building

11:00 A.M.

CHAIRMAN CALLS 30-MINUTE RECESS

The Chairman called a 30-minute recess at 10:30 A. M. and reconvened the meeting of the Board of County Commissioners to a joint meeting of the City Council and the Board of County Commissioners at 11:00 A. M.,

with the following present for the City: Mayor Stanford R. Brookshire and Councilmen Fred D. Alexander, Sandy R. Jordan, Milton Short, Gibson L. Smith, James B. Stegall, Jerry Tuttle and James B. Whittington.

City Manager W. J. Veeder

PROPOSAL FOR CITY-COUNTY PARTICIPATION IN THE YOUTH PROGRAM

The Administrative Assistant to the County Manager stated that some two to three months ago the City proposed to the County the establishment of a full time youth coordinator as a follow on to the temporary office which Mr. Reitzel Snyder implemented and in the same proposal it would involve employing one full time youth coordinator and a clerk-typist to help him with a joint venture amounting to approximately \$25,000.00. He said the United Community Services in the past few days have come forth with what amounts to an alternate proposal to restructure the existing youth council so that there would be direct involvement on the part of both city and county. This would include help from the professional staffs as well as from the Board and the Council. The difference financially speaking would amount to an input of some \$5,000 to be shared by City and County, if the two bodies should elect to go along with the ~~UCS~~ proposal, in lieu of the \$25,000. ^{UCS}

Councilman Tuttle inquired if the intention was to use the services of a member of their staff, namely Administrative Assistant Bill Carstarphen. Mr. Bates advised this is correct - Mr. Carstarphen and he, Mr. Bates. Mr. Tuttle inquired of City Manager Veeder if Mr. Carstarphen has time to give to this program. Mr. Veeder replied that this is a relative question, that what has been proposed by the Social Planning Commission is that a Professional Advisory Committee be established on which Mr. Carstarphen and Mr. Bates will serve with no commitment or proportion of anyone's time to be involved. Councilman Tuttle stated he thinks the program as outlined is well and good, but considering the value of Mr. Carstarphen's time, if you want to consider that, they are back to the paid staff time there.

Mayor Brookshire stated he thinks the Social Agencies involved and the Planning Council itself and UCS staff will carry the burden of the load.

After further discussion motion was made by Councilman Whittington, seconded by Councilman Tuttle and unanimously carried that the City Council accept the recommendation of the Social Planning Commission and the Youth Council, and that an appropriation of \$2,500 be made to support this program.

Motion was made by Commissioner Campbell, seconded by Commissioner Potter and unanimously carried for adoption of the following resolution:

Whereas the Board of County Commissioners recognizes the need for more effective coordination between youth-serving agencies and services in Mecklenburg County, and that the blending of strong citizen participation complemented by local government involvement and

leadership is essential to a well coordinated, effective program:

Now therefore be it resolved that the Board of County Commissioners does hereby endorse the restructured Youth Council of Charlotte-Mecklenburg as proposed by the United Community Services, and does hereby pledge its wholehearted support of this program.

Be it further resolved that the Board of County Commissioners does hereby manifest its support by pledging the sum of \$2,500 to support the activities of the Youth Council.

STATEMENT OF CHAIRMAN REGARDING THE APPLICATION OF THREE MONTHS OF THE COLLECTED 1% SALES TAX TOWARD THE COST OF THE BUDGET

The Chairman stated that before getting into joint matters he would like to make a brief statement with regard to a matter about which the Board has just consulted with the County Attorney; as follows:

Having read during the past week of the City Council's plans to journey to Raleigh to confer with the State Commissioner of Revenue about the Sales Tax, and hearing considerable speculation about the prospects of that trip, I have decided that you should be informed of what we have been doing and of our thinking in the matter.

For the past several weeks the County Attorney, Mr. Ruff, has been privately communicating with the office of the N. C. Attorney General to attempt to clarify and resolve any options open to us in one of the most complex legal tangles to face local government in several years. He has had conversations with that office with respect to two principal concerns:

1. What are the procedures and prerogatives with regard to custody of these funds? Will there be any delay in distribution of the sales tax collected in the interim until we have the decision of the N. C. Supreme Court?
2. Will it be legal for us to budget sales tax revenues which we safely expect to be collected prior to the decision of the Court? Is our Board free to use its own discretion in anticipating the amount of such revenues?

On the question of the legality of budgeting sales tax revenues which are certain of being collected, we feel some optimism. We would maintain that funds authorized by the legislature and a vote of the people for use specifically by local governments should not under any circumstances be usurped for any other jurisdiction, whether the State or any of its agencies or boards. According to the news media and some personal communications it is clear that many local attorneys and legislators share this view. Instead of making positive statements in the matter, however, and prematurely raising the hopes of the public, we have been seeking assurance from our attorney.

Chairman Martin stated it may be that County Attorney Ruff would care to comment at this point as to what advice he would give on this matter.

County Attorney Ruff advised that his comment is very brief, that he would like to confirm what Chairman Martin has said. He said he has been working with Mr. Underhill, the City Attorney, and has been in constant communication with the Attorney General's office. He said the Attorney General's office is informed of the opinions of the City and County Attorneys about the matter. He said it is their opinion that the local governmental units, the City and County, would be justified in their discretion in anticipation in part of the proceeds from this sales tax levy and budgeting same in budgets which are now being considered for the upcoming fiscal year. He said they regret that the complexity of the matter is such that it is virtually impossible and they are unable to make a further explanation or comment with respect to the underlying reasoning and authorities for this advice. He pointed out that the City Council will have the opportunity for details and consultation with Mr. Underhill with respect to it, and that the Board of County Commissioners will possibly seek further comment or opinion. He said that except for that advice which is inherent in the positions which he and Mr. Underhill hold under the jurisdiction of the governing bodies, they feel that at this time no further comment should be made, that this, in substance, is their opinion and they leave the matter to the discretion of the governing bodies.

Mr. Underhill stated he wouldn't care to elaborate too much on what Mr. Ruff has said, except to again point out that they have been in communication with the Attorney General's office on this matter, that they have discussed their opinion with the representative of the Commissioner of Revenue in the sales tax case, and they are in concurrence with the thinking of the City and County Attorneys along this line, pending further study and feel the advice given the City and County in this matter would be the advice they would also render if so asked.

County Attorney Ruff advised that this opinion includes, subject to the Board's discretion, the anticipation of revenues for a three month period.

The Director of Finance advised that in a three month period for the County budget this would amount to 6¢.

City Manager Veeder advised this would amount to a little over 5¢ for the City budget.

Chairman Martin advised that the decision of using this money will have to be made by each body as they get back into budget deliberations. He said he thinks it is very important, in view of the advice which has been received from the attorneys and the optimism which can be felt because of their advice, that the governing bodies attempt to make clear today their feelings that with this amount of money available, and the advice of the attorneys that three months worth of the sales tax can be budgeted, that this information should be made available to the public because this will have quite a lot of interest on the part of the public.

The governing bodies commended the City and County Attorneys on the splendid job they have done.

APPROVAL OF SUGAR/BRIAR CREEK DRAINAGE IMPROVEMENT PROJECT

Chairman Martin presented to the joint bodies the following estimated cost breakdown on the Sugar/Briar Creek Drainage Improvement Project:

Corps of Engineers Construction Cost -----\$641,550

Local Participation

*Right-of-way -----	\$ 60,000
Two Bridges -----	\$ 80,000
Fifteen Sewer Siphons -----	\$ 35,800
Annual Maintenance Cost -----	\$ 5,000
	<u>\$180,800</u>

*Please note that original estimate of right-of-way was \$184,000. The reduction is a result of negotiation and donations of the needed rights-of-way. This item includes damages, right-of-way cost, condemnation cost, additional engineering, surveying, et cetera.

Breakdown of Local Participation

	<u>City</u>	<u>County</u>
Right-of-Way	\$30,000 (50%)	\$ 30,000 (50%)
Two Bridges	\$80,000	-----
Fifteen Sewer Siphons	\$35,800	-----
Annual Maintenance Cost of \$5,000 for 50 year project life		\$250,000
	<u>\$145,800</u>	<u>\$280,000</u>

Chairman Martin noted that an earlier agreement between the City and County was that the City would have the responsibility, if this project were to be pursued, for its capital improvements of several bridges and sewer siphons, and the County would have the continuing responsibility to the terms of the Corps of Engineers for maintaining the creeks to engineering standards after the project was completed, and the two bodies had agreed to share in obtaining the rights-of-way.

Chairman Martin advised that at an earlier meeting Commissioner Potter had raised the question as to the ability of the county to obtain rights-of-way from those who might refuse and, in effect, stymie the project after all of the other land had been donated. He pointed out that the county would not want to be in the position of authorizing the administrative costs of obtaining rights-of-way without assurance that the project can be completed.

Attorney Ruff advised that he and Mr. Underhill have conferred with respect to the legal power of county and city acquiring rights-of-way in those cases where the property owners may decline or refuse to grant the rights-of-way, and it was their conclusion that it should be

assumed at this point that the county does not have at present this power for this particular use. He said that the assurance has been gotten by Mr. Underhill that the city does and may exercise this power. He said the contemplation Mr. Underhill and he have for consideration of the joint bodies is that in view of the fact that all of these properties lie within the city that the power that should be anticipated might be the power vested in the city government, subject to a fair undertaking or understanding between the joint bodies as to the costs.

Councilman Whittington inquired of the City and County Managers if this breakdown of participation is agreed upon by both bodies.

City Manager Veeder stated there is no doubt that the bridges are the city's responsibility as are the sewer siphons which will have to be relocated. He said the current question as far as the city is concerned is the city's interest in providing the \$30,000 figure included for rights-of-way. He said this is in the context of providing this for fiscal 1968-69. He said this is not in the preliminary budget, that this is money, if the city wants to provide it which would have to be put in the budget.

Motion was made by Councilman Smith for approval of the joint participation of the city and county in the Sugar/Briar Creek Drainage Improvement Project as set forth above. The motion was seconded by Commissioner Peterson.

Councilman Whittington stated he would like to say for the record that this is a project that both bodies have been working on for a long time. He said it came up before the City Council about 6-8 years ago, and the Corps of Engineers have been very helpful, and he, too, would want to thank those people along Briar and Sugar Creeks who have come forth and made this property available to the city and county to make this drainage project possible.

Councilman Short inquired of the attorneys if condemnation is used against those who refuse to make their property available without charge for this purpose would it not be pertinent to show in this condemnation action advantages that would accrue to the remaining property of the defendants, the result being that in this way we might actually get the land still without cost?

Mr. Underhill stated this is true, that what Mr. Short was talking about, under the law, is special benefit that would result to the property owner because of the improvement rendered thereupon by the condemning authority. He said the law allows you to offset special benefits against any damages that might be assessed against the condemning authority for its taking. He said if it can be shown that taking would result in an improvement and in a special benefit to the property owner, that can be offset against the damages we would have to pay.

Councilman Short stated he would hope it would be offset down to nothing since most of the folks have cooperated with Mr. Owens and made the

land available, that he thinks it would be appropriate if everyone wound up providing land on that basis.

The vote was taken on the motion by the City Council and carried un-animously.

The vote was taken on the motion by the County Commissioners and carried unanimously.

COMMITTEE TO DISCUSS MATTER OF JOINT FINANCING OF THE JUVENILE DIAG-
NOSTIC CENTER AND REPORT BACK TO JOINT BODIES BEFORE ADOPTION OF
1968-69 BUDGETS

Chairman Martin stated he understood the City has some reservations about participating in the financing of the Juvenile Diagnostic Center. Mayor Brookshire inquired if this isn't another item that would follow under the category of general services and if so hopefully the County might want to handle it on countywide taxes.

Chairman Martin advised the total appropriation set for this is \$113,000 - the city's share being \$42,471 and the county's share being \$70,634, which is based on the same formula that has been used in the past years.

City Manager Veeder advised that in the past the Juvenile Diagnostic Center has been a part of the Juvenile Court budget, and that the Juvenile Court transition to the new system in December raises the question on the desirability of the city continuing its participation in the Diagnostic Center. He said he thinks several things that relate to this are germane. He said that going back to a time several years ago when all of the joint funding activities were reviewed the Institute of Government did some work on it and at that point they suggested that these activities be reviewed at the time court reform did come in and take over, and that time is now as far as the Diagnostic Center is concerned. He advised it seems to him the continuance of this center is the question between the county government and the state government and he understands that to date at least the state government has raised some questions in terms of its ability to work into this program related to the court reform changes, but it seems to him this is a custodial function properly tied in with the court reform, at least in the context that the city government is involved. He said it is his understanding from the material prepared by the Institute of Government of the types of centers in the state, that all of them outside Mecklenburg County apparently are funded completely by county government, and he believes there are six others in the strict function of county government and municipal governments do not participate in the funding. He stated it seems to him that the city government's obligation to continue financing any portion of this should be changed as of December 1, that he thinks it would be appropriate if the city government funded 5/12's of what is shown as a \$42,471 expenditure for the full year as the city's share and from that point on the funding of this be something involving the county government, that he presumes that at some point or time there would be further conversation with the state government on its role in this.

7-15-68

Upon inquiry by Councilman Smith, City Manager Veeder advised he believes this money is in the preliminary budget. Upon further inquiry he advised there were no fees involved which would reduce this obligation. He advised the 5/12's is approximately \$18,000.

Chairman Martin stated he does not know the entire background of this, but it seems to him that there are quite a number of items listed here that city and county have shared - many of which he supposes started out as being urban responsibilities with the county not taking any position and then the county and city negotiated a share of the budget, and he would think this is the same thing and he was not sure what the argument would be for renegotiating this at this point.

Councilman Stegall inquired if there had been any discussion with the state officials about take over of this diagnostic center, and City Manager Veeder advised this would be the county's responsibility.

Motion was made by Councilman Stegall that this decision be postponed until someone has the opportunity to discuss this with the state. The motion died for lack of a second.

County Manager Weatherly advised there is no state support available for Juvenile Diagnostic Center operations.

Councilman Smith inquired how will this section be utilized after court reform, that we know how it is utilized now but how will it be utilized after the state takes over the courts. Commissioner Potter advised it will be utilized the same way, that it is not going to make any difference about the fact that the change is from Juvenile Court to part of the district court system.

Councilman Smith advised the reason he asked this question is that if it is going to be utilized in the same manner it would seem to him that if this is a function of the courts that the total court should take over responsibility of this.

City Manager Veeder advised there are seven juvenile detention centers in North Carolina and there are no federal, state, or municipal funds involved in supporting these programs, that the only exception is here in Mecklenburg.

Councilman Smith stated he thinks if the City has shared this through the years, and it is probably in the budget, that the City should continue to share it because they have no reason to believe the County is going to get any revenue from the state.

Councilman Whittington said it seems to him this item should be delayed until an attempt is made for the monies received in the Domestic Relations Court under court reform to pay for the juvenile diagnostic center.

Chairman Martin advised that something has to be put into the budget as an appropriation, and why shouldn't this be put in the budget as an appropriation and then if any revenues are received from the state

this could be applied against both the city and county shares of the cost and that would be sharing of any revenues from the state.

Motion was made by Councilman Stegall that \$18,000 be appropriated from the city budget to take care of it through December 31, 1968. The motion was seconded by Councilman Whittington.

After further discussion it was determined that if the state should ever come into the matter of financing juvenile diagnostic centers it would probably take an act of the legislature to provide for this. County Manager Weatherly advised that in all conversations they have had with both the Institute of Government seminars and conversations with state officials they were given that there would be no change made in the operation of juvenile centers, that if they were operated they would be operated by local support.

City Manager Veeder advised he thinks any thoughts that by the City removing a degree of financial support from this is going to open up a door for state participation, but he thinks realistically there is no basis for state participation now and if there is to be any basis in the future he thinks realistically they will have to plan on the basis of there is not going to be any basis for state participation in 1968-69.

Councilman Smith offered a substitute motion that the city pay its share in the amount of \$42,471 in the current fiscal year with the understanding this does not obligate the city morally or in any other way next year to reassess this program. The motion died for lack of a second.

Councilman Short offered a substitute motion that this matter be referred to two councilmen and two commissioners to discuss and report back to this group before the date the budget has to be set. The motion was seconded by Councilman Alexander.

Chairman Martin advised that Commissioner Campbell had suggested that the same committee consider both the juvenile diagnostic center and the matter of \$30,000 for some part of the Planning Commission budget which he has a personal opinion is a city responsibility. Councilman Short advised he would not accept that amendment, that it would appear to him that should be a separate committee.

Motion was made by Councilman Jordan that this meeting be adjourned and the joint bodies have another meeting to discuss these items when they have more time.

A vote was taken on Councilman Short's substitute motion that the matter be referred to two councilmen and two commissioners and carried as follows:

City Council - Ayes: All

County Commissioners - Ayes: All

ADJOURNMENT OF JOINT MEETING

There being no further business before the joint meeting, motion was made by Councilman Jordan, seconded by Councilman Stegall and un-animously carried that this meeting be adjourned until Thursday, July 25, 1968 at 11:00 o'clock, A. M.

ADJOURNMENT

There being no further business before the meeting of the Board of County Commissioners, on motion by Commissioner Campbell, seconded by Commissioner Potter and unanimously carried, the meeting adjourned until 9:00 o'clock, A. M., Monday, July 29, 1968, unless sooner called by the Chairman.

Hazel H. Hatley, Clerk

James G. Martin, Chairman