

The City Council of the City of Charlotte, North Carolina, met in regular session on Monday, May 8, 1978, at 3:00 o'clock p.m., in the Council Chamber, City Hall, with Mayor Kenneth R. Harris presiding, and Councilmembers Don Carroll, Betty Chafin, Tom Cox, Jr., Charlie Dannelly, Laura Frech, Harvey B. Gantt, Ron Leeper, Pat Locke, George K. Selden, H. Milton Short and Minette Trosch present.

ABSENT: None.

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INVOCATION.

The invocation was given by Reverend Johnnie Wallace, Jr., Minister of Greater Providence Baptist Church.

APPROVAL OF MINUTES.

Upon motion of Councilmember Locke, seconded by Councilmember Short, and unanimously carried, the minutes of the last meeting, on Monday, May 1, 1978, were approved as submitted.

MAYOR HARRIS PROCLAIMS WEEK OF MAY 7-13, 1978 AS "HISTORIC PRESERVATION WEEK."

Mayor Harris read the following proclamation:

"WHEREAS, the City of Charlotte is proud of the many vital preservation efforts undertaken or planned by groups and individuals in this City and County; and

WHEREAS, all citizens of Charlotte should be aware of the value of the preservation of historic structures, sites and buildings; and

WHEREAS, informing the public will help the cause of preservation and develop the course for future projects; and

WHEREAS, a full and exciting schedule of events has been planned to involve all segments of our population, with particular emphasis on our victorian heritage in our uptown-downtown;

NOW, THEREFORE, I, Kenneth R. Harris, Mayor of Charlotte, do hereby proclaim May 7-13, 1978, at HISTORIC PRESERVATION WEEK in Charlotte and urge the public to attend these valuable programs."

Mayor Harris presented the proclamation to Mr. Stu Schwartz of the Mint Museum of History who accepted it on behalf of the Historic Preservation Board.

Mr. Schwartz introduced Ms. Patsy Kinsey, Ceordinator of the Preservation Week Program, and stated they have worked up a full week's program.

MAYOR HARRIS PROCLAIMS WEEK OF MAY 14-20, 1978 AS 'MUNICIPAL CLERK'S WEEK.'

Mayor Harris read the following proclamation:

"WHEREAS, the success of any unit of government is measured in direct proportion to its ability to meet the needs of its people; and

WHEREAS, it is imperative to our citizenry that municipal government operate in an orderly and efficient manner; and

WHEREAS, City Clerks' accurate recording, careful safeguarding and prompt retrieval of public records are essential to the efficient day-to-day functioning of government; and

WHEREAS, City Clerks undertake a variety of administrative, financial, informational and human services which are vital to an effective and responsible government at the local level; and

WHEREAS, City Clerks strive continually to improve the administration of their office, consistent with applicable laws and sound management practices, in order to fulfill their responsibilities to the community; and

WHEREAS, City Clerks are dedicating themselves to pursue training and professional education which will expand their knowledge and their awareness of the needs of their local governments and their citizens.

NOW, THEREFORE, I, Kenneth R. Harris, Mayor of Charlotte, do hereby proclaim the week of May 14 through May 20, 1978 as MUNICIPAL CLERK'S WEEK in recognition of the vital services City Clerks perform and their outstanding dedication to the communities they represent.

WITNESS MY HAND at the official seal of the City of Charlotte, this the 8th day of May, 1978.

.....
Kenneth R. Harris, Mayor

Mayor Harris stated this proclamation is very appropriate, especially this year with all the committees Council has formed and all the minutes that Miss Armstrong is charged with keeping and the responsibilities she has. He congratulated her on her work.

RESOLUTION CLOSING A PORTION OF COKER AVENUE.

A scheduled public hearing was held on a petition of Enderly Park Neighborhood Organization to close a portion of Coker Avenue, south of Coker Avenue's intersection with Maury Street.

Council was advised that the petition had been investigated by all city departments concerned with street rights of way and there were no objections to the closing.

Mr. Hopson, Public Works Director, stated his department is highly in favor of the closing.

Mr. Henry Caldwell, 312 Maury Street, stated he would appreciate it if Council would adopt the resolution since the parks are once again under their control and they are aware of what is going on down there.

There were no objections to the closing.

Motion was made by Councilmember Frech, seconded by Councilmember Selden, and unanimously carried, adopting subject resolution closing a portion of Coker Avenue, located below Mrs. John C. Wentz's property line, and extending south from there to a branch.

The resolution is recorded in full in Resolutions Book 13, at Page 271.

JOINT PUBLIC HEARING WITH HISTORIC PROPERTIES COMMISSION AND ADOPTION OF THREE ORDINANCES DESIGNATING HISTORIC PROPERTIES IN THE CITY.

The scheduled Joint Public Hearing was held to consider the designation of the following as Historic Properties:

- (a) The interior and exterior of the building known as The McManaway House, located at 1700 Queens Road;
- (b) The exterior of the building known as The Kenmore Hotel, located at 224-31 North Poplar Street;
- (c) The exterior of the building known as The Independence Building, located at 100-102 West Trade Street.

Mr. Dan Morrell, Director of the Charlotte-Mecklenburg Historic Properties Commission, stated there are members of the Commission present today. That the Historic Properties Commission's function is to recommend designation of properties which embody important elements of social, economic, cultural, political or architectural history of Charlotte. He stated the essential impact of designation is to prevent the inadvertent destruction or insensitive alteration of historically important properties by requiring the owners of same to provide the Historic Properties Commission 90 days written notice of his or her, or their intended action.

He stated he is present today to present the Commission's recommendation for the designation of three properties and will describe them briefly at this time, beginning with the oldest.

Dr. Morrell stated the first is the McManaway House, at 1700 Queens Road. It was erected in 1874 on West Trade Street by Jacob Rintels, a prominent Jewish merchant, and moved to Myers Park in 1916 by Dr. Charles R. McManaway. It was substantially renovated at that time, exteriorly, and has been refurbished very recently.

He stated the Commission basically recommends designation, as it does in all cases, because of the vital protection this would provide for what they regard as a historically significant property. One, because it is associated with the contributions of the Jewish Community; two, because it is one of the earliest houses in Myers Park; and thirdly, at the time it was built, it was clearly recognized as one of the most pretentious houses in uptown Charlotte. Also, the Division of Archives and History has endorsed the designation of the interior and the exterior; and as well, the owner has been consulted fully throughout this process, recognizes what "designation" means and has stated their willingness and eagerness to have it so designated.

Dr. Morrell stated the second building is known as The Kenmore Hotel, which basically they call the St. Peter's Hospital because it is its role as St. Peter's Hospital which causes them to recommend it for designation. It is located at 225-31 North Poplar Street; was started under the auspices of St. Peter's Episcopal Church and is the oldest continuously operating non-military hospital in the State - at least until it closed in 1940. It was here that all of the early scientific medicine...much of it was performed in Charlotte, extremely important element in the social history of the community; the oldest elements of the building currently there date from 1898, renovated in 1907 and again in 1922. The final alteration designed by Lewis Asbury, an architect of some local note.

He stated the reasons for its designation are: its vital protection; the Division of Archives and History have endorsed their recommendation for the exterior of the building; it is the oldest non-military hospital operated in the State and therefore, they feel it is worthy of designation.

Dr. Morrell stated the final building is the youngest building and is the Independence Building, initially known as the Realty Building. It has been nominated to the National Register of Historic Places and they have every assurance from the Division of Archives and History that it will be so listed.

He stated perhaps the single most important architectural contribution made in the United States was the development of steel framing for skyscrapers and this is the first skyscraper in North Carolina - put up in 1908 and 1909 and associated with individuals of preeminent local importance, such as Mr. D. A. Thompkins, Mr. W. H. Belk and others; designed by an architect who was really the architect of the notable landmarks of Charlotte at the turn of the century, Mr. Frank P. Milburn, this is the only building which he designed which remains. For these reasons, the Historic Properties Commission has recommended the designation of the exterior of the Independence Building.

Councilmember Locke stated she has talked with Mr. Morrell about her reservations about the McManaway Home. She stated sometimes when a person talks to preservationists, if you are against the preservation of some of these houses, you are against Motherhood, God, etc. but she is concerned about the McManaway Home. That she would probably have been very delighted and very happy to vote for designation prior to the remodeling that was done on that house so that historic preservation could have been kept intact and Mr. Morrell's committee could have kept intact what could have been done to that home.

She stated she plans to vote against the designation of this house because it is not in keeping with the original house; that she is a purist when it comes to preservation and feels it was a remodeling job instead of a restoration. That the front porch, or the portico, is not in keeping at all with what was original; the color of the house is not what it was originally and there was a divided vote on it and these are the reasons she plans to vote against it.

Councilmember Trosch asked if this was the reasoning behind the 6-4 vote on the exterior as opposed to the 7-1 vote on the interior and Mr. Morrell replied yes, there was a division of opinion on the Historic Properties Commission about the very issues that Councilmember Locke was speaking to. It is a matter that reasonable people can reasonably disagree; the stance of the minority would have been that the structure was not sufficiently of its appearance, either initially or prior to the renovation, to deserve designation.

Mr. Morrell stated the opinion of the majority was that one can afford protection for what one has and even though there were things done, nothing was done that cannot be undone, and buildings do evolve, or change, as time goes by, so it was the feeling of the majority of the Commission that the building, because of its age, its association with early Jewish contributions to the community, its place as a very early house, its location in that section of Myers Park, deserves whatever protection they can provide, if Council so acts to designate. That these are basically the differences in opinion.

Councilmember Trosch asked if he could explain the deferring of taxes? That when Council defers a matter, it comes back later. She asked if when you defer the taxes, it might come back later and Mr. Morrell replied the only instance in which the deferral would not be continuous would be if this agency (City Council) should at sometime vote to remove the designation from the property. That if the designation were removed, the owner would be required to pay three years back taxes, or specifically, taxes for the three years previous to the removal of designation in which he applied for same, plus substantial interest. He stated in essence, if the property retains its status as a designated property and if the owner applies for the automatic deferral, it would not come back.

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Councilmember Short stated he would like to congratulate Mr. Morrell on his historical material on all three buildings. That he spent a delightful evening reading the material. He stated he feels the McManaway House is a proper subject for designation but he is reluctant to vote to cut taxes in half on a house that is just on the open market for sale. That it seems to him that some citizens could be suspicious of such a procedure.

He stated in the event this is not designated here today by vote of this Council, he would suggest that the Commission bring it up again at a later time when it is not on the open market for sale. That for a City Council to actually intervene in commercial transaction like this - this house has got a sign up in front of it right now - is going to be misunderstood. For that reason, he is going to temporarily join forces with Councilmember Locke in this matter but he would hope the Commission will bring it up again when the house is more firmly settled.

Councilmember Short stated he has always heard of Jake Reynolds as sort of a legend in these parts and he was delighted to get all the details. That he did not know where Mr. Morrell found all this material.

Mr. Morrell stated one of the things that might be of interest to Council regarding the McManaway House is that before it was refurbished, it was valued on the tax books for \$640. That it is currently been re-assessed at \$56,830, which means that the property taxes have gone from \$12.04 to \$954.74. He stated even if designation is approved (and in many respects, he wishes the State Legislature had not passed the law, but it is there and it is not of their creation), the City would still receive \$465.33 more on the house this year than it did last year - even with the 50% deferral and the issue would be that if it is not designated then there is no mechanism for protection at all.

Mayor Harris asked about the zoning and Mr. Morrell replied it is zoned single family residential.

Councilmember Frech stated as a historian herself and a former colleague of Mr. Morrell, she would like to commend him for a very fine research report. That she agrees with Councilmember Short that it was very good and very interesting. She stated she was concerned about future plans for the house but she would suggest that designation is probably needed because if it is not there, a future owner could make changes to the house - they could come in and rip out the interior, or something.

Councilman Short stated he hopes they will bring the recommendation back to Council later but he did not think Council ought to intervene in a real estate sale. Councilmember Frech stated she would agree; that she was a little concerned when she saw the "For Sale" sign on the house.

Councilmember Frech asked about the plans for the use of the other two properties and Mr. Morrell replied dealing with the specific issue of to what use it might be put, it is not a criteria that the Historic Properties Commission has to deal with and therefore, whatever he would say is simply going to be as an interested citizen and not as a function of what guided the Commission.

Mr. Morrell stated the ^{fact} the Independence Building had greater chances six months ago than it does now, primarily because the National Register of Historic Places is going to transform the development and economics of that building in terms of accelerated depreciation, etc.

That he knows the General Services Administration is looking at the building and there has also been some commitment on the part that the State feels it could use 14,000 square feet of the building. That in the world that we live in today, the greatest liability of the Independence Building is the parking; it

has nothing to do with the building itself. It is the fact that Americans want to drive five feet from wherever they want to go in an automobile. He stated he is certainly not in the position to say that the building will not one day come down. That if it is designated, this does not prevent it from being destroyed, it simply means the Commission would have time to record it and make sure it was fully documented before it came down.

Mr. Morrell stated St. Peter's Hospital, or now Kenmore Hotel, is certainly not in the most stable status imaginable. That the greatest hope for that building in the long term is, as with all buildings that the private enterprise system can see a viable use for, tied in with Fourth Ward, particularly if Fourth Ward can bridge that gap, essentially between Seventh and Sixth Streets. He stated the Historic Properties Commission simply does not deal directly with the issue of the use.

Councilmember Gantt stated on the McManaway House, as he recalls having seen a picture of it, apparently they had a lower level that had to be removed when they moved it to Myers Park. That he tends to agree with wanting to save what we have left of the house. He stated admittedly they lose a little authenticity, but he wanted to ask if the present owners of the house would consider any agreements to be made with the future owners to restore some of the authenticity of what we have left. That he believes they have changed some of the railing, etc. on the exterior of the house to some extent.

Mr. Morrell stated one of the owners of the house is present today and could probably speak to those specific issues but the house has experienced, particularly exteriorly, a great deal of change over the years. That when Dr. McManaway moved it out there, he massively changed it; in fact, he massively changed it far more than it has been changed within the last year or two. He stated one of the things the Historic Properties Commission can do is secure easements, less than fee simple interest in property, enter into negotiations with property owners regarding commitments before restoration. That with the McManaway House, his own personal feeling is that a tremendous service was done the community by people who went in and did something rather imaginatively, with committing a good bit of capital to a house that was fast deteriorating. He stated taking into account, particularly again the fact that the private enterprise system is always the best preservationist, one has to be amenable to what the market demands; there are cost factors; if one has a government restore a building, it is possible to spend thousands and thousands of dollars in intricate pilasters.

Councilmember Gantt asked if he was saying that he was not sure that they were going to get any more authenticity than they have right now because of costs? He can understand that from an economic standpoint and is willing to accept that if nothing else can be done.

Councilmember Gantt stated we stretch it a little bit if we talk about intervening in a real estate transaction at this point and he is fearful that Council might never get back to it, or if it gets back to it, it may have gotten back to it with a less sympathetic owner. That \$477.00, in his opinion, is not likely to prompt the sale of this house anymore than it is not selling on the market. He stated it is a relatively small cost for the benefits in terms of saving it.

Councilmember Gantt stated he did not think it was very relevant for Council to make a decision of whether it is going to be put to any good use because all the designation does is to allow Council some notice as to when the property is going to be destroyed, or whether or not Council can do something about it at some future time. That on something like the Independence Building, the tax write-off might be a tip-off for causing that building to be put to some use. He stated Council ought to consider the historical value of these projects and feels all three of them should be designated.

Councilmember Selden asked how the \$477 was divided between the interior and exterior and Mr. Morrell replied generally speaking, when they asked the Tax Office about interior and exterior, there is much more of the value assigned to the interior, about 1/6 to the exterior and about 5/6 to the interior. That most of the deferred taxes are caught up with the interior.

Councilmember Selden stated he can see from the standpoint of value that the Independence Building is subject to demolition, replacement; so is the former St. Peter's Hospital (Kenmore Building) by reason that the land value becomes greater than the structure itself and therefore the historic value becomes "high risk". He stated the tax deferral is a very nominal amount; each has a long and involved history across Charlotte. That it is true that the McManaway House has a long history behind it but so have another hundred houses in the City of Charlotte and this is the area that gives him concern.

He stated Mr. Morrell spoke of the increase in tax value, which is true, by reason of the renovation but he feels the renovation would have occurred whether there had been any prospect of historic designation or not; in other words, this was a matter relating to the actual functioning of the house, and to the improved value that has been placed upon the structure by reason of the rehabilitation. That his main concern is the fact if Council designates the McManaway House interior and exterior and then they come along with numbers of additional houses which would fall into probably the same category, over a period of time, we would be accumulating a substantial amount of tax load by the rest of the citizens of Charlotte to carry house structures that, for a good many of the taxpayers, was not as important to the rest of Charlotte as it is to Council. He stated he has a great concern about a deferral of this nature, particularly as it is now on sale with an appreciable capital gain from its original cost and cost of renovation and this is an added "sweetner" to the possibility of sale.

Mr. Morrell stated since the house was constructed in 1874, he can assure Council that there are not that many houses of that age in Charlotte. Secondly, not only would the "sweetner" be there, but also the owner of it would be subject to the same legal restrictions of designation as the current owners are; so, in essence, it is true that the owner could apply for the annual tax deferral, but he also would be relinquishing some of his development rights over the property at least in terms of being required to give 90 days written notice.

Councilmember Carroll stated we are in a situation here where we are blessed with the fact that a restoration has already occurred and maybe if circumstances were changed, Council would perhaps be anxiously jumping in to designate this particular house without worrying about whether or not Council was causing some extra economic benefits. That the question boils down to one of whether this is an important building in Charlotte's social history - that it is not architecturally critically changed, and it does have an important place in our social history because of the real contribution of the Jewish community in Charlotte and it seems this is a good time to designate it because then the people who buy it know that they are not going to be able to make these changes; that it is an ideal time for Council to say this building is important - it is a judgement question and Council has to evaluate how important it is. He stated he did not think Council was going to have a large number of buildings which deplete our tax rolls.

Councilmember Cox stated it occurred to him that the taxes really are not an issue because of their size. That we are not talking about a whole lot of money; the real issue is the conservation of historical things. He stated Mr. Morrell and his group are doing a fine job in bringing historical things before Council.

Councilmembers Cox stated we are not running out of historical things to conserve and it would appear to him that he would rather err on the side of preserving rather than on the side of not preserving.

There was no opposition expressed from members of the audience.

Councilmember Gantt moved adoption of an ordinance designating the interior and exterior of the building known as The McManaway House, located at 1700 Queens Road, as an historic property, which motion was seconded by Councilmember Chafin, and carried as follows:

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

NAYS: Councilmembers Locke and Short.

Motion was made by Councilmember Chafin, seconded by Councilmember Short, and unanimously carried, adopting an ordinance designating the exterior of the building known as The Kenmore Hotel as an historic property.

Upon motion of Councilmember Locke, seconded by Councilmember Trosch, and unanimously carried, an ordinance was adopted designating the exterior of a building known as The Independence Building as an historic property.

Ordinance No. 8-X, Ordinance No. 9-X and Ordinance No. 10-X are recorded in full in Ordinance Book 25, beginning at Page 387 and ending at Page 395.

RULE SUSPENDED TO ALLOW FOR DISCUSSION OF ANIMAL SHELTER.

Councilmember Gantt stated in view of the fact that some members of Council expressed some need to respond to the animal shelter issue, he moved to suspend the rule and allow this discussion at this time. The motion was seconded by Councilmember Locke, and carried unanimously.

CONTINUATION OF DISCUSSION ON CONCERNS OF MECKLENBURG COUNTY HUMANE SOCIETY RELATIVE TO THE ANIMAL SHELTER.

Councilmember Leeper stated he went out to the City Animal Shelter to look at some of the concerns that had been indicated as he read them in the paper. That he identified some things that gave him reason for concern and he would like to indicate them to the other members of Council. He stated they are things that probably can be worked out by way of budget and Council can make some decision on that.

He stated the wires that had been indicated as sticking out are certainly a fact because there are a number of wires, particularly coming out of the entrance of the animal shelter on the left side and there are a number of wires sticking out all along the cages there. He stated he indicated to the attendant that he wanted that corrected and the attendant indicated he could but because it was light gauge wire, and people would kick it out again and the dogs would even pull it out with their teeth.

Councilmember Leeper stated on one side of the animal shelter, they had already installed heavier gauge wire and that was not a problem on that side. That it is a simple matter of installing a heavier gauge wire on the other side of the animal shelter and this will take care of this particular problem. He stated they have a fenced in area out there where they keep horses and he

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was unable to find anywhere where there was a fixed place to keep water for the horses and in talking to the attendant, he showed him a bucket he was washing his car in that he placed water for horses when they had them there. He stated he asked why there was not a fixed place there for the horses' water and the attendant indicated they had never gotten around to putting one there. That he asked if the horses kicked the water over during the night, what would they do, and the attendant replied they would have to wait until the next day for someone to give them more water.

Councilmember Leeper stated these are minor things but he noticed there were things that if it is just a matter of budget, with not enough money being allocated to place a fixed trough there for horses, or putting heavy gauge wire on one side, then this is something that Council ought to make a decision on rather than somebody who works out there.

He stated another matter he noticed was in the euthanasia chamber; that it looked pretty clean - in fact, there was a notice on the board that it was supposed to be scolded out with hot water, but there was no hot water to be found in there at all. That he asked the attendant how he cleaned it out and he replied with cold water. Councilmember Leeper stated this is a small matter that seems to an issue that can be resolved by simply installing hot water in there. That the gentleman who cleans the animals and puts them in there indicated he had a problem sometimes of having to wash his hands with cold water because there was no hot water. He stated these are simple matters that he noticed and he is not an animal expert but some of these things certainly need to be resolved and Council can do something about some of these issues.

Councilmember Frech stated she agrees with those who say that we have heard some very serious charges here; that she is concerned about the fact that apparently these things were observed and brought to the attention of the City Manager a year ago and yet these people are now saying these conditions are worse now than they were then. She stated she would guess that the other members of Council have had many phone calls over the week-end, as she did, from citizens all over the city and county who are extremely concerned about this.

She stated it is her opinion that the people of this city want a humane and decent shelter for animals; they do not want the kind of thing going on that may be going on - she cannot say until Council investigates further - but there is no reason for not maintaining it. If it is a matter of money, and she suspects that perhaps it is not a question of budget, but the people of Charlotte want a humane and decent shelter and that there is no reason to not provide it. That what the reasons are, Council may have to go into for why these problems exist. She stated she is wondering whether perhaps it should be a committee of Council which investigate this, rather than a separate committee, but it is up to the Mayor to decide. That she would suggest that perhaps the President of the Humane Society be made a member of the Committee if we go to an independent one. She stated this is not a question of adversary relationship although they had suggested they would sue the city, it is hoped that that will not be necessary. She stated she could not see the situation continuing to the point where they should find it necessary to bring a lawsuit against the City over this, but she would suggest that they have the interest of animals at heart and they are very knowledgeable and perhaps a member of the Humane Society be included if we go to an independent committee.

Councilmember Frech stated she would also second Councilmember Gantt's request for a report from the City Manager as soon as possible. That it seems we need a thorough review of procedures and policies. She stated the suggestion that

our euthanasia now takes 30 minutes is inconceivable when it used to take 4. That 30 to 40 minutes is difficult to comprehend if you consider a animal suffering for that amount of time. She stated it is possible sometimes to use injections instead of what we are using. That she has also heard it suggested that if the euthanasia chamber is defective, which is possible, there is danger to the employees who are working there also who may be getting carbon monoxide. She stated it looks as though there are things that have to be looked into. That she would suggest both the committee, perhaps a Council committee, or perhaps an independent committee, and a very careful investigation or report from the City Manager on this because she is disturbed that this came up a year ago and things are now worse and apparently nothing has been done. She stated she feels very strongly about this and the people who contacted her over the week-end do too. That she has not had that many calls since the Belt Road issue; the people of the community are concerned.

Mayor Harris stated he is not trying to go on either side but at the same time these are accusations that have been made and they have not been substantiated and it is up to Council to substantiate the facts.

Councilmember Trosch stated about everything she wanted to say has been covered by other members of Council, except she would like to say she is concerned.

Councilmember Selden stated he feels very strongly that Council needs a response from the City Manager and he also feels Council should have an impartial investigation and inspection by a competent group and he feels the Mayor is fully capable of selecting a good and competent group.

Councilmember Trosch stated so often when you know someone is coming to dinner, you clean up real well, and she is just afraid that this is not the kind of approach we need now and she would encourage that this not be the approach of this committee to announce their arrival.

Mr. Burkhalter stated there are two sides to every question. That he can assure Council that the general public has never been in an uproar about the conditions of the shelter. He stated they never approached him but one time and this was about the neutering clinic and he met with them and this was the only source of conversation they had and if there was anything wrong with the operation of this clinic, it was not brought out at that time. This was last year, prior to the budget meeting. He stated they may have made some observations to someone else, but they did not make them to him and they had ample opportunity to do so at that time.

Councilmember Gantt stated this ought to be clarified. That he does not remember a report on the conditions of the shelter but he does remember their concern about the neutering clinic. He stated the speakers did point out that their volunteer work and their investigation really occurred in the early part of this year.

Councilmember Frech stated we could look into the possibility of a contract with the Humane Society to run the shelter; that it is done in other areas and where it is done, they usually have a spay-neutering program along with it and this is something that should not be dismissed without considering it. That a number of other cities do it.

Councilmember Selden stated he has also received correspondence and complaints that go further into detail and areas of concern than the report he received.

Mayor Harris stated the City Manager would certainly like to receive these complaints or concerns about activities of this sort.

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ORDINANCE NO. 11-Z 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 FROM B-2 AND I-1 TO I-2(CD) ON LAND FRONTING THE SOUTH SIDE OF OLD MONROE ROAD, AS PETITIONED BY IDEAL INVESTMENTS, INC.

Councilmember Gantt moved adoption of an ordinance changing the zoning from B-2 and I-1 to I-2(CD) to accomodate the sale and storage of building materials on a parcel of land fronting the south side of Old Monroe Road, located about 900 feet west of the intersection of Old Monroe Road and Commonwealth Avenue. The motion was seconded by Councilmember Chafin.

Councilmember Trosch stated this is something she has wrestled with since it is located in her district; the changing of a zoning to I-2(CD) when it was B-2. She stated she has come to the position of support because of the controlled site plan and because of the possible usage. The fact that the building here sits in the I-1 part of the zoning and could have a much more adverse usage; also because of the shrubbery screen and because the neighbor on the other side is concurring with this plan, she will vote to support the motion.

Councilmember Carroll stated it would be improper to put an "I" classification between two business classifications if it was not for the fact that the building itself is on "I", which he did not originally realize. That we are probably ending up with a more favorable usage than if the building were to be used for another industrial use.

He stated his major concern is it looks like this is another storm water run-off candidate that is slipping by the boards. In response to a question about the ordinance, Councilmember Short replied he has asked the staff to put this on the agenda for next week and Council can decide if it is to be 7,000 or 20,000 square feet.

Councilmember Carroll stated he knows the plans do call for paving all of the front portion of that which would probably be over either the 7,000 or the 20,000 square foot limit. That he would like to suggest that this matter be deferred until next week so it will be closer to the storm water run-off ordinance and would move for deferral for that reason. The motion was seconded by Councilmember Frech.

Councilmember Trosch asked about the effective date of the ordinance and Councilmember Short replied it cannot take effect under the way the ordinance is now written until September 1.

Councilmember Carroll stated he did not realize the effective date would be in September. Councilmember Leeper stated this was pretty much his feeling too because we would not want to hold them up simply because we did not know what would take place next week.

Councilmember Carroll stated in light of the fact that it would not take effect until September, he would withdraw the motion. Councilmember Frech agreed to withdrawal.

Councilmember Short stated on the original motion, he would like to say to Mr. Booe that he appreciated his phone call, but this property is going to be vacant apparently and within the existing zoning, B-2, not the industrial, this is a ripe prospect for a second-hand car sales, a trailer sales, fuel oil distributor, auto auction, etc. and he feels the people at the Red Lobster would be fortunate to rescue the situation this way instead of what is almost obviously likely to happen out there.

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

The ordinance is recorded in full in Ordinance Book 25, at Page 396.

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DECISION ON PETITION NO. 78-17 BY DELCO DEVELOPMENT COMPANY FOR CHANGE IN ZONING OF PROPERTY FRONTING THE EAST SIDE OF SHARON AMITY ROAD, REFERRED BACK TO PLANNING COMMISSION.

Motion was made by Councilmember Short and seconded by Councilmember Selden to adopt an ordinance changing zoning from B-1 to B-2 (CD) for a retail home improvement sales facility

Councilmember Gantt stated at the public hearing he expressed some concerns about the fact there was no attempt to do anything here about the trees on this very vast parking lot. He knows that in the notes they have added some trees, which again to him seems somewhat minimal. Unless the previous petition which he thinks bent over backwards to produce the screening of the area, this one appears to be taking a halfway step. He realizes the Council cannot compel him to do anything more than the law requires here. But he thought under the CD type zoning classification we would get the type of cooperation from developers in certain situations to allow them to get a use they might not normally get. He is not so sure they could develop this property under B-1; he thinks the reason for the CD classification was in the nature of the sales in this facility. The he is going to vote against the motion simply because he would like to see a little more done in the way of trees.

He stated there is a very nice apartment complex across the street from this property; and the plan has six trees or three trees planted of two inch caliber, and it is not quite enough for the kind of screening they have.

Councilmember Gantt stated he would not want to see this voted down without giving the developer an opportunity to do just a little bit more in that area. He made a substitute motion to refer the petition back to the Planning Commission to see whether or not we can get a little more screening from the apartment complex across the street. The motion was seconded by Councilmember Chafin.

Councilmember Trosch stated this is in her district; that Mr. Gantt's concerns are her concerns.

Councilmember Carroll stated he would like for them to look again to see whether or not they need to put some storm water requirements in this conditional district.

Councilmember Frech stated she agrees with both of those, and she has discussed this with the architect. They have more than the minimum parking requirements, and she suggested to them they should perhaps consider cutting back in order to get more landscape in. She is also concerned about the storm water retention.

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

REVISION OF COMMUNITY DEVELOPMENT LOAN AND GRANT POLICY, DEFERRED ONE WEEK.

Motion was made by Councilmember Gantt, seconded by Councilmember Short, to adopt a Resolution rescinding Resolutions adopted on November 3, 1975 and June 27, 1977, and approving a revised CD Loan and Grant Policy to increase income eligibility to \$7,500; increase maximum rehabilitation grant to \$7,500; increase maximum rehabilitation loan amount to \$27,000 and establish an Emergency Repair Grant Fund.

Rev. Paul Horne, pastor of Johnston Memorial Presbyterian Church, stated he is speaking on behalf of the North Charlotte Action Association. That the increases which are being recommended by the Community Development Department may very well be the incentive needed to get more homeowners and absentee homeowners to participate in the program. The North Charlotte Action Association strongly urges Council to approve the request for these increases. It will help many more who are in need of help to get the help; and will encourage those who before could not participate in the program to become involved and take advantage of the program to improve the community to which they belong, thus improving the City of Charlotte as a whole.

Councilmember Selden asked how many Emergency Repair Grants do we average in the existing program, and what are our chances of collecting? Whose final responsibility is it - the property owner's or the city's?

Mr. Vernon Sawyer, Community Development Director, replied they have probably five or six cases now that would fall under the Emergency Repair Grant. They have not had the requests before because we have not had the program. But they have had this many cases where the contractor has either defaulted - walked away, or the work has been done but is unsatisfactory to the owner and the contractor has agreed to stop work.

He stated the responsibility is really the property owner's. The contract for construction is between the property owner and the contractor. Once the City makes a loan, just like a bank loan, it becomes that borrower's money and therefore he is responsible for it. The City is the third party that brought this all about, and we have a continuing responsibility to see that everything is done according to the contract.

Mr. Selden asked if the property owner is unable to repay, can the City go in and collect? Mr. Sawyer stated he would defer to the City Attorney; that the Legal Aid Society has asked a similar question and one of the possibilities is that the owner can request assistance from the Legal Aid Society. But, the City would certainly be an interested party all the way through and would do what we legally could, and morally should.

Mr. Sawyer stated they are very interested in the repayment too, because that money is supposed to come back to replenish the fund. Theoretically, they should not lose any money, but realistically they know that there may be some that do not repay.

Councilmember Carroll provided Councilmembers with an amendment, which he stated is directly to the point that Mr. Sawyer has address. The amendment is as follows:

Remedial Repair Grants:

1. Prerequisites for a remedial repair grant are:
 - (a) The applicant must be a property owner who has received a Community Development Rehabilitation Loan or Grant to finance the cost, totally or in part, of the rehabilitation of his property;
 - (b) Except in case of emergency, the applicant must have mailed a written request that the contractor comply with the contract to the contractor at his address as stated on the contract;
 - (c) In case of emergency, the applicant must have made a verbal request that the contractor comply with the contract unless the applicant cannot locate the contractor after a reasonable effort to do so;
 - (d) The contractor must have refused to comply with the request or have failed to respond to the request;
 - (e) The City of Charlotte Community Development Department must determine that the work is the obligation of the contractor.
2. The Remedial Repair Grant shall not exceed the lesser of:
 - (a) The approved actual cost of the repair and improvements to correct such work determined as an obligation of the previous contractor;
 - (b) \$4,500.

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3. The applicant shall request that the previous contractor reimburse the City in the amount of the Remedial Repair Grant. If the contractor refuses to do so, the City should make efforts to collect the funds expended for the Remedial Repair Grant. The applicant shall cooperate with the City in the City's effort to collect the funds and shall, if necessary, assign his rights under the contract to the City."

Councilmember Carroll stated they need to clearly define who has the ultimate responsibility for making sure that any defective work done or defaults by the contractor are taken care of. That what he has suggested would make the ultimate responsibility clearly the City's. He stated we are the people who have gotten the program there and are making it available and if one of the residents has a problem and the contractor has gone, he does not think that resident should be in a position of having to find a lawyer to fix her leaky roof or whatever is occurring. They need to set out a procedure, and he has called it remedial repair grants instead of emergency because they need to distinguish between what is a real emergency and what is just faulty work that needs to be repaired. The situation has been unclear and the City needs to be sure that at the bottom line, it is going to make sure that the repairs are made and that the contractor who has defaulted is going to be pursued.

He stated that in addition to Clause 3 which provides that the applicant consign its interest to the City to pursue the defaulting contractor, that we change our existing contracts so that they are clear that the City has a cause of action against the contractor in case of breach, so that by either route there will be no difficulty in making sure that the work is done properly. This has been a problem and the reason is because of the lack of a clear definition of where the remedy lies.

Councilmember Cox stated he supports what Councilmember Carroll is trying to do; but can he tell him what legal vehicle he is going to set up to do this?

Mr. Carroll replied it means that in the case of a roof that is supposed to be repaired - he understands all of the contracts now have a year's warranty - that the roof leaks within that year, the little old lady gives written notice to the contractor to come and fix her leaky roof. If he does not do that, the CD Department determines that work is the obligation of the contractor, then she is eligible for a repair grant and the City would repair it under a repair grant. She would, in turn, assign her right against the contract to the City and the City would see about collecting from the contractor. She would not be left to pursue the contractor.

Councilmember Cox asked what kind of legal stick does the City have to force the contractor to make the repair? Councilmember Carroll replied that he was suggesting that Mr. Underhill make sure that our new contracts make sure that the City has a cause of action. As it is now, all she has to do is assign her right to the City and the City can pursue that, once she gets the grant to repair it.

Councilmember Gantt asked if that could not be written into the contracts initially? Mr. Carroll replied yes, it can be.

Councilmember Gantt stated the contractors now bid on these items, and asked if we have any control over who decides to bid on these particular items? Mr. Sawyer replied we do not have any control over who decides to bid; we have some control over who is awarded the contracts. His department does a certain amount of qualifying the bidder. Mr. Gantt stated that would seem to him to give the City some basis for the kind of involvement they are talking about. The only problem he has is who would be responsible once the remedial grant is given to seeing to it that the work was done. Would the City have to go out and re-bid the work with another contractor? Councilmember Carroll replied yes. Mr. Gantt stated then rather than the City's relationship being that of a third party, it would now be the employer of the contractor - on the remedial grant loan.

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Mr. Underhill stated it is important to state it would be between the property owner and the contractor.

Councilmember Gantt stated he wants to know whether they are talking now about this relationship being between the City and the contractor in assuring that the work was done. Otherwise he cannot see them going through the same cycle over and over. Councilmember Carroll stated he thinks that is a good way to do it.

Mr. Gantt stated that in that connection, he thinks the City should start developing its "enemy" list of contractors. That the federal government does this now - those people who do not respond to the regulations, they do not get any more work. He thinks Mr. Carroll's amendment is a good one because we have had experience with a program called NIP at one time and a lot of it does deal with little old ladies who cannot get things done. That the remedial idea is a good one and they should make these kinds of refinements and should also develop an enemy list of people the city does not want to do business with as a result of this kind of work. He agreed with other Councilmembers that the list should have another name.

Councilmember Carroll stated the new CD plan which Council approves as a part of that says that the City will not bid another contract with a contractor if there is an outstanding complaint with that contractor. Mr. Sawyer stated that they certainly agree with this, up to a point, and they have discussed this many times. The fact is that there are times when they are short of contractors and they may have a contractor who has four or five contracts going at the same time - he is doing great on four but for some reason he is not doing so well on one. It is not all a sequential thing that he has one contract and when he finishes that he gets another one.

Councilmember Gantt asked if Mr. Sawyer has seen the Carroll amendment and Mr. Sawyer replied no, he has just gotten it. Mr. Gantt stated rather than vote on this today, he would like Mr. Sawyer to look at it and fine tune a way by which they can keep from making the same mistake of having bad contractors involved in this program. That one stick over the head of people who get involved in the program is that, in fact, the City will not tolerate their walking away or not living up to the commitments that they make. It may mean that we would get higher bid prices.

There was general discussion on whether Council should take action on the increases and defer action on the establishment of an Emergency Repair Grant Fund. Mr. Underhill stated it would be rather difficult to take that part out of the resolution because it now reads that they rescind what in essence is the present program and adopt the new program with these proponents.

Mr. Sawyer stated he certainly sees no problem with incorporating these suggestions into their administrative procedures. The policy is what is in the resolution and they follow that with a thick book of administrative procedures in implementing it.

Mayor Harris asked if the amendment even needs to be in the resolution? Mr. Carroll replied yes, he would want to put it in.

Councilmember Selden moved that a decision on the resolution be deferred for one week. This substitute motion was seconded by Councilmember Dannelly.

Mayor Harris stated the concern he has is why they are putting the little old lady in the middle at all if that is the problem. Why do they need to go through this exercise; why not deal directly on a first time basis with the contract? If they are going to get government's big stick over everything that a person does, they are just going to inflate the cost. You will run off a lot of people that would do the work because you will get responses from people who may not like the color the wall was painted or something like that. That the exercise they are going through with the supposed owner of this property, when the City is putting up all the money, is ineffective. If it is all City funds, they are doing an exercise in complexity.

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Councilmember Carroll stated they would hope that most of them do not have any complaints. This is directed with what Councilmember Gantt said about culling out the contractors who do defective work. All they are saying is that when there is that problem, the City is going to be ultimately responsible for pursuing the defaulting contractor, and has the option to give a grant to repair the work that has been done wrong.

Councilmember Short asked to be corrected if he is wrong, but stated that this change would require Mr. Sawyer to do something he is already doing on a discretionary basis and already has the power to do, but he does it when he needs to do it now. Under the change suggested, it appears to him that he would be forced to do it in every instance.

Mr. Sawyer stated he thinks the whole key to Mr. Carroll's proposal is No. 3 where the recipient of a loan or a grant assigns his rights to the City and the City would have to accept that, so the City would automatically receive these rights if the owner could not collect or even before the owner tried. Councilmember Carroll replied that is correct.

Mayor Harris stated the motion to defer is very appropriate in order to give a little more study to the matter.

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

ACTIONS ON VARIOUS PHASES CONCERNING TRANSIT MANAGEMENT POLICIES OF RESOLUTION SUBMITTED BY COUNCILMEMBERS CARROLL AND LEEPER.

Councilmember Gantt, Chairman of the Transportation Committee, stated in response to the Carroll-Leeper Memorandum concerning Transit Management policies, the Committee has submitted a report and recommendations for Council consideration

The recommendations and actions of Council on each recommendation is as follows:

Item 1 - Reaffirm Council action to establish a Transit Office near the Square.

No action required as the facilities for the Transit Office are being repaired at this time.

Item 2 - Recommendation that the No-Fare Zone be extended on the eastern side to Elizabeth Avenue and Kings Drive. That the Transit Planning Office should continue to work with the two colleges to assist with their transit needs.

Councilmember Short asked if this is extending the No-Fare Zone beyond what is legally described as the Central Business District? If it is, he wonders where they would ever be able to stop it. The CBD is a defined boundary and the original intent of the no-fare procedure, he believes, was to provide the bus service in the CBD. Since the district ends at McDowell Street, he wonders if it is wise to violate that boundary.

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Councilmember Carroll stated it does stay within the proposed Municipal Service District boundary of the CBD - it is this side of Independence. Mr. Short stated the Municipal Service District is proposed by the Chamber of Commerce; but does this No-Fare Zone go beyond the legally adopted Central Business District?

Councilmember Selden stated Census Tract 1 has been the CBD; it has been changed to include Tract 2 as well as Tract 1. The extension remains within Tracts 1 and 2, but we presently do not offer free service throughout Tract 1 as it now stands. That this proposed extension of the No-Fare Zone does not run beyond the legal boundaries of the new CBD.

Councilmember Carroll stated one of the real concerns was that we have a very large population at Central Piedmont Community College, a lot of whom do not use the bus service, and this/^{was}a way to expose them to the bus service and a way to perhaps get them downtown for the hour or so between classes where they would shop and use the facilities downtown. The proposal was endorsed by the Central Charlotte Association.

Councilmember Gantt explained that the whole reason for this extension had to do with the special population that Mr. Carroll mentioned. The initial proposal was that they provide for the activity to serve CPCC and Johnson C. Smith. But in considering that, J. C. Smith did lie outside the Central Business District and would violate the intent of the no-fare zone. But with a minor modification of the no-fare zone, they could afford the opportunity to the CPCC students to be served. There were a lot of considerations that entered into trying to serve the special population at Johnson C. Smith. At the Committee's request Mr. Kidd entered into some discussions with the Smith people about the possibilities of a program that would benefit them.

Councilmember Carroll added that the Transit Planners are continuing to work with Smith to see if there are things like passes, etc. that could be used for those students.

In response to a question from Councilmember Selden, Mr. Kidd replied the estimated loss in revenue generated by the no-fare zone feature is \$4,500 a year.

On motion of Councilmember Gantt, seconded by Councilmember Leeper and carried unanimously, this recommendation was approved.

Item 3 - Recommendation that Transit Planning proceed as quickly as possible as federal funding approval is obtained to proceed with placing bus shelters at strategic places along bus routes. (No action necessary)

Item 4 - Recommendation that a referendum be held on the use of property tax for financing the Transit System, such referendum to be scheduled sometime in the Spring of 1979 for a maximum of 2¢.

Mayor Harris stated he opposes that item. That if Council wants to know his position, he will formally support any referendum for the people to speak and he thinks they will speak very loudly on this question. He would prefer taxes on automobiles directly because that really is what the competition is. They would be penalizing all property owners, including those who do not have cars. His second reason is that he thinks it is time for us to mount a real warfare in the Legislature next year against reallocation of gas tax for mass transit. For us to assume this kind of responsibility locally, continually, is pre-empting and saying to our Legislative folks in Raleigh that we are going to do this locally and you do not have to do your job. That is a serious matter and it will grow and grow in the future.

Councilmember Frech stated it might be that they would want to recommend that Council consider a referendum sometime in the Spring of 1979; that it is a little early for them to decide now that we will have one. She would tend to favor doing it.

Councilmember Leeper stated one of the things the committee discussed in regards to this was that we need to have that option, whether we use it or not.

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Councilmember Gantt stated when you see the report coming from Mr. Kidd on the deficit of public transit five years out - something in excess of \$3.0 million, you begin to quickly realize that they are going to have to start to support our 50 percent portion of that deficit from some other source other than the ones we have been going to. That the General Assembly lists 34 different items that the property tax can be used for and it does not allow the option of using the property tax for public transit. Maybe there is a philosophical thing that is involved in the consideration the committee gave to this item and that is that more and more public transit is a necessary service and ought to be considered as a necessary service, and in an effort to get that change, he thinks we would be putting Mecklenburg out in front on an issue that says that public transit is just as important as sanitation and other things.

On the Mayor's proposal to tax the automobile, that is to be lauded. On the other hand, the automobile man draws from every fund in the city. We build roads and do all kinds of things in terms of maintaining the streets from the property tax because the citizens think it is necessary for roads and streets and other things to be repaired with their tax dollars. Even at the rate of 2¢ they are only talking about \$800,000 against that nearly \$1.8 million deficit.

The Mayor stated his point is only that if we do not put the pressure of these needs in the legislative hopper in Raleigh, then we will have what is happening on the national scene.

Councilmember Short stated the question is are they literally voting to do this or are they just approving the possibility? Mr. Gantt stated they will change the recommendation to consider a referendum if that makes the other Councilmembers more comfortable.

Motion was made by Councilmember Locke, seconded by Councilmember Trosch, and unanimously carried, approving the recommendation to consider a referendum in the spring of 1979.

Item 5 - Recommendation that Council request legislation to authorize the City of Charlotte to levy a hotel-motel tax with no restrictions as to the use of funds.

Councilmember Chafin stated she hopes Council will take the same approach to this item; that at the appropriate time they consider support of legislation to levy a hotel-motel tax. She is very much in favor of this, but is not sure she could support the committee's recommendation that there be no restrictions as to the use of these funds. She has thought for some time that if we were able to get the enabling legislation for such a tax - a transient occupancy tax - that in fact we might want to use the revenue generated from this tax and relate it to the tourism and convention expenditures.

Councilmember Gantt stated the initial intent of Mr. Leeper's and Mr. Carroll's proposal was to use it for transit; there was some objection within the committee for that exclusive use. That what they are ultimately saying in the recommendation is that they think a hotel-motel tax is valid - we need it - but it is another source of revenue which Council ought to have the opportunity to decide how to use it - it may use some of it for transit, some of it for culture, but to limit its use to any one specific thing at this point might be premature.

Councilmember Selden moved adoption of the recommendation but striking the words "with no restrictions as to the use of the funds." The motion was seconded by Councilmember Carroll and carried unanimously.

Item 6 - On the proposal to have daily maintenance on the buses, the Transit System reported that preventive maintenance is ongoing therefore, no action is necessary.

Item 7 - Revision of bus route to accommodate Edwin Towers residents. Transit Planning will modify adjacent routes to swing by Edwin Towers. No action necessary.

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Item 8 - Reaffirm Council's action which approved the plan to allow credit against bus fare for transit riders in the uptown area as a part of the Transit Development Plan.

Councilmember Trosch stated she did not realize Council had previously acted on this. To reaffirm Council's action was not what she got from the committee meeting. They had a good response from the downtown people with relationship to cutting against the bus fare for transit riders. She just did not realize that Council has approved a plan.

Mr. Kidd, Transit Planner, stated to his knowledge there is no plan that Council has formally taken action on. They have held a number of discussions with the Central Charlotte Association employers uptown about a program such as this and will be bringing something to Council very shortly, but that is as far as it has gone, to his knowledge.

Ms. Trosch asked why the recommendation was drafted in this kind of language? Councilmember Carroll stated Ms. Trosch is right - there was no plan. But what they did get in their committee was a good response from the staff to working with more merchants to participate in this. He feels it is appropriate for the whole Council to go ahead and endorse the concept.

Councilmember Gantt stated they could confirm the interest of the Leeper-Carroll memo which suggested this kind of thing and they got a very good response from the merchants and that they want to say it is a good idea.

Councilmember Selden moved that Council affirm the policy of allowing credit against bus fare for transit riders in the uptown area; and request the staff to proceed to develop such a plan. The motion was seconded by Councilmember Carroll and carried unanimously.

Item 9 - Recommendation that the City not seek legislation to allow the City to tax parking spaces.

Councilmember Frech stated she understands the reasoning and agrees with the recommendations. She is still concerned that they should still investigate possible other ways of discouraging taxing all-day parking in the downtown area. That other cities do require a car to purchase a sticker in order to park in certain areas of the city. Instead of taxing a parking space, they should look into possibilities used in other cities, or perhaps taxing the car itself.

Councilmember Cox asked if there was any discussion regarding the strengthening of the downtown Transit Plan itself. He does not mind discouraging people from parking downtown if we have a legitimate, strong alternative for them to take. That we would have to get a little further along in the park way out of town and ride downtown program, or park close to downtown and ride in shuttle type program, in order to implement something like this.

Councilmember Gantt stated this recommendation narrowly defines a major issue in terms of future downtown development. What they did look at in a peripheral sense is the future relationship between transit and parking. It is certainly in no great depth. What this recommendation simply says is that the dis-incentive they were trying to effectuate here would not really be a dis-incentive to parking unless you punitively really put a tax on the space. They were not sure this would work, and there were a number of people who spoke to that particular issue. Another factor is that we are having a downtown parking study being done now that none of them know anything about what it is going to recognize. The committee felt that just on the narrowly defined issue of taxing parking spaces, that was probably not a viable proposition.

Councilmember Cox stated he believes what he is saying is that the committee would obviously be very receptive to almost unanimously going along with the things he has just talked about - trying to find ways to improve that kind of facility. Is there some way they can work that positive aspect into this recommendation?

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Councilmember Gantt replied he would really prefer having some other factors laid on the table before they talk about that. That it is interesting to note that some major merchants in the downtown area are talking about the need for more parking. He agrees with Mr. Cox that before they can start to limit the available parking or provide these disincentives they ought to make sure that their alternatives are very good to allow for stimulating business development in the downtown.

No action was necessary on this item.

Later in the meeting, Mr. Burkhalter, City Manager, made further comments on some of these recommendations for Council's information. That Council indicated approval when he previously advised them that some of the major employers downtown were interested in underwriting some of the season tickets for employees who work downtown, and asked if he could do that for the city employees. That has developed to the point now where they have good participation. It will not be kicked off for maybe a couple of months yet, but they will get excellent publicity. He stated he thinks this is the answer to the taxing of parking lots. If Council starts taxing parking lots, every merchant in town is going to be down here opposing it; but every merchant would be delighted if his employees came to work on a bus and would support this in order to have them do that. The merchant does not want to do anything that will interfere with a man coming to shop; but to park and work he will do it.

The second thing - the Secretary of the Department of Transportation has created a committee - a cross section of people across the State - who advise the Department of Transportation, and maybe the Legislature, on what to do about balancing transportation needs and what their role should be in this effort across the State. That he has been asked to represent City Managers on this committee. Their meetings all across the State will be beginning soon and we will have someone present at all of them. That sometime between now and July there will be some kind of statement drafted to give to the Legislature as to what DOT's policy should be towards the use of buses - levels of transportation, and the spending. They have been charged with this across the state - whether to go back and ask for more money.

He stated if the Councilmembers have any information they would like to have fed into the picture - then, Mr. Herman Hoose is working on a lot of work for him, and he will be glad to talk with them about it too.

Responding to a concern expressed by Councilmember Cox, Mr. Burkhalter stated that since he is the League representative on this committee, and the League's position has been one of opposition to taking money from the gas tax to do this, he doubts if that policy from the League was responsible. That without question, there will be strong support for funds to support that transportation.

COUNCIL RULES SUSPENDED TO HEAR NON-AGENDA ITEM.

Mayor Harris advised that Councilmember Short has requested to speak to a non-agenda item before he has to leave the meeting.

On motion of Councilmember Locke, seconded by Councilmember Chafin, and unanimously carried, the Council rules were suspended in order to hear from Councilmember Short.

COMMENTS AND REQUESTS OF COUNCILMEMBER SHORT .

Councilmember Short distributed to the other Councilmembers a memorandum about Schedule B which they recently discussed. It includes such things as the fact that the electronics industry, in Schedule B, is lumped together as talking machine dealers with an annual charge of \$5.00 and it is a major industry. The TV repair industry is apparently charged a small license fee on a schedule that is intended for iron foundries. Also, the fact that we

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get very, very little out of this tax whereas some other cities get a great deal and it probably relieves the pressure on their property taxes.

He stated, in looking forward to some Legislative Package in the future, Council should give further consideration to this matter. He requested that this subject be placed on the formal agenda at the earliest meeting possible, looking forward to the possibility of Council's turning this matter over to the Finance Committee for consideration. He feels they owe this to the business community and does not want to let this matter drop.

At the Mayor's suggestion, Mr. Short agreed that it would be fine to send this matter to committee by action today.

Mr. Underhill, City Attorney, advised that Schedule B which contains the license restrictions has been the subject of League recommended action since 1960. Nothing has been done except it has been shuttled off to at least two study commissions of the General Assembly, including one that is meeting right now - the Legislative Research Commission. It made a report the other day and unfortunately that committee decided that the topic they were assigned to research was so comprehensive that they were going to limit their efforts to making a report to State privilege licenses and not deal with the subject of local privilege licenses.

He stated he is sure Mr. Short knows this, and he is very sympathetic to what he is doing here, that the League has tried since 1960 to get the General Assembly interested in doing something about Schedule B; and there are so many interest groups that are affected by Schedule B that, to his knowledge, there has not even been a bill introduced, much less any action beyond that point in getting the Schedule B revised and studied in a meaningful way. The one exception was a 1971 Commission Report which recommended a comprehensive overhaul and in either 1971 or 1973 there was a suggestion that all license taxes be based on a gross receipts basis rather than a fixed amount. However, that legislation was never introduced. It is a long standing inequity but it has never received very serious action on the part of the General Assembly in the past. He stated that locally you are limited by what the state law allows - the authority rests with the state.

Councilmember Short stated that apart from the quaintness of the language there are some very substantive factors. One is that we get about \$700,000 a year from this tax and the City of Richmond gets \$7,000,000.

On motion of Councilmember Short, seconded by Councilmember Locke, and unanimously carried, Privilege License Schedule B of the City Code was referred to the Finance Committee for study and recommendation.

At the request of Councilmember Cox, Chairman of the Finance Committee, Mr. Short stated the three major points of his memorandum would constitute the charge to the Committee; that the time frame could be four, five or six months. That a recommendation could not be utilized until January when Council would be meeting with the Legislative delegation.

The contents of Councilmember Short's memorandum follows:

I feel that we as a Council should not continue to impose Schedule B license taxes on the business community of Charlotte without at least including in our legislative package a strong request that the enabling that controls Schedule B be overhauled.

The purpose of this tax is "to raise funds for general municipal purposes". I think any system of taxation for the funding of local government should be fair, up-to-date, and show common sense. Schedule B reflects none of these qualities.

1. Frivolous and outmoded distinctions and provisions. Here are a few examples:

- Tailors and those in the clothing business who place special orders for customers (clothing made up elsewhere from measurements) must pay a special tax. Many other merchants and retailers make special orders for customers and pay no extra tax. Why single out clothing?

- Schedule B was written in the days of radio, before TV was invented. The huge TV repair industry is not taxed as such. If it is taxed as "radio repair" the annual charge is \$5.00, clearly not enough for these businesses in this booming industry. If it is taxed as "repair shop" then it is taxed according to a schedule created for iron foundries with up to 400 employees. Clearly the TV repair business needs a tax tailored specifically for it.
 - The distinction between downtown theatres and theatres located "more than 2 miles from the business center of town" must have been written in the thirties, and makes no sense at all today.
 - The catch-all tax on "trade shops" harks back to a day of small unitary service operations, and is meaningless today.
2. An Observer editorial dated June 1972 pointed out that Charlotte receives about \$700,000 per year from license taxes while Richmond (about same size as Charlotte) receives \$7 million. Schedule B could be a major new source of income, and relieve the property tax. This is a policy decision we should come to grips with. Many license taxes are so small they are more of an administrative nuisance than a source of income. The annual tax on advertising agencies (\$37.50) was set when this was a tiny, almost non-existent, industry. Today advertising agencies commonly handle millions in bookings each year.

The annual tax on air conditioning businesses (\$40) was set before the day of air conditioning's tremendous growth. I know of one firm that now does a multi-million dollar annual business.

The annual tax on Mailing services (\$15) was clearly set before direct mail advertising became a major business.

The tax on Manufacturers representative businesses (\$37.50) does not reflect the prosperity and income of this industry.

Charlotte is now one of the most lawn-and-garden conscious cities anywhere. The annual license of landscaping companies does not reflect the large volume they do today.

Electronics is a tremendous business today, but our annual tax on "talking machine dealers" is still \$5.00.

Our taxes on dealers in fuel oil, pianos, produce, and pistols do not reflect today's realities. The license for plumbing companies, motel operations, and parking lot operations is out of kilter with the prominence and prosperity of these businesses.

3. Schedule B needs to be considered as part of a total picture of business taxation, including the inventory tax. Businesses with inventories now pay both the inventory tax plus the Schedule B tax. Businesses without inventories pay only the Schedule B tax. Thus some businesses are heavily taxed while others which are equally prosperous pay minimally, and this is discriminatory. We should ask the legislature to provide that Schedule B payments by a business be credited toward that business's inventory tax.

Here are some businesses which require little if any inventory. It is difficult to see why they should be favored over other businesses in the overall tax picture:

Advertising agencies, collection agencies, manufacturers representatives, mailing services, loan companies, securities dealers, commodity brokers, consulting companies and janitorial services.

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Here are some businesses that usually require large inventories. Why should they be more heavily taxed than the businesses listed above?

Automobile and truck dealers, building supply dealers, grocers, chemical and dyestuffs dealers, most merchants, most manufacturers, newspapers.

MEETING OF OPERATIONS COMMITTEE SCHEDULED FOR WEDNESDAY, MAY 24, AT 2:00 P.M.

Councilmember Short stated that the Operations Committee will have some kind of resolution of the detention ordinance for next Monday's meeting. As to the other drainage matters - a bond issue, etc. - several plans have been placed with the City staff for perfecting, so that the committee has come to a plateau where it is not immediately involved. Therefore he thinks they should get to the other matter which has been assigned them - the in rem remedy. A meeting of the Operations Committee was scheduled for 2:00 p. m. Wednesday, May 24th.

COMMENT BY COUNCILMEMBER SHORT ABOUT NAMING OF INDEPENDENCE EXPRESSWAY.

Councilmember Short explained that he had mentioned to the other Councilmembers that he would request today that the matter of naming the so-called Independence Expressway another name be placed on the agenda; that Councilmember Carroll has asked that that be deferred because he has some people coming in a week or so to discuss this matter.

COUNCILMEMBER SHORT EXCUSED FOR REMAINDER OF MEETING.

On motion of Councilmember Trosch, seconded by Councilmember Chafin, and unanimously carried, Councilmember Short was excused at this time and was absent for the remainder of the session.

MEETING RECESSED AND RECONVENED.

The Council meeting was recessed at 4:55 p. m. and reconvened at 5:00 p. m.

APPROVAL OF ONE-YEAR RETIREMENT EXTENSION FOR EIGHT CITY EMPLOYEES OVER AGE OF SIXTY-FIVE.

Councilmember Dannelly moved approval of the recommendation of the Personnel Director of one year retirement extensions for eight City Employees over the age of sixty-five on or before June 30, 1978, contingent upon a satisfactory medical examination. The motion was seconded by Councilmember Chafin.

Councilmember Carroll made a substitute motion that for the purpose of avoiding mandatory requirements under the City's retirement policy, the Council approve the one year extension of the opportunity to be employed by the City during July 1, 1978 through June 30, 1979, for the following: David A. Burkhalter, Joseph N. Clark, Sr., C. L. Gregory, James E. Lowe, W. N. Price, J. J. Ray, Clarence Stratford, and F. B. Youngblood. This motion was seconded by Councilmember Leeper.

Councilmember Carroll stated that Council does not have adequate facts to make any sort of decision on any of these employees with whom they do not deal directly. He would like them to look at perhaps having the City Manager make that decision regarding the last seven names. That it is appropriate for Council to review department heads, but that the Manager is in a better position to deal with the other personnel. That, particularly in light of the federal legislation regarding age discrimination, they might want to rethink this whole policy. He does not think that age should be a factor in how the City arrives at its employment decisions.

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The reason for the wording of his motion was he did not want any of the employees there to get any kind of legal right to employment because of this. That Mr. Burkhalter has stated many times that he serves at the Council's pleasure, but with the other employees he thinks it is important that they not create any substantive rights for them.

Mayor Harris stated Mr. Underhill has clarified this for him; that it is really for the purpose of the retirement plan. Mr. Carroll replied that is exactly what his motion refers to - the retirement plan policy.

Mr. Underhill, City Attorney, stated that under our present personnel rules and regulations, the action that Council is being asked to take is required in that the regulations say that a person enrolled in the Local Government Employees Retirement System must retire at age sixty-five unless the City Council approves annual extensions up to age seventy. That approval must be based on a recommendation from a medical examiner. That retirement is mandatory for employees at age seventy. The State law which establishes the Local Government Employees Retirement System has a requirement that a person must retire at age sixty-five unless upon the approval of the employer the employee continues to serve on a year-to-year basis. It does not have a seventy-year cut-off like our system does.

He thinks that when the federal act which recently passed and was signed by the President becomes effective that the State law is going to have to be revised because under the federal law, as he understands it, no one can be forced to retire until age seventy, assuming they are in good health and desire to continue in service, and that sort of thing. That it is his understanding that legislation becomes effective as to local governments on January 1, 1979, which will probably mean that this may be the last list of this type Council will get.

Councilmember Dannelly asked if Councilmember Carroll is implying that if his motion was passed then Mr. Burkhalter, if he saw fit, could not release one of those employees, he being the person who more or less hires and fires. Mr. Carroll replied he is avoiding any such possibility by framing his motion in terms of the mandatory retirement policy.

Mayor Harris asked what is the specific difference between the two motions?

Councilmember Carroll stated he is not talking in terms of just giving a contract for these employees for another year, but is talking in terms of extending their opportunity to work for the City in the light of our retirement policy. That he does not know what kind of job any of these seven have done. Mayor Harris stated he would hope this action has nothing to do with their employment relationship, and Mr. Carroll stated that is what he is trying to avoid.

Mr. Burkhalter stated he does not see anything wrong with that; that up until the past two years it has always been that way. It was a matter of routine. This year he brought it to them early. They are not going to extend one of these, and the feeling is they should tell a man before the deadline.

Councilmember Carroll stated his suggestion is that the City Manager approve all of the employees except the department heads; only let those come before the Council.

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

RESOLUTION ESTABLISHING PROCEDURES FOR ACCEPTING GIFTS OF REAL ESTATE,
ADOPTED.

Councilmember Locke moved adoption of a resolution establishing a procedure for accepting gifts of real estate as proposed by the Planning and Public Works Committee. The motion was seconded by Councilmember Gantt.

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Councilmember Carroll made a substitute motion to include the following additional language:

Item No. 3 - Add to the last sentence following the word found, "or an intended use agreed upon." Also add "not to infer that the property will be restricted to that purpose intended at initial acceptance," as requested by Councilmember Trosch.

Item No. 4 - Add this sentence: "The Council may waive any provisions of this policy requiring the donor to bear the expenses for gifts of land that are of exceptional value to the City." He stated if someone is giving land, not just land they are trying to get rid of, he thinks the City ought to be willing to pay for the cost of the fees, and should have the option in the policy to do that.

The motion was seconded by Councilmember Selden, and carried unanimously.

The resolution is recorded in full in Resolutions Book 13, at Page 273.

DECISION ON ESTABLISHING A PROCEDURE FOR CITY COUNCIL NOMINATIONS AND APPOINTMENTS TO BOARDS AND COMMITTEES, DEFERRED.

Council was advised by the Clerk that an amendment to the resolution as prepared by the City Attorney had been submitted by Councilmember Frech.

Ms. Frech moved adoption of the revised resolution establishing a procedure for the nomination, consideration and election of persons to City boards, agencies, committees and commissions. The motion was seconded by Councilmember Trosch.

Several Councilmembers expressed the feeling that they had not had time enough to compare the two resolutions.

Councilmember Leeper moved, seconded by Councilmember Selden and carried unanimously, that a decision on this resolution be deferred.

ADOPTION OF PLAN C FOR THE REALIGNMENT OF ELECTION DISTRICT BOUNDARIES, EFFECTIVE JULY 1, 1978.

Motion was made by Councilmember Leeper, seconded by Councilmember Chafin, for the adoption of Plan C of the three proposed realignment plans of the seven Election District Boundaries.

Councilmember Frech stated Plan C shifts the largest number of people around but it provides the least variance in size among the different districts. That it also looks to the future in that it will tend to preserve beyond the next annexation the present population balances.

Councilmember Trosch stated this is something that cannot be remedied here; that she will be very glad when the neighborhood definition study is available for use in helping to draw some of these. She has a situation in her district which none of these plans addresses. That in Chantilly the people feel they cannot organize because they are in two districts.

Councilmember Selden asked about the effective date. Mr. Underhill suggested that Mr. Bill Culp, Elections Director, be consulted on what effect the change will have on precinct alignments.

Mr. Culp stated Plan C does not affect their precinct alignment. That insofar as any notification of voters is concerned, certainly there would be no thought to doing that prior to mid-1979. They have in their budget request to the County Commissioners, a voter card system which will provide a card for each voter in Mecklenburg County which would list, in addition to their name, address, party affiliation, voting place and precinct, also their City Council district. This speaks to exactly what Ms. Frech was talking about in terms of the number of people who are moved. The idea would be that these cards would probably go out sometime during the spring or summer of 1979.

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Councilmember Selden suggested that the effective date of July 1, 1978 be added to the motion, which was agreeable with Councilmember Leeper.

Councilmember Dannelly stated he has some concerns with the different plans. That on the surface Plan C on a short term basis is a good plan, but he can see problems further down the road with it. That what he feels will occur is an equalization of the districts to the point on the flooding of the district in the sense that we will not have the kind of representation that we have now. That there is a probability that a better plan than the ones that are proposed now will be drawn. He has not looked into it as much as Mr. Culp or the Planning Commission, but it seems that the Elections Board came up with a better plan than the Planning Commission.

Councilmember Cox stated for the record that the primary criteria should be the least number of people affected; since Plan C changes almost 10,000 more people he does not see it as being a superior plan. That when we started district representation, he sensed after the election was all over with, a kind of relief and a kind of enthusiasm about districts. That he, and he knows other district Councilmembers, has heard his people talk about "my representative" and this and that - a lot of people when they bring comments to him say they voted for him - that kind of comment. That to him the arguments do not weigh to change 10,000 more people, to go with Plan C. The primary criteria would be changing the least number of people; let annexation work itself out later on.

The vote was taken on the motion as amended, and carried on the following vote:

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

CONTRACT AWARDED BLYTHE INDUSTRIES, INC. FOR PLANT MIX ASPHALT FOR NORTH GRAHAM STREET AREA.

Motion was made by Councilmember Locke, seconded by Councilmember Selden, for award of contract to the only bidder, Blythe Industries, Inc., in the amount of \$175,300.00, on a unit price basis, for Plant Mix Asphalt (North Graham Street Area).

Councilmember Trosch asked about the unencumbered balance in the Powell Bill Fund - Street Paving and Maintenance, as it relates to this contract as well as the next four. The balance is shown, in the attachment, as \$312,865 - the five contracts total \$743,000.

Mr. D. C. Brown, Purchasing Director, explained they pay for these as they go along, agreeing with Ms. Trosch that there would be more money available after July 1 when the new fiscal year begins.

Councilmember Gantt stated the same contractors are getting the work here; that it is not really a bid. It appears when we have an asphalt plant located in a certain area, they simply go to that firm and ask him to put a bid in and he knows he is not going to be competed against.

Mr. Brown replied these three plants are about the only ones around. The main reason this is done is that it saves the City a lot of time and money to be able to pick up asphalt near home. Mr. Gantt asked if he feels we are paying the right per unit cost for this, per ton, for asphalt? Mr. Brown replied, based on what they can find out; it has been going on for a number of years, we pay the same as the State does, less than what commercial customers would pay.

Councilmember Gantt asked what determines the tonage they ask for from each area? Mr. Brown replied it is an estimated amount, of course. In the North Graham Street area, for example, they are estimating 11,600 tons. It just depends on what is going on in the particular area.

Mr. Gantt asked if there is a built-in amount of work that these three firms can depend on simply because they happen to be the only ones located in the area? Mr. Brown replied he supposes you could say that; but they are all estimates, any way you look at it.

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Councilmember Gantt asked how he advertises these for bids? Mr. Brown replied through a legal ad - the whole process; and they have a bid list of who is available - there is one other in addition to these from whom they get no answer, in Atlanta, and he does not try to compete in this area at all.

Councilmember Gantt suggested if there was a plant in Rock Hill; that he would not take his bid because they would have to drive all the way over there to pick it up? Mr. Brown replied that is right; we pick up every bit of the asphalt ourselves, as we need it. He stated there are some other ramifications to this.

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

CONTRACT AWARDED REA CONSTRUCTION COMPANY FOR PLANT MIX ASPHALT FOR McALWAY ROAD AREA.

On motion of Councilmember Locke, seconded by Councilmember Trosch, contract was awarded to the only bidder, Rea Construction Company, in the amount of \$175,300.00, on a unit price basis, for Plant Mix Asphalt (McAlway Road Area). The motion carried unanimously.

CONTRACT AWARDED REA CONSTRUCTION COMPANY FOR PLANT MIX ASPHALT FOR GRIFFITH STREET AREA.

On motion of Councilmember Locke, seconded by Councilmember Selden, and carried unanimously, contract was awarded to the only bidder, Rea Construction Company, in the amount of \$148,500.00, on a unit price basis, for Plant Mix Asphalt (Griffith Street Area).

CONTRACT AWARDED BLYTHE INDUSTRIES, INC. FOR PLANT MIX ASPHALT FOR OLD PINEVILLE ROAD AREA.

On motion of Councilmember Locke, seconded by Councilmember Chafin, and carried unanimously, contract was awarded to the only bidder, Blythe Industries, Inc., in the amount of \$148,500.00, on a unit price basis, for Plant Mix Asphalt (Old Pineville Road Area).

CONTRACT AWARDED CROWDER ASPHALT COMPANY FOR PLANT MIX ASPHALT FOR BELHAVEN BOULEVARD AREA.

On motion of Councilmember Locke, seconded by Councilmember Selden, and carried unanimously, contract was awarded to the only bidder, Crowder Asphalt Company, in the amount of \$96,375.00 on a unit price basis, for Plant Mix Asphalt (Belhaven Boulevard Area).

CONTRACT AWARDED MARTIN MARIETTA AGGREGATES FOR CRUSHED STONE.

On motion of Councilmember Locke, seconded by Councilmember Selden, and carried unanimously, contract was awarded the low bidder, Martin Marietta Aggregates, in the amount of \$301,850.00, on a unit price basis, for crushed stone.

The following bids were received:

Martin Marietta Aggregates	\$301,850.00
Vulcan Materials Company	320,650.00

CONTRACT AWARDED L & N ROYAL TIRE SERVICE FOR TIRE RECAPPING AND REPAIRS.

Motion was made by Councilmember Locke, seconded by Councilmember Frech, and carried unanimously, to award a contract to the low bidder, L & N Royal Tire Service, in the amount of \$89,836.23, on a unit price basis, for tire recapping and repairs.

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Councilmember Gantt asked if spending this amount of money to recap tires is as efficient as buying new tires? Mr. Brown explained that these are truck tires.

The following bids were received:

L & N Royal Tire Service	\$ 89,836.23
Miller Tire Service	90,344.40
Firestone Tire & Rubber Co.	101,710.23

CONTRACT AWARDED CROWDER CONSTRUCTION COMPANY FOR SUGAR CREEK IMPROVEMENTS IN FREEDOM PARK DAM.

Motion was made by Councilmember Locke, seconded by Councilmember Chafin, to award contract to Crowder Construction Company on a negotiated bid in the amount of \$540,800.00, on a lump sum basis, for Sugar Creek Improvements in Freedom Park Dam.

Councilmember Gantt requested Mr. Hopson, Public Works Director, to explain the negotiation which took place on this contract, asking if they are allowed to negotiate that much off of the price without re-bidding it?

Mr. Hopson replied they have had no problem with that. In fact, they are quite proud that they were able to negotiate that original bid down. That as an example, they had a bid estimate on some metal gates themselves, where they had a national outfit which do these things. They raised their price \$45,000 after they told them what they were going to bid. They went back and got a competitive bid and then they reduced their price by \$45,000.

Councilmember Gantt asked if they reduced any quality at all to get the price changed. Mr. Hopson replied there was some redesign within the dam itself which they think will accomplish approximately the same amount of retaining of water that they wished to start with. But, the major thrust was in the gates, and in the bridges. He stated they took out the suspension bridge which is the one which would replace ultimately the bridge to the Nature Museum. That bridge could still be purchased but they are out of money.

Councilmember Gantt stated he is trying to find some consistency on the whole policy of negotiation and how it is done. It comes to his mind about the 25 houses at \$38,000 that we did not negotiate; we decided to accept that. On this one we did negotiate and were very successful - \$105,000 off of the base dam bid is a lot of money to take out of a \$600,000 bid. He asked why they would negotiate sometimes on some bids and why they would not on others.

Mr. Burkhalter asked if he was not able to eliminate a lot on alternates? Mr. Hopson stated actually some of the bridges were built in different types of design and they took the cheapest design on these concrete bridges. This was a terrific difference. In the dam itself, they shortened it somewhat. The gate system was a great savings when they went back and showed these people where they had actually written and bidden a \$45,000 to \$50,000 difference. They did some underpinning of the dam, rather than to build it quite as strong as they had anticipated before. He does not know whether that answers Mr. Gantt's question or not; but that is how the \$100,000 savings came out. When they went back and looked, the monies that they had left would only permit them to build the two water way items for recirculating the water and keeping it cleaner, and two of the three bridges. It was purely a judgment factor - the two bridges they are recommending are new bridges. He would find no fault if they eliminated them and put the suspension bridge over to the Nature Museum. But, in their best judgment, this was the best use for the monies they had left at this point in history.

Councilmember Gantt stated he still has not answered his question about why they negotiate on some and not on others, but he wants to see this project done. Mr. Hopson stated they try to get it within the money available and this was an opportunity with the engineers that they were able to do that. He has to give Al Groves tremendous credit on this; he was the one who pointed all these things out to them.

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Mayor Harris asked if they had had the money, would they have negotiated the bid? He thinks that is the concern. Mr. Hopson replied if they had had the money he still thinks they would have negotiated the bid, because it was still over their estimate, and that is their concern too.

Councilmember Carroll asked if the Public Works staff made the decision not to go with the suspension bridge or has Council made that decision? Mr. Hopson replied that is their recommendation - that they build the other two bridges, one by the tennis courts and one down near one of the water circulation systems, and to leave the old bridge in place unless they can find the additional funds to get that done for \$38,000.

Mr. Carroll asked what is the additional \$100,000 to be spent for - that the unencumbered balance is \$633,000 and they are spending \$540,000? Mr. Hopson replied to purchase the rest of the concrete needed, top soil and things like that to finish the project - actually to take them through until September.

Mr. Burkhalter stated they are looking for the money for the suspension bridge; if Council will instruct them to they will come back with something. If they can save about \$5,000 or \$6,000 by adding it to this contract, without someone else having to come in and re-bid just to build that bridge, then they are interested in doing this. If Council is interested in this, they would like to come back with some way to do that bridge.

Councilmember Selden asked if it is true that part of this is an alteration in the plan design and part of it is actually a negotiation of the price? Mr. Hopson replied that is right, but it will still serve the purpose. They would not do otherwise unless they let Council know about it. Mr. Selden stated he noticed that the completion date is December and he thought it was to be finished in September. Mr. Hopson replied the CETA employees will have to complete any work they do by mid-September; it will be done by contract.

Councilmember Locke stated she would be in favor of asking the City Manager to try and find the \$38,000, and would make that as a formal request.

The vote was taken on the motion and carried unanimously.

CONTRACT AWARDED FAUL & CRYMES, INC. FOR FOOTBALL EQUIPMENT FOR POLICE ATHLETIC LEAGUE.

Motion was made by Councilmember Locke, seconded by Councilmember Selden, awarding contract to the only bidder, Faul & Crymes, Inc., in the amount of \$12,792.15, on a unit price basis, for football equipment for Police Athletic League. The motion carried unanimously.

RESOLUTIONS OF CONDEMNATION.

1. On motion of Councilmember Selden, seconded by Councilmember Chafin, and carried unanimously, a resolution was adopted authorizing condemnation proceedings for the acquisition of property belonging to Alice Johnston Stough, Elizabeth Stough, Mary Stough Kimbrough and John T. Kimbrough, located at 135 acres easterly side of Zion Avenue, Huntersville, North Carolina for the Sanitary Sewer Pressure Line from Davidson Treatment Plant Project.
2. On motion of Councilmember Selden, seconded by Councilmember Trosch, and carried unanimously, a resolution was adopted authorizing condemnation proceedings for the acquisition of property belonging to Alice Johnston Stough, Elizabeth Stough, Mary Stough Kimbrough and John T. Kimbrough, located between N. C. 115 and Tryon Street, Huntersville, North Carolina for the Sanitary Sewer Pressure Line from Davidson Treatment Plant Project.

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3. On motion of Councilmember Selden, seconded by Councilmember Locke, and carried unanimously, a resolution was adopted authorizing condemnation proceedings for the acquisition of property belonging to Carl J. Bickel, Jr. and wife, Bessie Mae Bickel, located at 6501 Dougherty Drive, in the City of Charlotte, for the Annexation Area I Sanitary Sewer Trunks Project.

The resolutions are recorded in full in Resolutions Book 13, beginning at Page 275.

RESOLUTION OF THE CITY COUNCIL FOR CONDEMNATION ACTION IN THE FIRST WARD URBAN RENEWAL PROJECT NO. N. C. R-79 TO CONDEMN SEVEN UNNAMED ALLEYWAYS.

On motion of Councilmember Selden, seconded by Councilmember Trosch, and carried unanimously, a resolution was adopted for Condemnation Action in the First Ward Urban Renewal Project No. N. C. R-79 to condemn seven unnamed alleyways.

The resolution is recorded in full in Resolutions Book 13, beginning at Page 278.

RESOLUTION APPROVING THE SALE OF LAND AND IMPROVEMENTS LOCATED THEREON TO McLEOD TRUCKING AND RIGGING COMPANY, INC., IN THE FIRST WARD URBAN RENEWAL PROJECT NO. N. C. R-79.

Motion was made by Councilmember Locke, seconded by Councilmember Chafin, adopting the subject resolution.

Councilmember Selden stated \$20,000 was the bid price, what was the cost of the improvements? Mr. Vernon Sawyer, Community Development Director, replied he does not have an accurate cost estimate on the improvements. The architect quoted Mr. McLeod an estimate up to about \$100,000 and will try to keep it within that figure. Mr. Selden stated he has gotten the impression that some improvements have already been made. Mr. Sawyer replied no improvements have been made; they have merely taken certain action to try to preserve the project.

Councilmember Carroll congratulated Mr. Sawyer as well as Dr. Morrill, Director of Historic Properties Commission, for the very unique idea for this property.

Councilmember Frech asked if this means that the purchaser will have to keep the house, will have to stick to the agreement on the proposal made? Mr. Sawyer replied yes, through the completion of the improvement, but beyond that, once he receives the certificate of completion he is free to sell it or whatever he wishes.

The vote was taken on the motion and carried unanimously.

The resolution is recorded in full in Resolutions Book 13, at Page 287.

CONSENT AGENDA APPROVED.

Motion was made by Councilmember Selden, seconded by Councilmember Gantt, and carried unanimously, approving the following consent agenda items:

1. Resolution authorizing the refund of certain taxes, in the total amount of \$137.15, which were collected through clerical error and illegal levy against five tax accounts.

The resolution is recorded in full in Resolutions Book 13, at Page 288.

2. Ordinance No. 12-X-ordering that a lien be placed against the Mecklenburg Hotel, at 516 West Trade Street, for a total of \$750.00, for the cost of securing the building against entry.

The ordinance is recorded in full in Ordinance Book 25, at Page 397.

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3. Ordinances ordering the removal of trash, etc. from properties in the City:
- (a) Ordinance No. 13-X ordering the removal of trash, rubbish and junk from premises at 1721 Medford Drive.
 - (b) Ordinance No. 14-X ordering the removal of trash, rubbish and junk from premises at Mayfair Avenue and Wingate Street.
 - (c) Ordinance No. 15-X ordering the removal of trash, rubbish and junk from Old Steele Creek Road and Marlene Street.
 - (d) Ordinance No. 16-X ordering the removal of weeds, grass, trash and junk from vacant lot Jones and Kaylynn Street.
 - (e) Ordinance No. 17-X ordering the removal of trash, rubbish and junk at 305 Jones Street.
 - (f) Ordinance No. 18-X ordering the removal of trash, rubbish limbs from vacant lot Jones and Grant Streets.
 - (g) Ordinance No. 19-X ordering the removal of weeds, grass, trash and rubbish on vacant at rear of 2226 Booker Avenue.
 - (h) Ordinance No. 20-X ordering the removal of trash and rubbish from vacant lot adjacent to 437 Woodvale Place.
 - (i) Ordinance No. 21-X ordering the removal of an abandoned motor vehicle located at 4800 Monroe Road.
 - (j) Ordinance No. 22-X ordering the removal of an abandoned motor vehicle located at 7314 Wallace Road.
 - (k) Ordinance No. 23-X ordering the removal of an abandoned motor vehicle located at 1721 Medford Drive.
 - (l) Ordinance No. 24-X ordering the removal of an abandoned motor vehicle located at 6103 Castle Court.
 - (m) Ordinance No. 25-X ordering the removal of an abandoned motor vehicle located at 400 Lakewood Avenue.
 - (n) Ordinance No. 26-X ordering the removal of an abandoned motor vehicle located at 1917 East Independence Boulevard.
 - (o) Ordinance No. 27-X ordering the removal of an abandoned motor vehicle located at 2401 North Sharon Amity Road.

The ordinances are recorded in full in Ordinance Book 25 beginning at Page 398 and ending at Page 412.

4. Contract with Concrete Curb Corporation for the construction of 1,862 linear feet of 8-inch sewer line to serve Timber Creek Subdivision, Phase 2-D, outside the City, at an estimated cost of \$37,240.00.
5. Encroachment Agreements:
- (a) Encroachment Agreement with the North Carolina Department of Transportation permitting the City to construct an 8-inch sanitary sewer line approximately 4,150 feet north of Sugar Creek Road.
 - (b) Encroachment Agreement with the North Carolina Department of Transportation permitting the City to construct an 8-inch sanitary sewer line approximately 1,750 feet north of Sugar Creek Road.
6. Property Transactions:
- (a) Acquisition of 70' x 29.4' x 76' x 30' of drainage easement, plus a temporary construction easement at 6109 Delta Road, from Margaret T. Russell, at \$1.00, for Delta Road Fire Station (No. 23).
 - (b) Acquisition of 40' x 194.49' and 10' x 673.11' of easement on 58.45 acres northside of Nations Ford Road at Sugar Creek, from NCNB, at \$870.00, for Big Sugar Creek Interceptor.
 - (c) Assignment of 15' x 524.89' of easement, plus a temporary construction easement, at 7236 Tabor Lane, from S & M Development Corporation (Assignor), at \$1.00, for Sanitary Sewer Right of Way to serve Medearis Subdivision.

- (d) Assignment of 15' x 37.38' of easement, plus a temporary construction easement at 7032 Tabor Lane, from S & M Development Corporation (Assignor), at \$1.00, for Sanitary Sewer Right of Way to serve Medearis Subdivision.
- (e) Acquisition of 15' x 137.81' of easement, plus a temporary construction easement at 4608 Drifter Drive, from Matthew Turner Benton and wife, Mary L., at \$495.00, for Sanitary Sewer to serve Deerhurst Subdivision.
- (f) Acquisition of 15' x 766.37' of easement, plus a temporary construction easement on Rocky River Road West, from Helen Holt Clapp, at \$2,350.00, for Annexation Area I Sanitary Sewer.
- (g) Acquisition of 15' x 185.92' of easement, plus a temporary construction easement at 300 block of Featherstone Drive, from Woodlawn Sales Company, at \$186.00, for Annexation Area I Sanitary Sewer.
- (h) Acquisition of 15' x 266.91' of easement, plus a temporary construction easement at 6700 block of Indian Lane, from Woodlawn Sales Company, at \$267.00, for Annexation Area I Sanitary Sewer.
- (i) Acquisition of 15' x 228.54' and 7.5' x 90.30' of easement, plus a temporary construction easement at 6600 block of Kemp Street, from Woodlawn Sales Company, at \$318.00, for Annexation Area I Sanitary Sewer.
- (j) Acquisition of 15' x 158.08' of easement, plus a temporary construction easement on Rockland Drive, off Rocky River Road, from Thomas F. Templeton and wife, Grace W., at \$500.00, for Annexation Area I Sanitary Sewer.
- (k) Acquisition of 15' x 561.40' of easement, plus a temporary construction easement on 8.61 acres at 1700 block Sugar Creek Road, from Bishop Michael J. Begley - Roman Catholic Diocese of Charlotte, at \$1,600.00, for Annexation Area I Sanitary Sewer.
- (l) Acquisition of 15' x 11.49' of easement plus a temporary construction easement at Southside of 300 block of Featherstone Drive, from George L. Dunaway and Laura R. Dunaway, at \$112.00, for Annexation Area I Sanitary Sewer.

ACQUISITION OF THREE PARCELS OF REAL PROPERTY, LOCATED IN WEST MOREHEAD COMMUNITY DEVELOPMENT TARGET AREA, APPROVED.

Motion was made by Councilmember Locke, seconded by Councilmember Chafin, to approve the acquisition of the following parcels of real property located in West Morehead CD Target Area:

- (1) 7,740 sq. ft. from Chambers Grove Baptist Church, 127 West Bland Street, at \$100.00.
- (2) 3,782 sq. ft. from Sinkoe Brothers, 1445 South Church Street, at \$17,100.00.
- (3) 3,782 sq. ft. from Ethel Mae Young, 1445 South Church Street, at \$700.00.

Councilmember Leeper asked if the acquisition at 127 West Bland Street for \$100.00 is just for the building? Mr. Sawyer replied that is just the tenant's interest. Actually all that involves is carpets within the church.

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He stated Council has already approved the purchase of the church. This would be classified as tenant improvements that cannot be moved. The same things applies to the last item.

Mr. Leeper stated that in talking with Ms. Young he was concerned about the fact that no one has really talked with her about relocation benefits that may be available for her. Mr. Sawyer replied he is surprised if that is so.

Ms. Young was in the audience and assured Councilmembers that she had not talked with anyone from the Relocation Division about relocation.

Councilmember Gantt stated there are two separate things - one, is the possibility of a loan for any improvements she has to make at another location; and the benefits she gets as a result of having to be relocated.

Ms. Young stated she received a letter from the Community Development office. Mr. Sawyer stated that was a form letter but she should have had some personal contact.

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

NOMINATIONS TO SPIRIT SQUARE BOARD OF DIRECTORS.

The following names were placed in nomination for terms on the Board of Directors of Spirit Square:

Councilmember Pat Locke - nominated by Councilmember Leeper for reappointment for a three-year term.

Mr. Edgar Love - nominated by Councilmember Frech for reappointment for a three-year term.

Ms. Margaret Dover - nominated by Councilmember Selden to fill vacancy created by the expiration of Mr. Love's term.

COMMITTEE MEETINGS ANNOUNCED.

Councilmember Gantt announced a meeting of the Planning and Public Works Committee to be held on Tuesday, May 16, 1978, at 2:00 p. m.

Also, that the Transportation Committee will meet to discuss the Transportation Task Force report on Friday, at 2:00 p. m. Councilmember Cox advised that he could not be present. Mr. Gantt stated they would like him there and would reschedule the meeting.

REQUEST BY COUNCILMEMBER SELDEN THAT COUNCIL REVIEW PLANS FOR FAIRVIEW ROAD MEDIAN BEFORE IT IS PLACED FOR BIDS.

Councilmember Selden stated it is his understanding that when the construction of the Fairview Road median was approved by the previous Council that the funding and other decisions would be brought before this Council. He stated he would like to know the status of that.

Mayor Harris stated he believes the language, as recorded in the minutes of that meeting, was that the Council approved it in concept and then gave it to Mr. Bobo and asked him to look for the funds.

Mr. Burkhalter stated he received a memorandum from Councilmember Cox addressed to the Mayor and Council stating he would like to hear some more about this and discuss it some more. He believes the only one who replied to say he agreed was Councilmember Carroll. He stated that subsequent to that he sent Council a memorandum stating it was ready for bids and unless he was instructed differently it would be put up for bids. That what they have planned to do was to take bids on it and bring it to Council with a fixed price, let them see the project and decide what they wanted to do.

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He stated they have assumed that Council will build it; that the only thing they have thought up until now, unless they tell him differently, is that they wanted to see how it was going to be built. That was the clear picture he got of what the previous Council wanted to see, particularly after the people complained about the upper end of it. They will have the plans ready, and unless Council has some objection, will advertise it and bring it to them; they can discuss it and do what they think best.

Councilmember Selden stated he would appreciate seeing the plans before they are bid.

Councilmember Cox stated he wrote his memorandum with the idea of asking a question about whether to build it. The reason that he did that was to judge Council's reaction to it, and the fact that he received only two responses (the one from Mr. Carroll which basically agreed with him that it should be looked at again, and one from Mr. Short which stated we need the median), and in the absence of any other responses he presumed that most were happy with the decision. That is why he did not pursue it.

Mr. Burkhalter stated he is sure they understand that his staff has to proceed when Council approves to do it; that they get more complaints by not doing things that Council tells them to do than they do by going ahead and doing them. That this is quite an involved project, the engineering, etc. has already been done. That his people think it is a highly desirable project. But, they will be glad to discuss it with the Councilmembers. They heard some people speak today who do not want it and gave their reasons, but most people want it for the very same reasons.

Councilmember Selden stated all he wants is a chance for the Council to look at it before it is actually bid.

FOLLOW-UP ON REQUEST FOR REPORT ON WORK OPERATION OF MOTION, INC.

Councilmember Selden stated when Council approved the contract with MOTION, Inc. back in February, he made a request for an analysis, within three months, of the work operation that was expected from an organization such as MOTION. That he is asking now if that will be possible.

Mr. Finnie, Budget Director, replied the critical point is May 14. That is when they have agreed they will have completed two other steps.

Councilmember Selden stated he just wants to keep it on track.

COMMENTS BY COUNCILMEMBER COX.

Councilmember Cox stated several months ago he and Mr. Carroll wrote a memorandum regarding what is called "balanced growth". After they wrote the memorandum he waited for some response, and received some. He is now of a mind to try to sensitize some kind of response to that, and would solicit input from all members of Council to help find a way to deal with that problem, presuming it can be dealt with.

REMINDER OF MEETINGS THAT ARE SCHEDULED.

Mr. Burkhalter, City Manager, reminded Council that the handicapped building will be on the agenda on Monday, May 29.

That the Community Facilities Committee will meet at 3:00 p.m., Tuesday of this week on the charge given by City Council concerning the water and sewer.

Hornet's Nest Park dedication is scheduled for Thursday of this week at 11:45 a.m. That Mayor and Council is invited for a covered dish lunch which will be brought by the Senior Citizens.

Monday, May 15, at 8:00 A.M. the productivity report will be made.

That Josh Birmingham's mother passed away and the funeral is Tuesday, at 2:30 p.m. at Hankins Whittington Funeral Home.

Mr. Burkhalter stated without objections from Council, he will begin preparing a summer schedule, which normally is every other week Council Meetings for the months of July and August through Labor Day.

Mayor Harris stated a press release will be coming out about a press conference in the Dogwood Room at the Airport concerning the airport bond referendum. The Committee will meet out there Wednesday at 7:30, and will meet with the WCO at 7:30 p.m. on Thursday.

ADJOURNMENT.

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

Ruth Armstrong
Ruth Armstrong, City Clerk