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The City Council of the City of Charlotte, North Carolina, met in a televised session on Monday, September 18, 1978, at 8:00 o'clock p. m., in the Board Room of the Education Center, with Mayor Kenneth R. Harris presiding; and Councilmembers Don Carroll, Tom Cox, Jr., Laura Frech, Ron Leeper, George K. Selden, Jr., H. Milton Short, Jr., and Minette Trosch, present.

ABSENT: Councilmembers Betty Chafin, Charlie Dannelly, Harvey B. Gantt, and Pat Locke.

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#### INVOCATION.

The invocation was given by Rev. James Griffin, Pastor - Oakdale Church of God.

#### RESOLUTION CLOSING PORTIONS OF WESTBROOK DRIVE AND GREENLEAF AVENUE.

The scheduled public hearing was held on petition of the Community Development Department to close portions of Westbrook Drive and Greenleaf Avenue, in the Third Ward Target Area.

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

Mr. Vernon Sawyer, Director of Community Development, displayed a map indicating the portion of the two streets that are to be closed, stating they are really remnants left over after they built a connecting street parallel to Erwin Creek in the Third Ward project area. The new street was constructed according to the plan Council approved two years ago. Westbrook Drive formerly terminated in a cul-de-sac; Greenleaf Avenue was, as he understands it, platted all the way to the creek but never went across, and that portion never was paved. These two streets are excess to the needs - a new street has replaced them and connected those two streets; and his staff recommends that those portions left over be closed. The property will revert to the City.

No one spoke in opposition to the closing.

A motion was made by Councilmember Short, seconded by Councilmember Selden, and carried unanimously, adopting the subject resolution.

The resolution is recorded in full in Resolutions Book 13, at Pages 442 & 443.

#### RESOLUTION CLOSING A PORTION OF WEST SEVENTH STREET.

The scheduled public hearing was held on petition of the Community Development Department to close portions of West Seventh Street, from North Pine Street to 185 feet east.

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

Mr. Vernon Sawyer, Director of Community Development, displayed a map showing the portion of Seventh Street to be closed. He stated that this portion which is to be closed lies between land that the City owns already and the entire property will be developed as a park. That Seventh Street will terminate in what Traffic Engineering calls a "hammerhead turnaround." That it does give access to the Salvation Army's parking lot.

A motion was made by Councilmember Carroll, seconded by Councilmember Leeper, and carried unanimously, adopting the subject resolution.

The resolution is recorded in full in Resolutions Book 13, at Pages 444 & 445.

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RESOLUTION APPROVING A MUNICIPAL AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR INSTALLATION OF A TRAFFIC SIGNAL AT ALBEMARLE ROAD AND WINTERHAVEN DRIVE.

Motion was made by Councilmember Cox, seconded by Councilmember Selden, and carried unanimously, adopting a resolution to approve a municipal agreement with the North Carolina Department of Transportation for installation of a traffic signal at Albemarle Road and Winterhaven Drive, with the State to pay a total of \$8,500 for the cost of equipment and material.

The resolution is recorded in full in Resolutions Book 13, at Page 446.

RESOLUTION APPROVING A MUNICIPAL AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR UPGRADING NINE SIGNALIZED INTERSECTIONS ON THE BELT ROAD.

Motion was made by Councilmember Selden, seconded by Councilmember Cox, and unanimously carried, adopting a resolution to approve a municipal agreement with the North Carolina Department of Transportation for upgrading nine signalized intersections on the Belt Road, with the State to reimburse the City for a total of \$89,965, for the installation.

Mayor Harris asked if this will include the signal for the left turn lanes that were left out.

Mr. Bernie Corbett, Traffic Engineering Director, replied that the equipment is so manufactured that left turn signals can be put in, and they are included in this agreement; that they will be installed when they become warranted.

The resolution is recorded in full in Resolutions Book 13, at Page 447.

ACCEPTANCE OF GRANT AWARD FROM LEAA TO IMPLEMENT A MANAGING PATROL OPERATIONS PROJECT IN POLICE DEPARTMENT; ORDINANCE NO. 318-X, APPROPRIATING THE FUNDS AND AMENDING THE TABLE OF ORGANIZATION TO ADD TWO TEMPORARY POSITIONS.

1. Motion was made by Councilmember Selden, seconded by Councilmember Cox, to accept a grant award from the Law Enforcement Assistance Administration to implement a 20-month Managing Patrol Operations Project at the Charlotte Police Department, for a total of \$175,015.

Councilmember Frech stated she would like an explanation for the paying of police personnel on an overtime basis. Is that rather than have them be trained during their breaks during the day?

Major Sam Killman of the Police Department, replied yes, that is the object of that. There will be quite a bit of training in this project; that with their ongoing in-service training program, they feel that they should not detract from the officers' on-duty time anymore than they already are. This is a fully funded federal project.

Ms. Frech asked if that means a lot of extra overtime for them; do they object to this? Major Killman replied he does not think they will, as long as they are getting paid for it.

The vote was taken on the motion and carried unanimously.

2. Motion was made by Councilmember Short, seconded by Councilmember Cox, and unanimously carried, adopting the subject ordinance to appropriate federal grant funds to the police operating budget for a total of \$175,015; and amending the table of organization to add two temporary positions for project management.

The ordinance is recorded in full in Ordinance Book 26, at Page 265.

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APPLICATION TO THE BUREAU OF CENSUS FOR FUNDS TO SUPPORT THE UPDATING AND MAINTENANCE OF THE COMPUTERIZED STREET NETWORK FILE FOR THE CITY OF CHARLOTTE.

Motion was made by Councilmember Selden, seconded by Councilmember Frech, to approve the submission of an application to the Bureau of Census for funds to support the updating and maintenance of the computerized street network file for the City of Charlotte, for a total cost of \$12,000.

Councilmember Selden commented that this same thing was done in 1960, with much greater work to be done, for roughly half the cost, which shows the amount of inflation.

Councilmember Cox asked if this is a continuing kind of thing?

Mr. Joe Motto, MIS Director, replied they will be maintaining the geographic base file in an up-to-date condition as changes are made to the street and intersection network of the City. The Bureau of Census has engaged in a program to support metropolitan activities to keep it up-to-date because they want to use these computerized geographic base files to support their mail back census.

Councilmember Cox stated that to him this says one of two things - either the Bureau of Census is going to help us with the job that we normally do on an ongoing basis, help us fund that; or, that we do not maintain enough data in our computerized street network file on an ongoing basis.

Mr. Motto stated they are maintaining it on an ongoing basis and the Bureau of Census is supporting them as long as the program lasts. There may come a time when they will not support them any longer.

Mr. Cox stated that means we are getting a little federal money, and Mr. Motto replied yes, that is right.

The vote was taken on the motion and carried unanimously.

RESOLUTIONS OF CONDEMNATION.

1. Motion was made by Councilmember Frech, seconded by Councilmember Trosch, to adopt a resolution authorizing condemnation proceedings for the acquisition of property belonging to William P. Ridout, Jr., and wife, Willie T. Ridout; William P. Ridout, III and wife, Peggy H. Ridout, located at 6808 Wilkinson Boulevard, in the City of Charlotte, for the Annexation Area 8 Sanitary Sewer Trunks Project.

Councilmember Leeper stated the only comment given with this request for condemnation was that these people did not want the sewer line on their property. Did we have any other alternative?

Mr. Lee Dukes, Utility Director, replied no, not at this time. That they have some very definite procedures they use for placing a sewer. One is where it will serve the most people, where it is the most economical, and things like that. This is the way they route a sewer. If they cannot get an agreement at all, this is the choice they have to make. Then, as they go into others, if they want some changes, they can do that before they actually go to condemnation. But, when they will not respond to them, this is the only choice available to them.

Mr. Leeper asked if these property owners are connected to the City sewer? Mr. Dukes replied not yet - this is a trunkline that is being put in to connect to for sewers later on, but they are not using it now.

Councilmember Short asked if this property will be harmed, on the surface, after this pipe is buried there? Mr. Dukes replied they think not; that they feel a property needs a sewer just to be of value. They look at a sewer as appreciating property. These are trunklines in the floodplain, along the creek.

The vote was taken on the motion and carried unanimously.

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2. Motion was made by Councilmember Trosch, seconded by Councilmember Cox, and carried unanimously, adopting a resolution to authorize condemnation proceedings for the acquisition of property belonging to William P. Ridout, Jr. and wife, Willie T. Ridout, located at 6620 Wilkinson Boulevard, in the City of Charlotte, for the Annexation Area 8 Sanitary Sewer Trunks Project.

The resolutions are recorded in full in Resolutions Book 13, at Pages 448 and 449.

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ENCROACHMENT AGREEMENTS WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION.

Motion was made by Councilmember Selden, seconded by Councilmember Cox, to adopt a resolution authorizing the City Manager to execute Encroachment Agreements with the North Carolina Department of Transportation.

Councilmember Trosch requested further explanation of this change in procedure.

Mr. J. Randolph Jones, Transportation Program Coordinator, stated that the State of North Carolina is expanding its requirements for Encroachment Agreements. That basically, we have two highway systems - the City system and the State system. In the past the City has treated the State system as if it was not there. The City does a lot of work within the State right-of-way; henceforth, the State will be requiring that almost everything that is done within the State right-of-way have an Encroachment Agreement. In some cases, blanket agreements can be gotten which will enable the procedure to be handled very quickly, in much the same way as utility cuts are handled now - Council approves the Encroachment Agreements. But, in other cases - such as driveway permits, permits for buildings which are constructed adjacent to State highway rights-of-way - it could be a time consuming procedure.

He stated they are very concerned, at the staff level, about the ability of people who are having construction along State rights-of-way, to continue to have, basically, the 24-hour turnaround on their building permits. That at present, when anyone wants a building permit, or driveway permit, they come to the Building Inspection Department and submit three or four copies of their plan. One copy stays in Building Inspection where the plan is approved for building code restrictions; one goes to Traffic Engineering for driveway permits; the other goes to City Engineering for drainage and curb construction. That generally, these building permits are turned around on a daily basis. That if they start having to get Encroachment Agreements which Council would have to sign, it could mean weeks' time to get on the agenda. This is what they are concerned about.

Councilmember Short stated that basically, this is something the State is giving us, rather than something we are giving them, so there is no reason in the world why the City Manager cannot accept what they are giving us. Mr. Jones stated they hope that if there are some encroachments that are major in nature that Council should know about, such as shopping centers and things of this nature, certainly they would be brought to Council.

Councilmember Cox called attention to some recent construction on Sardis Road, stating his concern about the crews working during the morning and afternoon peak traffic hours. That this particular section is a bad one anyway and traffic was literally backed up for over a mile every afternoon. He asked how they can keep utility companies who use our rights-of way from causing this kind of traffic problems?

Mr. Jones replied that the best way is for the City, where they can foresee problems of this kind, to work with the utility companies to make sure that they do not work during peak hours.

Mr. Cox asked if we do not do that on a regular basis? Mr. Jones replied it is done on a case-to-case basis; that they will be glad to do this when they are appraised of the situation.

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Councilmember Cox asked who cuts the grass and gets rid of the weeds on the State maintained parts of these roads? He stated he is specifically talking about Fairview. If you drive on Fairview today, and many other streets in this city - when he rides on our streets he is not aware of whether it is a State street or a City street . . .

Mr. Paul Bobo, Assistant City Manager, stated the Public Works Department maintains the cutting of grass now on State streets; that we have a municipal agreement with the State to handle it for them. Mr. Cox asked how often do we cut it? Mr. Bobo replied as often as it is necessary. Mr. Cox asked when does it become necessary, when it grows long enough to strangle you?

The Mayor stated he believes the State modified their cutting to two times a year, which was all they did the year of the energy crisis.

Councilmember Cox stated, to get to his point, Charlotte has a tremendous reputation throughout the South, the Nation (perhaps the World) of having a very clean kind of city and a nice place to live. But, in his neighborhood, and he is sure in other neighborhoods across the City, if you look at the sidewalks and just off the sidewalks, around bridges, particularly at this time of the year, it looks like a jungle. He does not know what they mean by "whenever it is necessary." That whenever grass grows down into the street and threatens automobiles driving past, then it becomes necessary. That there is a median down Arbor Way that the weeds get up to at least a foot tall before we even think about cutting it, apparently. He thinks that is something we need to get the State involved in, or we need to look at our policy in that regard to see if there is something that can be done to help improve the appearance of our city.

Mr. Bobo stated that, of course, you cannot quite schedule the growing of grass or the growing of weeds. That at some seasons where you have more rain, or less rain, it increases the rate of growth and therefore you cannot keep that many crews standing by just to wait for the grass - you have to work it out on a basis of trying to cut so many miles a year and anticipate what the growth will be in order to get it before it gets too unsightly.

Councilmember Short stated while they are pointing out the deficiencies of the Public Works Department, he just cannot help but also point out the deficiencies of some of our citizens on private property who let things grow up around intersections and create a considerable traffic danger for automobiles. That it is another subject, and another world entirely, but since they are on TV he just wishes some citizens would look at their own lots and see if they are not creating a traffic problem. That he sees them everyday, with leaves and limbs and grass, etc. that are needlessly allowed to grow up.

Mr. Cox stated he thinks the Public Works Department can do a better job with the City property; that is just one Councilmember speaking, but he has been studying it for six weeks and he, personally, thinks we can do a better job. Mr. Bobo stated staff will take a look at what can be done to improve this situation.

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

The resolution is recorded in full in Resolutions Book 13, at Page 450.

RESOLUTION CALLING FOR A PUBLIC HEARING FOR SPECIAL USE PERMITS FOR THE EAST BRANCH AND SOUTH BRANCH YMCA, ON OCTOBER 17, 1978 AT 2:00 P. M.

Consideration was given to scheduling a public hearing for Special Use Permits for the East Branch and South Branch YMCA.

Mr. Robert Landers of the Planning Department explained that this type of hearing is distinct from normal zoning hearings and should not be confused with them. That in conferring with the City Manager's Office the dates of either Wednesday, October 25 or Tuesday, October 17, at 10:00 a. m. are suggested.

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Asked about the hour that was suggested, Mr. Landers explained that there are two considerations in terms of the possible participants - the 10:00 a.m. time was considered advantageous for those citizens that might want to attend during the morning hours as opposed to an afternoon type of public hearing; that an evening type of hearing is also possible.

Mayor Harris, stating that this Council has not participated in this type of hearing, asked Mr. Underhill, City Attorney, to explain the procedure.

Mr. Underhill stated the rules of hearing procedures for conditional use and special use permits are quite formal in nature (he reminded Councilmembers that they are contained in the blue notebook which was prepared for them when they took office). That they will find these hearings to somewhat resemble proceedings in a courtroom.

That evidence will be taken - a court reporter will be present; the petitioner in the matter is given an opportunity to make opening statements and to put on evidence to show that he has satisfied the standards contained in the ordinance; cross examination of witnesses are allowed. He stated the procedure is, in essence, much more formal than Council is accustomed to in the standard zoning hearings. They can take a considerable amount of time depending on the number of witnesses that might be called and whether or not there is opposition to the two petitions.

He stated Council will be restricted, in making decisions to consider only those things that are presented in evidence. If it is not in the record, which is the purpose of having the hearings so that the record can be established, they are not to consider it in making the decision of whether or not to issue the Special Use Permits.

Mr. Underhill stated that he thinks it will take some time for the Council to adjust to this procedure; that the previous Council had about seven or eight of these hearings and it took several before they became very comfortable with the procedure. Asked by the Mayor about the length of time, Mr. Underhill replied some of them lasted about two hours; others lasted all day or a day and a half.

Councilmember Leeper stated his personal opinion is that they do not allow adequate time for citizen participation when they are held in the morning; he would much rather have them start at 2:00 p. m.

Mr. Landers stated Council certainly has the discretion to set a time that is convenient for them. That the morning hour was suggested for wives and mothers whose children would be in school during that hour; that there are all sorts of thoughts in terms of what is the best time to evoke the type of participation they might want; that each theory has its validity.

On motion of Councilmember Short, seconded by Councilmember Selden, and carried unanimously, a resolution calling for the Public Hearing for Special Use Permits on Tuesday, October 17, 1978 at 2:00 p. m., was adopted.

The resolution is recorded in full in Resolutions Book 13, at Page 451.

CONSENT AGENDA APPROVED WITH DELETION OF ONE ITEM.

Motion was made by Councilmember Cox, seconded by Councilmember Trosch, and carried unanimously, approving the Consent Agenda with the exception of Item 12.

The following items were approved:

1. Property Transactions.

- (a) Acquisition of 15' x 188.15' of easement, plus a temporary construction easement, at 6000 block of Lake Forest Road, from Sarah P. Johnston, at \$189, for Annexation Area 2 Sanitary Sewer.

- (b) Acquisition of 15' x 109.39' of easement, plus a temporary construction easement, at 6132 Lake Forest Drive East, from Edison B. and Nancy J. Davis, at \$890, for Annexation Area 2 Sanitary Sewer.
  - (c) Acquisition of 15' x 784.95' of easement, plus a temporary construction easement, at 5101 Hickory Grove Road, from Nathaniel S. Alexander, ux, Mary B., at \$786, for Annexation Area 2 Sanitary Sewer.
  - (d) Acquisition of 15' x 79.76' of easement, plus a temporary construction easement, on 10.8 acres off Crossridge Road, from Realty Syndicate, Inc., at \$88, for Annexation Area 8 Sanitary Sewer.
  - (e) Acquisition of 15' x 235.50' of easement, plus a temporary construction easement, on 34.39 acres on Pawtuckett Road, from Marsh Broadway Construction Company, at \$243, for Annexation Area 8 Sanitary Sewer.
  - (f) Acquisition of 15' x 1,713.62' of easement, plus a temporary construction easement, on 177.58 acres off I-85, from Marsh Broadway Construction Company, at \$7,214, for Annexation Area 8 Sanitary Sewer.
  - (g) Acquisition of 15' x 3,563.79' of easement, plus a temporary construction easement, in Forest Pawtucket Development, from Marsh Realty Company, at \$3,564, for Annexation Area 8 Sanitary Sewer.
  - (h) Acquisition of 15' x 1,079.94' of easement, plus a temporary construction easement, on 36.19 acres off Westerwood Drive, from Realty Syndicate, Inc., at \$1,080, for Annexation Area 8 Sanitary Sewer.
  - (i) Acquisition of 15' x 1,497.34' of easement, plus a temporary construction easement, on 68.71 acres on I-85, from Realty Syndicate, Inc., at \$1,498, for Annexation Area 8 Sanitary Sewer.
  - (j) Acquisition of 15' x 53.83' of easement, plus a temporary construction easement, on 7.04 acres off Pawtuckett Road, from Realty Syndicate, Inc., at \$54, for Annexation Area 8 Sanitary Sewer.
2. Ordinances Ordering Removal of Trash, Rubbish, Junk, Weeds, Grass and Abandoned Motor Vehicles.
- (a) Ordinance No. 319-X ordering removal of an abandoned motor vehicle at 5233 Queen Anne Road.
  - (b) Ordinance No. 320-X ordering removal of limbs and miscellaneous junk at 1709 Logie Avenue.
  - (c) Ordinance No. 321-X ordering removal of tree limbs at 1943 West Boulevard.
  - (d) Ordinance No. 322-X ordering removal of weeds and grass on vacant lot corner Sharon Amity and Wilora Lake Drive.
  - (e) Ordinance No. 323-X ordering removal of weeds and grass at 5810 Pepperhill Road.
  - (f) Ordinance No. 324-X ordering removal of weeds and grass on vacant lot corner Hammett Street and Mantle Court.
  - (g) Ordinance No. 325-X ordering removal of weeds and grass on vacant lot to the right of 4226 Hiddenbrook Drive.
  - (h) Ordinance No. 326-X ordering the removal of weeds, grass, trash and rubbish at 4601 South Boulevard.

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- (i) Ordinance No. 327-X ordering removal of weeds and grass at 5011 South Boulevard.
- (j) Ordinance No. 328-X ordering removal of weeds and grass and junk at 5147 Queen Anne Road.
- (k) Ordinance No. 329-X ordering removal of weeds and grass at vacant house at corner West Summit and South Tryon Street.
- (l) Ordinance No. 330-X ordering removal of weeds, grass, trash and rubbish on two vacant lots to the left of 2315 East Independence Boulevard.

The ordinances are recorded in full in Ordinance Book 26, at Pages 266 through 277.

#### SETTLEMENT IN CITY VERSUS THOMAS G. GINN, ET AL, FOR PARCEL OF LAND ON DELTA ROAD EXTENSION.

Motion was made by Councilmember Frech, seconded by Councilmember Cox, to approve a proposed settlement in City versus Thomas G. Ginn, et al, for Parcel No. 8, Delta Road Extension.

Councilmember Frech asked if the City has had this kind of settlement in the past, apparently taking into account the damage that a road allegedly will do, or is this a first?

Mr. Underhill, City Attorney, replied he does not believe it is a first. That the lawyer representing the City in this particular case was confronted with the situation during the trial in which the judge indicated that he would allow this into evidence. That he thought that it seriously undermined the City's position in the case of the matter. There is some precedent for it; it is not very clear cut. He stated that knowing that this was going to be allowed to be heard by the jury, and the fact that a portion of the judge's instructions to the jury would be devoted to that, some serious talk resulted in negotiations and led to a settlement which they are recommending to Council.

Mr. Underhill stated it is not unprecedented; it was just a professional judgment made by the lawyer at that time that he thought that the City would be damaged in terms of what the jury might bring back and he used his judgment at that time and recommended this settlement.

He stated there was a Commissioners' Hearing in which the award by the Commissioners was \$4,500, and we took an appeal from that and went to a jury trial, and were able to settle it for something less than what the Commissioners returned. That, in balance, they think it is a good settlement. That although the amount of property which the City actually took for the construction is somewhat small, because of what the jury was going to be allowed to consider in terms of setting a value or establishing damages, they felt settlement was the best course of action at this time.

Councilmember Frech asked if this is strengthening a precedent or is it setting a precedent? Mr. Underhill replied he did not think so; we might encounter the same thing next week when they walk over to try a couple more, but you have to take the cases and the evidence as it develops and see what happens.

The vote was taken on the motion and carried unanimously.

#### STATEMENT ON NEW HORIZONS PROGRAM.

Mayor Harris read the following item concerning the New Horizons Program:

"The City of Charlotte has, for some time, taken a lead in North Carolina among communities attempting to minimize the negative effects of the affordable housing shortage. This problem affects most severely those persons in our community who fall into the low and moderate income ranges.

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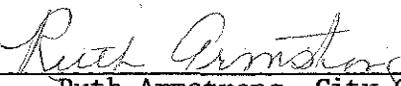
"In 1968, the Federal Government passed the Open Housing Act with the objective of eliminating any discriminatory practices related to housing. Subsequent to that, the Charlotte City Council and I have gone on record in support of fair housing practices in partnership with our local leaders, the Board of Realtors and other major participants in the housing production, marketing and regulation arenas, and have taken active steps to eliminate the practice of red-lining, geographic racial segregation, block-busting and other discriminatory practices.

"As further evidence of this Council's commitment to fair housing policies, on Tuesday, September 19, at 2:30 o'clock p. m., the City of Charlotte will enter into an agreement with the Regional Office of HUD for a program called New Horizons. The Regional Director of HUD and the Mayor of Charlotte will further affirm our joint commitment for future efforts to promote fair housing and recognition of those positive steps already taken to that end."

Mayor Harris invited members of Council to the meeting on Tuesday afternoon at 2:30, in his office at City Hall, to join Ms. Stafford and himself in signing that agreement.

ADJOURNMENT.

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

  
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Ruth Armstrong, City Clerk