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An Adjourned Meeting of the City Council of the City of Charlotte, North Carolina, was held on Tuesday, September 9, 1969, at 11:30 o'clock a.m., in the Council Chamber, City Hall, with Mayor John M. Belk presiding, and Councilmen Fred D. Alexander, Sandy R. Jordan, Milton Short, John H. Thrower, Jerry Tuttle and Joe D. Withrow present.

ABSENT: Councilman James B. Whittington.

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SUPPLEMENTAL CONTRACT TO CONTRACT WITH BLYTHE BROTHERS COMPANY FOR STREET IMPROVEMENTS ON SOUTH MCDOWELL STREET AND EAST TRADE STREET, ADJACENT TO THE LAW ENFORCEMENT CENTER.

Mr. Josh Birmingham, Acting City Engineer, stated Council has before it a memorandum requesting an extension of a contract with Blythe Brothers Company so that improvements surrounding a portion of the Law Enforcement Center can be completed prior to the middle of October. He stated by this contract they add one traffic lane on the Law Enforcement side of McDowell Street, by moving the curb and gutter back to the line and adding an adequate sidewalk; a walk will be rebuilt on East Trade Street and the curb and gutter and sidewalk will be extended on around. He stated the portion on Fourth Street is under construction and should be completed by the middle of October. He stated funds have been allocated under Urban Renewal III, and some under the Law Enforcement Center work.

Councilman Short asked how long this has been allocated, and Mr. Birmingham replied he believes Urban Renewal III was submitted and approved in 1965 or 1966.

Mr. Veeder stated during the discussion at the Council Meeting on yesterday there was some thought that there was a relationship between what was proposed on the Law Enforcement side of McDowell to the opposite side of the block; he stated there is no work contemplated whatsoever with the extension of the contract that will take place on the opposite side of McDowell; all the work will take place on the side of McDowell that the Law Enforcement Center is on.

Mr. Veeder stated eventually there is some work contemplated on the opposite side of McDowell Street in connection with the overall project of the McDowell Street widening.

Mr. Herman Hoose, Traffic Engineer, stated in relationship to the street widening project of McDowell Street, in the overall thoroughfare plan it is to be widened from the Northwest Expressway (the 11th and 12th Street area) to Morehead Street; the average traffic volume on this street by 1995 will be around 28,000; there was around 14,000 prior to the widening.

He stated in order to accommodate this traffic, adequate lanes for turning movements at all intersections and the necessary right-of-way for proper lane is necessary and the right-of-way is proposed to give good alignment for the street.

Mr. Hoose stated accommodations have already been made in the block between Trade and Fourth Streets in order to minimize damage to abutting properties, and at the same time to accommodate traffic movements in and out of the only entrance to the Law Enforcement Center, as follows: (a) The normally required five foot setback, which would have made it necessary for the city to take an additional five foot of Mr. Cansler's property, was waived; and (b) A proposed deceleration lane for right turn movement into the Center was abandoned. He stated these were abandoned because of the alignment of the street and to minimize the right-of-way.

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Mr. Hoose stated in the proposed alignment, the boundary of the right-of-way on the west side of McDowell Street abuts the existing structure of the Law Enforcement Center; this portion of the structure contains the underground power vaults and utilities serving the Center and is protected by concrete retaining walls.

At the present the retaining wall runs down the front and is a part of the structure and contains the transformer and the utilities.

He stated as a result of the accommodations made earlier, i.e., the waiving of the five foot setback and the abandonment of deceleration lane, the sight distance and incline of the ramp serving as the only entrance to the Center are now at a minimum; any further reduction of either of these two conditions would destroy the functional use of the only entrance and exit to the facility.

Mr. Hoose stated the requirement of additional right-of-way on the west side of McDowell Street would have rendered the existing Law Enforcement Center site inadequate for the present structure and made it necessary to acquire additional right-of-way in the blocks south of Fourth Street to accommodate the change in alignment. He stated he and Mr. Birmingham believe that the above points are based on sound engineering practices and good traffic design; the alignment we have with the additional lane for turning movement at the intersection and the alignment of the entire project is based on good engineering practices and good traffic design.

Mr. John Cansler stated he owns a one fourth interest in the property at the southeast corner of McDowell Street; he stated he had told Mr. Short that the improvements on the side of the Law Enforcement Center would affect his property; this could affect them because if the city has determined to take 10½ feet of their property or to widen McDowell Street to 80 feet and take half of it from one side that the other side would come off their property; if you establish the curb on the west side then when the project comes up it will affect their property. He stated they had not received any official notice the city plans to take their property until a short time ago when he received a letter from Mr. Poley, Right of Way Agent, wanting to discuss the value and the damages that might result to their property. He stated they heard by accident some weeks or two or three months before that the matter was contemplated.

He stated without any notice to him the City Engineering Department went out and discussed with their lessee, and told them the City was going to take nine or ten feet off the west side of the building which extends 140 feet, plus or minus, from Trade Street along McDowell Street; this spooked them that they were going to have to either occupy a building with a bob-tail or go somewhere else. Mr. Cansler stated they have had a lease with Devoe Paint since 1954, and in 1963 they spent \$25,000 in adding to and remodeling the building with an extension along the southern side; the lease runs until August, 1973, which is four more years, and they pay a monthly rental of \$850.00 per month; in the lease is a provision that in the event any part of the leased property should be taken by condemnation, the lessee has the option of continuing to occupy what is left with an adjustment in rent, or cancelling the lease upon the condemning authority taking possession. This means if this project is carried out, their lessee can move out and destroy a lease which still has four years to run at a rental of \$850 per month.

Mr. Cansler stated Mr. Poley called his attention to the fact that since the property is zoned for B-2, it is presently non-conforming as the building is built practically to the property line, and if the building has to be altered their protection would be destroyed and the repaired building would have to set back 10 feet more; in effect, this would be taking 20 feet from their building for a depth of 140 feet, and it would no

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longer be a tenantable building for any purpose; in addition, the building has a basement entirely under it so to rebuild that wall 10 or 20 feet back would be highly expensive. He stated in Mr. Poley's letter, without information as to all the factors, he made an offer of \$80,000, and in a subsequent conversation he indicated the \$80,000 was just a shot in the dark, and intimated he did not intend that to pay all the damages they would be entitled to; he stated they not only own this building but own the 71 paved feet between this and the Booth property on South McDowell Street.

Councilman Short asked if preserving Mr. Cansler's situation by putting both lanes on the west side of the street would not harm to the detriment of those private owners at the northwest corner, which is also a private building, regardless of the factor involving the government's ownership of the land, we would have to take more off that property owner's in order to save Mr. Cansler's property? Mr. Cansler replied you will have to take ten feet from him anyway.

Mr. Cansler stated in 1963 they entered into an agreement with Devoe whereby they would renovate and remodel the building, and build an addition parallel to Trade Street off the southerly side of the Devoe Building to accommodate them; this lease which expires August, 1973 has an option to renew at the end of that ten years on terms to be negotiated; there is also a provision giving them the right, at their own expense, to construct an addition to the building, and as late as May 1968 they indicated they were making tentative plans to do that, and wanted to negotiate with reference to this.

Councilman Tuttle stated this is not so much a case of whose property is taken but a case if the street is going to be widened and widened properly will it be continued as a stretch of street for these vehicles or will you put in a bend, or a dog-leg, which to him does not seem practical. Mr. Cansler stated it would not be a dog-leg, it would be a curve and there is a similar situation in the widening of Brevard Street where it is cut down by one lane between Third and Second or Independence Boulevard. Mr. Cansler stated he does not think it is in the public interest for the taxpayers to pay that amount of money to avoid a bend and he does not believe a Boulevard is needed in that block; there is already four lanes of traffic.

Mr. Cansler stated Devoe has assured them they will move out if this property is taken; he stated he is informed they have already entered into a contract with another property owner to build a building for them at another location; so there is no doubt the minute the city has possession their tenants can move out and the lease will be destroyed.

Mr. McKee asked if there is any estimate on the east side of McDowell Street? Mr. Birmingham replied Council approved appraisals on the property, but Mr. Cansler has seen fit not to allow them on the property as of this date, so they do not know what it will cost. Mr. Cansler stated when the engineering department came in without any notice that this was contemplated and told their tenants the city was going to take a minimum of ten feet of that building and ten feet of the parking lot in the back, it spooked them so that they started arrangements then to move somewhere else, and he was so incensed that the city engineers, without any notice to the property owner, would have gone in and told the tenants what the city was going to do without any notice from the city. He stated the only information he got from the city voluntarily was when he protested to Mr. Veeder and asked him for a copy of whatever map or maps the city had showing the proposed widening of the street, both on the east and west side. That he saw a copy of a survey made by Spratt and Seaver in November, 1968, showing the ownership of the property, but he has not received any copies. With Mr. Poley's letter to him was enclosed a copy of a small map with the date of April 11, 1969. That he understood he was to get copies of all maps that the Engineering Department had showing property on both side of this street, the ownership of the property, and the location of the buildings on it. Mr. Birmingham stated Mr. Pressley, their Planning Engineer, informs him her personally handed Mr. McKee the maps in April. Mr. McKee stated they were preliminary maps.

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Mr. Birmingham stated funds for this part of McDowell Street has been in urban renewal since January 19, 1965; this has been established and money has been appropriated for this project in Urban Renewal III.

Councilman Jordan moved approval of a supplemental contract to contract with Blythe Brothers Company in the amount of \$13,706.50 for street improvements on South McDowell Street and East Trade Street, adjacent to the Law Enforcement Center. The motion was seconded by Councilman Alexander.

Councilman Tuttle stated regardless of whether the city contemplates the east side next week or next year or four years from now, this is an improvement that is needed and it is needed now.

Mayor Belk stated the reason this came up at this particular time is to tie it in with a contract of the other section to get it through for the dedication of the Law Enforcement Center on the 14th of October.

After further discussion, the vote was taken on the motion, and carried unanimously.

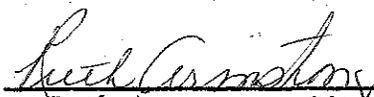
Mr. Underhill, City Attorney, advised Council that the City did not make the initial contract with the lessee, Devoe and Reynolds; the Devoe people contacted the city and asked what the plans were for this street.

REUSE APPRAISAL FOR GREENVILLE AND FIRST WARD NEIGHBORHOOD FACILITY CENTERS,  
AUTHORIZED.

Motion was made by Councilman Thrower, seconded by Councilman Jordan, and unanimously carried; approving re-use appraisals for the Greenville and First Ward Neighborhood Facility Centers to Mr. John McDonald and Mr. D. A. Stout, at a fee of \$550.00 each, for each of the two sites, in the total amount of \$2,200.00.

ADJOURNMENT.

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

  
Ruth Armstrong, City Clerk