

Mayor Patrick L. McCrory Mayor Pro Tem Patrick De'Angelo Cannon

Susan Burgess
Nancy Carter
Patsy Kinsey
John W. Lassiter
Don Lochman

James E. Mitchell, Jr.
Patrick Mumford
Greg Phipps
John H. Tabor, ALA
Warren Turner

CITY COUNCIL MEETING

Monday, May 23, 2005

CITY COUNCIL AGENDA

Monday, May 23, 2005

TABLE OF CONTENTS

<u>Item No.</u>	<u>Page No.</u>	<u>Attachment No.</u>	
5:00 P.M. Dinner Briefing			
Conference Center			
1.	Public Art Work Plan	1	1
2.	Cultural Facilities Request	1	
3.	FY2005 Housing Trust Fund-Request for Proposal Funding Recommendations	2	2
4.	Committee Reports by Exception	3	
6:30 P.M. Citizens Forum			
Meeting Chamber			
7:00 P.M. Awards and Recognitions			
Meeting Chamber			
Consent			
5.	Consent agenda items 13 through 38 may be considered in one motion except those items removed by a Council member. Items are removed by notifying the City Clerk before the meeting.	4	
Public Hearing			
6.	Public Hearing on Resolution to Close Samuel Street Between Newland Road and Double Oaks Road	5	3
7.	Public Hearing on Resolution to Close an Unopened Street Right-of-Way off of Carolyn Drive	6	4

<u>Item No.</u>		<u>Page No.</u>	<u>Attachment No.</u>
8.	Public Hearing on FY2006-FY2010 Consolidated Plan and FY2006 Action Plan for Housing and Community Development	8	5

Zoning

9.	Rezoning Petition #2005-29	10	6
----	----------------------------	----	---

Policy

10.	City Manager's Report	12	
11.	Sidewalk Program Retrofit Policy	12	7

Business

12.	Business Investment Grant for Pulte Mortgage	14	
-----	--	----	--

Mayor and Council Topics

Consent I

13.	Various Bids		
	A. Charlotte-Mecklenburg Police Department Parking Deck Repairs	17	
	B. Arrowood Station Sidewalks Improvement	18	
	C. Traffic Signal Installations Northlake Center Parkway and Driveway #1 & #2	18	
	D. Water/Wastewater Chemicals	18	
	E. Optelecom Fiber Optic Transceiver Equipment	19	
14.	Resolution of Intent to Abandon Street and Set Public Hearing for a Residual Portion of East 16 th Street	19	8

<u>Item No.</u>		<u>Page No.</u>	<u>Attachment No.</u>
15.	Resolution of Intent to Abandon Street and Set Public Hearing for a Portion of Clarkson Street	20	9
16.	Refund of Property Taxes	20	10
17.	In Rem Remedy	21	11-20
Consent II			
18.	Voluntary Annexation Agreement	24	21
19.	Voluntary Annexation Public Hearing Date	25	22
20.	Multi-Jurisdictional Hazard Mitigation Plan	26	
21.	Human Patient Simulators Purchase	27	
22.	Police Video Conferencing System	28	
23.	Animal Control Ordinance Amendment	28	23
24.	Charlotte Mecklenburg Community Foundation Grant	29	24
25.	Microsoft Enterprise Licensing Agreement Renewal	30	
26.	FY2005 Annual Financial Audit Contract	30	
27.	Arrowood/Windsong Storm Drainage Improvements	31	25
28.	24-Inch Water Main Along South Boulevard	32	26
29.	FY2006 Sanitary Sewer Pipe Cleaning	33	

<u>Item No.</u>		<u>Page No.</u>	<u>Attachment No.</u>
30.	Long Creek Parallel Sanitary Sewer Outfall-Contract C	34	27
31.	FY2003 Sanitary Sewer Rehabilitation, Amendment #2	35	
32.	Solid Waste Services East Zone Residential Solid Waste Collection Service Contract Unit Price Increase	35	
33.	Airline Use Agreement for Air Tran Airways	36	
34.	Tolling Agreement with Doral II Limited Partnership	37	2
35.	Mt. Holly-Huntersville Road Intersection Condemnation Settlement	38	
36.	Airport Property Exchange	38	29
37.	Property Transactions	39	
38.	Meeting Minutes	41	

5:00 P.M. DINNER BRIEFING CONFERENCE CENTER

1. Public Art Work Plan

Resources: Deborah Ryan, Public Art Commission
Lee Keesler, President, Arts & Science Council
Jean Greer, Vice President, Public Art, Arts & Science Council

Time: 10 minutes

Synopsis

- City Council approved the current Public Art Ordinance on May 27, 2003 and it became effective July 1, 2003.
- On June 14, 2004 City Council approved a new contract with the Arts & Science Council and the Public Art Commission for the administration of the Public Art Program.
- On January 10, 2005 City Council voted to improve communications between the Mayor and City Council and the Public Art Program, including a presentation such as this before budget adoption.
- The FY2006 General Government public art allocation is \$210,000 and the Aviation estimated art allocation is \$150,600. The attached work plan provides:
 - Description of the artwork completed, obtained or commenced in FY2005
 - Description of the CIP projects designated for inclusion of public art in the upcoming year and funding source
 - Budget for the income and expenditures for such projects
 - Description of the art plan for the upcoming year

Future Action

- On June 6th, City Council will be asked to approve the FY2006 Public Art Work Plan and the annual agreement with the Arts & Science Council – Charlotte Mecklenburg, Inc. and the Public Art Commission for administration of the Art program.

Attachment 1

Work Plan

2. Cultural Facilities Request

Resource: Lee Keesler, President, Arts & Science Council

Time: 45 minutes

Synopsis

- On January 10 the Mayor and Council received a briefing from the Mayor's Task Force on Cultural Facilities. Additional information was reported to Council at the February 2005 Council Retreat.
- On February 28, Council deferred action on the requests for 60 days to allow continued work of the Arts & Science Council, the cultural affiliates and the private sector to refine the requests.
- Council asked that staff continue to assist in this review. In addition, a placeholder was included in the State Legislative request for future funding options.
- Lee Kessler, President of the Arts & Science Council will present the results of the 60 day review process and new requests to Council.

Future Action

- Council will determine what action to take on the requests for Cultural Facilities as well as associated legislative action.

**3. FY2005 Housing Trust Fund-Request for Proposal
Funding Recommendations**

Resources: Stan Wilson, Neighborhood Development
Jeff Meadows, Neighborhood Development

Time: 15 minutes

Synopsis

- The purpose of this presentation is to brief City Council on the following Housing Trust Fund (HTF) recommendations resulting from the FY2005 HTF Request for Proposal process:
 - Funding recommendations and letters of support for six multi-family housing developments – four new construction and two rehabilitation projects;
 - Letters of support for four multi-family projects (503 units) seeking Low-Income Housing Tax Credits (LIHTC) from the North Carolina Housing Finance Agency – (projects which are not requesting funding from the City);
 - Reallocation of funding (\$1,000,000) from the Rehabilitation funding category to the New Construction funding category; and
 - Requests for a waiver of the Assisted Multi-Family Housing Locational Policy for two projects (Arrowood NSA#198-Montclair and Kohler Avenue NSA#34-Double Oaks). Staff has sent notification letters regarding the waiver requests to adjacent property owners and affected neighborhood organizations.

Background

- On November 8, 2004 City Council approved a Housing Trust Fund allocation in the amount of \$6,000,000 for the development of new multi-family rental housing; and \$4,000,000 for multi-family rental rehabilitation.
- Neighborhood Development issued Request for Proposals to developers and received seven proposals.
- Staff evaluated and ranked each proposal based on the Loan and Grant Guidelines and Evaluation Criteria established by the Housing Trust Fund Advisory Board.
- The evaluation criterion considered City policies, the number of affordable units, financial strength of the development, City funds requested, leverage ratio, the experience of the development team and the property management proposal.

Future Action

- This item will be on the June 13, 2005 Council Business Agenda.
- City funding commitments and letters of support must be submitted to the North Carolina Housing Finance Agency by June 20, 2005.

Attachment 2

Project Ranking and Funding Recommendation Summary
Project Summary Reports: *(New Construction and Rehabilitation)*
Proposal Evaluation Criteria

4. Committee Reports by Exception

Transportation Committee: Sidewalk Program Retrofit Policy

**6:30 P.M. CITIZENS FORUM
MEETING CHAMBER**

**7:00 P.M. AWARDS AND RECOGNITIONS
MEETING CHAMBER**

CONSENT

- 5. Consent agenda items 13 through 38 may be considered in one motion except those items removed by a Council member. Items are removed by notifying the City Clerk before the meeting.**

PUBLIC HEARING

6. Public Hearing on Resolution to Close Samuel Street Between Newland Road and Double Oaks Road

Action: A. Conduct a public hearing to close Samuel Street between Newland Road and Double Oaks Road, and
B. Adopt a Resolution to Close.

Staff Resource: Roger Buell, Transportation

Policy:

To abandon right-of-way that is no longer needed for public use

Explanation

- North Carolina General Statute 160A-299 outlines the procedures for permanently closing streets and alleys.
- The Charlotte Department of Transportation received a petition to abandon public right-of-way and requests this Council action in accordance with the statute.
- The action removes land from public right-of-way status and attaches it to the adjacent property.

Petitioner

New Life Fellowship Center of Charlotte

Right-of-Way to be abandoned

Samuel Street between Newland Road and Double Oaks Road

Location

Located within the Double Oaks Community beginning at Newland Road continuing southwestwardly approximately 320 feet then turning east and continuing approximately 428 feet to its terminus at Double Oaks Road

Reason

To incorporate the right-of-way into adjacent property owned by the petitioner for the construction of a new sanctuary

Notification

In accordance with City Policy, the Charlotte Department of Transportation (CDOT) has sent abandonment petitions to adjoining property owners, neighborhood associations, private utility companies and City departments for review.

Adjoining property owners

Double Oaks Association – No objections

Mecklenburg County – No objections

Neighborhood/Business Associations

Double Oaks Community Organization – No objections

Druid Hills – No objections

Lincoln Heights Neighborhood Association – No objections

Oaklawn Community Improvement Organization – No objections

McCrorey Heights –Oaklawn Associates – No objections

Private Utility Companies – No objections

City Departments –

Review by City departments has identified no apparent reason this closing would:

- Be contrary to the public interest; or
- Deprive any individual(s) owning property in the vicinity of reasonable means of ingress and egress to his property as outlined in the statutes.

Attachment 3

Map

7. Public Hearing on Resolution to Close an Unopened Street Right-of-Way off of Carolyn Drive

Action: **A. Conduct a public hearing to close an unopened street right-of-way off of Carolyn Drive; and**

B. Adopt a Resolution to Close.

Staff Resource: Roger Buell, Transportation

Policy:

To abandon right-of-way that is no longer needed for public use

Explanation

- North Carolina General Statute 160A-299 outlines the procedures for permanently closing streets and alleys.
- The Charlotte Department of Transportation received a petition to abandon public right-of-way and requests this Council action in accordance with the statute.
- The action removes land from public right-of-way status and attaches it to the adjacent property.

Petitioner

Mr. Stuart Wallace

Right-of-Way to be abandoned

An unopened street right-of-way off of Carolyn Drive

Location

Located within the Chantilly Community beginning at Carolyn Drive continuing south approximately 489 feet to its terminus at the property line of Carl L. King

Reason

To incorporate the right-of-way into adjacent property owned by the petitioner for the expansion of an existing residential home

Notification

In accordance with City Policy, the Charlotte Department of Transportation (CDOT) has sent abandonment petitions to adjoining property owners, neighborhood associations, private utility companies and City departments for review.

Adjoining property owners –

David E. Bowman – No objections

Carl L. King – No objections

Neighborhood/Business Associations

Chantilly Neighborhood Association – No objections

Kilborne Acres Neighborhood Association – No objections

Eastway/Sheffield Neighborhood Association – No objections

Oakhurst Acres Neighborhood – No objections

Country Club Heights Neighborhood Association – No objections

Plaza-Midwood Neighborhood Association – No objections

Private Utility Companies – No objections

City Departments –

Review by City departments has identified no apparent reason this closing would:

- Be contrary to the public interest; or
- Deprive any individual(s) owning property in the vicinity of reasonable means of ingress and egress to his property as outlined in the statutes.

Attachment 4

Map

8. Public Hearing on FY2006 - FY2010 Consolidated Plan and FY2006 Action Plan for Housing and Community Development

Action: Conduct a public hearing to receive comments on the proposed FY2006 – FY2010 Consolidated Plan and FY2006 Action Plan for Housing and Community Development.

Staff Resource: Stanley Watkins, Neighborhood Development
Stan Wilson, Neighborhood Development

Policy

- The 2006-2010 Consolidated Plan is the City’s five-year strategy for providing housing and community development activities.
- The plan supports the City’s housing policy – preserving the existing housing, expanding the supply of low and moderate-income housing and supporting family self-sufficiency – as well as the City’s neighborhood revitalization strategy.
- The U.S. Department of Housing and Urban Development (HUD) mandates development of this plan in order to receive federal funding for housing and community development activities.

Explanation

- The FY2006–2010 Consolidated Plan and FY2006 Action Plan include housing and community development needs and resources for the City and Regional Housing Consortium.
- The Regional Housing Consortium is a partnership between the City, Mecklenburg County and the towns of Cornelius, Pineville, Matthews, Mint Hill and Huntersville.
- The Plan also serves as the City’s annual application to HUD to receive an estimated \$9.6 million in new federal grant program funds.

- Community Development Block Grant (CDBG)	\$5,299,260
- HOME Investments and Partnerships (HOME)	\$2,860,451
- Emergency Shelter Grants (ESG)	\$ 204,783
- Housing Opportunities for Persons with AIDS (HOPWA)	<u>\$ 565,000</u>
Total	\$8,929,494
- The proposed FY2006 federal fund allocation represents a decrease of approximately \$691,637 under the FY2005 funded amount of \$9,621,131.

Community Input

- A Steering Committee consisting of private citizens, the Charlotte Housing Authority, Charlotte Mecklenburg Housing Partnership, Housing Trust Fund, Homeless Services providers, Habitat for Humanity, Department of Social Services and City departments (Police, Planning, Community Relations Committee, Economic Development and Neighborhood Development) was formed to provide input into the Plan.

- Five citizen forums were held in February and March to inform the public of the Plan preparation process and timeline for completing the document.
- Citizen forums were also conducted in the towns of Cornelius, Mint Hill, Matthews and Huntersville. Mecklenburg County also conducted a public forum on the Plan.
- Neighborhood Development advertised the public hearing in local newspapers and sent more than 1,000 invitations to neighborhood organizations, Neighborhood Development's financial partners and interested individuals.
- Citizens and neighborhood groups were sent a brochure advertising the public hearing and the availability of the draft document. The public hearing notification was advertised in the Charlotte Observer.
- The draft document and notice of public hearing are available on the Neighborhood Development website.
- Some of the citizen comments from the public forums:
 - Conditions in homeless shelters need to improve
 - More education and training is needed for social workers
 - Continue redevelopment plans in Grier Heights
 - Work to improve the case management system for special needs housing
 - Continue to expand the HOPWA program
 - Increase the number of homeless shelters
 - Increase outreach to make more residents aware of affordable housing opportunities

Next Steps

- On June 7, 2005 the Housing and Neighborhood Development Committee will review the documents and consider citizen comments from the public hearing.
- City Council will be asked to adopt the Plans on June 13, 2005
- The Plans will be submitted to HUD on June 15, 2005.

Funding

Federal CDBG, HOME, ESG and HOPWA funds

Attachment 5

Proposed Uses of Funds

ZONING

9. Rezoning Petition # 2005-29

Action: Consider decision on Petition # 2005-29 by William B. and Frank E. Hawfield for approximately 14.3 acres located on the northeast corner of Ardrey Kell Road and Lancaster Highway (US 521) to rezone from R-3, single-family residential, to NS (neighborhood services) for a neighborhood shopping center of 107,700 square feet of floor area.

Staff Resource: Keith MacVean, Planning

Explanation

- Although staff requested that this petition be deferred to allow the Council to consider this petition and Petition # 2005-65 at the same time, a public hearing was held for this petition on March 21, 2005.

Zoning Committee Action

- The Zoning committee voted to recommend one-month deferral of this petition on March 30, 2005. There was considerable discussion of the petitioner's market study, but the petitioner's agent could not make that market study public due to "proprietary information" it contained. Lacking the availability of that market study the Zoning Committee asked the staff to provide appropriate information on the need for this and other centers.
- At their meeting on April 27, 2005 the Zoning Committee received what the staff admitted was a "rough" attempt to analyze shopping center market conditions in the area. By the standards contained in the General Development Policies (based upon a market consultant's work), the staff estimated that there was already three times as much neighborhood commercial approved for the area than would be needed at build-out of the area. The Zoning Committee voted unanimously to recommend approval of this petition, based upon the plan for the area being 12-13 years old and that this rezoning is based upon a current professionally done market study.

City Council Action

- On May 16, 2005 the City Council vote on this petition ended in a 5-5 tie. The decision on this petition was rescheduled for the next regular business meeting, May 23, 2005.

Staff Recommendation

- Staff continues to believe that rezoning petitions 05-29 and 05-65 are both inconsistent with the adopted plan and that additional retail is not needed in this area. The recent closing of the grocery anchor in Piper Glen demonstrates that "the market" is not a foolproof mechanism. Staff believes the plan has been largely followed and its age has not eroded its validity. If this petition is not denied, it should at least be deferred until petition #2005-65 has been heard. This would allow these nearby, competing petitions to be evaluated simultaneously by the Council.

Attachment 6

Pre-Hearing Staff Analysis, Zoning Committee recommendation, and map for
petition # 2005-29

POLICY

10. City Manager's Report

11. Sidewalk Program Retrofit Policy



Action: Approve the Transportation Committee's recommended Sidewalk Program Retrofit Policy.

Committee Chair: Pat Mumford

Staff Resource: Vivian Coleman, Transportation

Explanation

- As part of the development of the Transportation Action Plan and the Pedestrian Master Plan, CDOT performed a complete review of the current Sidewalk Program to evaluate current policies and procedures.
- Key points of the policy include:
 - Continuing to build sidewalks on both sides of all existing thoroughfares and one side of all existing local streets and collectors that lack sidewalk
 - Including a standard procedure and list of criteria for prioritizing sidewalk retrofit projects. This would include a four-category approach to ranking identified and requested projects.
 - Including a procedure for public involvement early in the sidewalk prioritization process
 - Depending on the prioritization category, a number of identified projects would then be subject to a public meeting and submittal of a neighborhood petition.
 - Public meetings were held in 2004 and a small number of projects were put on hold due to neighborhood controversy, including Murrayhill Road, Willoughby Street and Andover Road.
 - Projects which were put on hold in 2004 will be subject to the new process, which may include obtaining neighborhood support, in accordance with the policy.

Background

- The review primarily focused on implementation of sidewalks on residential streets that lack sidewalk.
- Sidewalks constructed through land development requirements and other programs were not affected by this policy review.
- Controversies have arisen because the current Sidewalk Program does not provide staff guidance regarding the implementation of the program when there are various levels of support and opposition from residents.
- The current program allows one resident to request a sidewalk and, therefore, residents do not receive information about the project early in the process.

Process and Stakeholder Review

- CDOT hired the Toole Design Group, LLC, a national consulting firm with expertise in pedestrian planning, to lead the development of the revised policy and process.
- A technical team and stakeholder group also participated in developing the new policy and provided input to staff.
- Stakeholders included Charlotte area residents, both in favor of and opposed to recent sidewalk projects, and representatives from a cross section of groups, including the Metrolina Association for the Blind, Charlotte Mecklenburg Schools, the Charlotte Mecklenburg Police Department, and others.
- Staff worked with this group to identify the program's strengths and weaknesses, with the group providing critical feedback on the recommended option for the revised program.
- The revised program was presented at the March 7, 2005 City Council Dinner Briefing and at the April 12, 2005 Stakeholder Group Meeting.
- The Stakeholder Group supports the proposed retrofit policy.

Committee Discussion

- On April 25, 2005, CDOT staff presented the Sidewalk Retrofit Policy to the Transportation Committee. Council members Mumford, Turner, Burgess, Carter and Tabor approved it unanimously.

Attachment 7

Sidewalk Retrofit Policy

BUSINESS

12. Business Investment Grant for Pulte Mortgage

Action: Approve the City share of a Business Investment Grant to Pulte Mortgage for a total estimated amount of \$44,100 over 5 years. (Total City/County grant for the 5-year term estimated at \$123,554).

Staff Resource: Tom Flynn, Economic Development Office

Policy

Support the development of an economic environment that attracts new businesses, retains existing businesses and offers a diverse economic mix.

Explanation

- Pulte Mortgage is a subsidiary of Pulte Homes, Inc., a NYSE-traded, publicly-owned, Fortune 500 Company, that enables Pulte Homes to manage both the construction and financing of new homes.
- Pulte Mortgage is headquartered in Denver, Colorado and needs additional mortgage processing capacity in areas of significant growth.
- Pulte Mortgage expects to make a capital investment between \$2.1 million and \$3.5 million and create 245 new jobs over three years, with a potential for 70-100 additional jobs in years 4 and 5.
- City Council indicated their intent to approve a Business Investment Grant to Pulte Mortgage in executive session on March 28, 2005.
- The Board of County Commissioners indicated their intent to approve a Business Investment Grant in executive session on April 5, 2005.

Staff Recommendation

- Pulte Mortgage expects to sign a seven-year lease at 3700 Arco Corporate Drive (I-485 and West Arrowood Road). This location is outside of the current Business Investment Zone; however, staff recommends approval of a City/County Business Investment Grant to Pulte Mortgage for the following reasons:
 - Pulte Mortgage meets the rest of the criteria of the Business Investment Grant Program:
 - Investment (minimum of \$1.5 million)
 - Wage rate (\$36,860 or greater)
 - Targeted Sector (financial Services)
 - Job Creation (minimum of 20)
 - Ninety percent of the jobs will be hired locally and pay an average base wage of \$38,800 (with incentive pay raising the annual average to an estimated \$59,895).
 - Pulte Mortgage is estimated to have a total direct economic impact of \$116.7 million per year on Charlotte's economy, and generate annual tax revenues of \$280,531 to the City and \$460,674 to the County.
 - There was competition from Lancaster County (SC), Indianapolis, Indiana, and Durham and Wake Counties (NC) for this project.

- The Business Investment Grant will provide a local match for the Governor’s One North Carolina Fund Grant (payable in FY2006).
- Program guidelines allow City Council discretion in awarding grants for large economic development projects and Pulte’s job creation numbers are in the range for a large economic development project.

Formatted: Bullets and Numbering

Payment Terms and Conditions

- If approved, the following schedule is an estimate of the Investment Grant payments to Pulte Mortgage:

Year	City	County	Total
1	\$9,996	\$18,009	\$28,005
2	\$9,408	\$16,950	\$26,358
3	\$8,820	\$15,891	\$24,711
4	\$8,232	\$14,831	\$23,063
5	\$7,644	\$13,772	\$21,416
Total	\$44,100	\$79,454	\$123,554

- The general terms and condition of this grant include:
 - A portion of the grant must be repaid if the company moves this investment from Charlotte within 5 years of the end of the grant term.
 - Actual grant payments are based on the value of the investment as appraised by the Mecklenburg County Tax Office.
 - All property taxes due from the company must be paid before a grant payment is made.

Other Related Actions

- Pulte Mortgage’s grant application will be presented to the Business Advisory Committee for a recommendation on May 20, 2005.
- The Board of County Commissioners will consider approval of a Business Investment Grant on June 7, 2005.

Funding

Business Investment Grant Account; first payment would be made in FY2007.

MAYOR AND COUNCIL TOPICS

At the end of the formal agenda, Council members may share information and raise topics for discussion.

Introduction to CONSENT

The consent portion of the agenda is divided into two sections: Consent I and Consent II.

Consent I consists of routine items that have been approved in the budget, are low bid and comply with Small Business Opportunity Program Policy.

Consent II consists of routine items that have also been approved in the budget, but require additional explanation.

The City's Small Business Opportunity (SBO) Program's purpose is to enhance competition and opportunity in City contracting with small businesses in the Charlotte metropolitan statistical area. Participation of small business enterprises (SBE) is noted where applicable. Contracts recommended for award as of March 1, 2003 comply with the provisions of the SBO program policy for SBE outreach and utilization. Professional service contracts recommended for award as of August 1, 2003 comply with the provisions of the SBO program policy for SBE outreach and utilization.

Disadvantaged Business Enterprise (DBE) is a federal program primarily used for Aviation and Transit.

Contractors and Consultants

All contractor and consultant selections follow the Council approved process unless described otherwise.

CONSENT I

13. Various Bids

A. Charlotte-Mecklenburg Police Department Parking Deck Repairs EPM

Action

Award the low bid of \$247,211.25 by Strickland Waterproofing Company, Inc. of Charlotte, North Carolina. This project includes structural and surface concrete repairs, waterproofing, sealant, floor drain installations and painting at the Police Department Headquarters parking deck. Construction completion is scheduled for third quarter of 2005.

Small Business Opportunity

SBE Subcontractor Utilization Goal: 3.00%

SBE Participation: 3.64%

Strickland Waterproofing Company, Inc., the low bidder, exceeded the SBO goal and committed 3.64% (\$9,000) of the total contract amount to the following certified SBE firm: Carolina Paper & Builders Materials.

B. Arrowood Station Sidewalks Improvement EPM

Action

Award the low bid of \$251,812.05 by DOT Construction Company, Inc. of Charlotte North Carolina. This project will construct new sidewalks on neighborhood streets near the proposed Arrowood Light-Rail Transit Station. The work includes traffic control; clearing and grading; drainage; water service relocation and adjustment; concrete curb, sidewalk, drives and wheelchair ramps; pre-cast modular retaining walls and metal handrail. Construction completion is scheduled for fourth quarter of 2005.

Small Business Opportunity

SBE Subcontract Utilization Goal: 5.00%

SBE Participation: 5.06%

DOT Construction has committed 5.06% (\$12,750) of the total contract amount to the following SBE firms: Ground Effects, Inc., Stinson Trucking, Inc. and W.G.K., Inc.

C. Traffic Signal Installations Northlake Center Parkway and Driveway #1 & #2 CDOT

Action

Award the low bid of \$181,449.45 by Bryant Electric Repair & Construction Co, of Gastonia, North Carolina. This project will install two new traffic signals for the Northlake Mall project.

Small Business Opportunity

Established SBE Goal: 3%

Committed SBE Goal: 5.24%

Bryant Electric exceeded the SBO goal and committed 5.24% (\$9,508) of the total contract amount to Carolina's Electric Supply and Service.

D. Water/Wastewater Chemicals CMU

Action

Approve unit price contracts for water/wastewater chemical purchases to Burnett Lime and Mineral Research & Development in the estimated annual amount of \$1,076,589.80 for a term of nine months ending February 28, 2006 and authorize the City Manager to renew the contract for three, additional one-year terms. This bid establishes unit price contracts for Lime Slurry and Magnesium Hydroxide chemicals to be used for water and wastewater treatment and various treatment facilities. All contracts to be awarded are to the lowest bidder meeting specification.

Chemical Type	Unit Price
Lime Slurry	\$290.00/ton
Magnesium Hydroxide	\$1.949/gallon

Small Business Opportunity

Established SBE Goal: 0%

Committed SBE Goal: 0%

The Small Business Development Program Manager waived the SBE goal for this project. Pursuant to Section 5 of the SBO Program, no SBO utilization goal was set for this contract because subcontracting is not anticipated.

E. Optelecom Fiber Optic Transceiver Equipment CDOT

Action

Award the low bid by Temple, Inc. of Cornelius, North Carolina to provide Optelecom fiber optic transceiver equipment in the estimated annual amount of \$600,000 for a term of one year unit price requirements contract to be utilized on an as-need basis, and authorize the City Manager to renew the contract for one additional one-year term. The equipment is used to send data and video signals over the fiber optic cables that connect city traffic signals.

Small Business Opportunity

Established SBE Goal: 0%

Committed SBE Goal: 0%

The Small Business Development Program Manager waived the SBE goal for this project. Pursuant to Section 5 of the SBO Program, no SBO utilization goal was set for this contract because subcontracting is not anticipated.

14. Resolution of Intent to Abandon Street and Set Public Hearing for a Residual Portion of East 16th Street

Action: A. Adopt the Resolution of Intent to abandon a residual portion of East 16th Street, and
B. Set a public hearing for June 13, 2005.

Attachment 8

Map

15. Resolution of Intent to Abandon Street and Set Public Hearing for a Portion of Clarkson Street

Action: A. Adopt the Resolution of Intent to abandon a portion of Clarkson Street, and
B. Set a public hearing for June 13, 2005.

Attachment 9
Map

16. Refund of Property Taxes

Action: Adopt a resolution authorizing the refund of property taxes assessed through clerical or assessor error in the amount of \$7,837.50.

Attachment 10
Resolution
List of Refunds

17. In Rem Remedy

For In Rem Remedy #A-J, the public purpose and policy are outlined here.

Public Purpose:

- Eliminate a blighting influence.
- Reduce the proportion of substandard housing.
- Increase tax value of property by making land available for potential infill housing development.
- Support public safety initiatives.

Policy:

- Housing & Neighborhood Development
- Community Safety Plan

The In Rem Remedy items were initiated from 3 categories:

1. Public Safety – Police and/or Fire Dept.
2. Complaint – petition by citizens, tenant complaint or public agency referral
3. Field Observation – concentrated code enforcement program

The In Rem Remedy item is listed below by category identifying the street address and neighborhood.

Public Safety:

- A. 2600 Duncan Avenue (Neighborhood Statistical Area 46 – Villa Heights Neighborhood)
- B. 1009 Eveningside Drive (Neighborhood Statistical Area 51 - Belmont Neighborhood)
- C. 2228 Madrid Street (Neighborhood Statistical Area 21 – Lincoln Heights Neighborhood)
- D. 2116 Yadkin Avenue (Neighborhood Statistical Area 46 – Villa Heights Neighborhood)

Complaint:

- E. 409 aka 405 Beatties Ford Road (Neighborhood Statistical Area 26 – Biddleville Neighborhood)
- F. 940 Rowan Street (Neighborhood Statistical Area 19 – Thomasboro/Hoskins Neighborhood)

Field Observation:

- G. 1228 Fairmont Street (Neighborhood Statistical Area 28 – Oaklawn Neighborhood)
- H. 3212 Lakeview Avenue (Neighborhood Statistical Area 21 – Lakewood Neighborhood)
- I. 1315 Lexington Avenue (Neighborhood Statistical Area 66 – Dilworth Neighborhood)
- J. 1520 Shamrock Drive (Neighborhood Statistical Area 48 – Plaza-Shamrock Neighborhood)

Public Safety:

A. 2600 Duncan Avenue

Action: Adopt an ordinance authorizing the use of In Rem Remedy to demolish and remove the structure at 2600 Duncan Avenue (Neighborhood Statistical Area 46 – Villa Heights Neighborhood).

Attachment 11

B. 1009 Eveningside Drive

Action: Adopt an ordinance authorizing the use of In Rem Remedy to demolish and remove the structure at 1009 Eveningside Drive (Neighborhood Statistical Area 51 – Belmont Neighborhood).

Attachment 12

C. 2228 Madrid Street

Action: Adopt an ordinance authorizing the use of In Rem Remedy to demolish and remove the structure at 2228 Madrid Street (Neighborhood Statistical Area 21 – Lincoln Heights Neighborhood).

Attachment 13

D. 2116 Yadkin Avenue

Action: Adopt an ordinance authorizing the use of In Rem Remedy to demolish and remove the structure at 2116 Yadkin Avenue (Neighborhood Statistical Area 46 – Villa Heights Neighborhood).

Attachment 14

Complaint:

E. 409 aka 405 Beatties Ford Road

Action: Adopt an ordinance authorizing the use of In Rem Remedy to demolish and remove the structure at 409 aka 405 Beatties Ford Road (Neighborhood Statistical Area 26 – Biddleville Neighborhood).

Attachment 15

F. 940 Rowan Street

Action: Adopt an ordinance authorizing the use of In Rem Remedy to demolish and remove the structure at 940 Rowan Street (Neighborhood Statistical Area 19 – Thomasboro/Hoskins Neighborhood).

Attachment 16

Field Observation:

G. 1228 Fairmont Street

Action: Adopt an ordinance authorizing the use of In Rem Remedy to demolish and remove the structure at 1228 Fairmont Street (Neighborhood Statistical Area 28 – Oaklawn Neighborhood).

Attachment 17

H. 3212 Lakeview Avenue

Action: Adopt an ordinance authorizing the use of In Rem Remedy to demolish and remove the structure at 3212 Lakeview Avenue (Neighborhood Statistical Area 21 - Lakewood Neighborhood).

Attachment 18

I. 1315 Lexington Avenue

Action: Adopt an ordinance authorizing the use of In Rem Remedy to demolish and remove the structure at 1315 Lexington Avenue (Neighborhood Statistical Area 66 – Dilworth Neighborhood).

Attachment 19

J. 1520 Shamrock Drive

Action: Adopt an ordinance authorizing the use of In Rem Remedy to demolish and remove the structure at 1520 Shamrock Drive (Neighborhood Statistical Area 48 – Plaza-Shamrock Neighborhood).

Attachment 20

CONSENT II

18. Voluntary Annexation Agreement

Action: Approve an Annexation Agreement with the Petitioners of the NorthLake Mall Annexation setting forth the responsibilities and schedule related to Phases One through Three of the Voluntary Annexation.

Staff Resource: Ron Kimble, City Manager's Office
Mike Boyd, City Attorney's Office
Jonathan Wells, Planning

Policy

City Annexation Policy and State Annexation Statutes

Background

- Staff has worked for nearly a year with owners and developers of the NorthLake Mall on a voluntary annexation plan for the Mall and related properties.
- Mall is under construction on West W.T. Harris Blvd. west of I-77 and is scheduled for a September 2005 opening.
- This agreement will annex the subject properties in three phases.
 - Phase One involves land adjacent to the Mall (in addition to a small portion of the Mall itself). Several of these parcels will be developed with out-parcel commercial uses accessory to the Mall development.
 - Phase Two consists of street right-of-way to the north of the Mall.
 - Phases One and Two are to be annexed in Summer 2005.
 - Phase Three would consist of the remainder of the Mall and annexation would become effective in late 2006 or early 2007.

Explanation

- The terms of the Annexation Agreement specify:
 - Phase One annexation will become effective on or before July 31, 2005.
 - Phase Two annexation will become effective on or about August 31, 2005.
 - Mall owners will file for Phase Three voluntary annexation by April 1, 2006.
 - Phase Three annexation will be effective as early as September 30, 2006 or (if prescribed additional roadway construction is completed) as early as February 28, 2007; beyond the 180-day "window" provided by state statutes.
 - Applicants agree not to withdraw annexation petition.
 - If the Mall owners default upon conditions specified in the Agreement, the City will be entitled to specified liquidated damages paid by the Mall owners equal to lost property tax revenues and City costs in undertaking an involuntary annexation of the Mall.

- If conditions are not met as prescribed in the Agreement, the Mall will be annexed involuntarily and applicants agree not to challenge the involuntary annexation.
- The Agreement is binding on owners of the Mall property to ensure the City has a reasonable opportunity to annex the Mall involuntarily.
- State annexation statutes prevent City Council from approving annexations with effective dates more than 180 days from the effective date. Specifically, the Agreement involves scheduling an effective date between September 2006 and February 2007, beyond the 180-day “window” required by the statutes, and describes the roles and responsibilities of the involved parties to ensure that Phase Three will be successfully implemented.

Attachment 21

Map of proposed annexation area
Annexation Agreement

19. Voluntary Annexation Public Hearing Date

Action: Adopt a resolution setting a public hearing for June 20, 2005 for a voluntary annexation of property known as “NorthLake Mall Phase One”.

Staff Resource: Ron Kimble, City Manager’s Office
Mike Boyd, City Attorney’s Office
Jonathan Wells, Planning

Policy

City Annexation Policy and State Annexation Statutes

Explanation

- Staff has worked for nearly a year with owners and developers of the NorthLake Mall on a voluntary annexation plan for the Mall and related properties.
- Mall is under construction on West W.T. Harris Blvd. west of I-77 and is scheduled for a September 2005 opening.
- Per the annexation agreement, the City will annex the subject properties in three phases.
 - Phase One involves land adjacent to the Mall (in addition to a small portion of the Mall itself). Several of these parcels will be developed with out-parcel commercial uses accessory to the Mall development.
 - Phase Two consists of street right-of-way to the north of the Mall.
 - Phases One and Two are to be annexed in Summer 2005.
 - Phase Three would consist of the remainder of the Mall and annexation would become effective in late 2006 or early 2007.
- If the City were to involuntarily annex the Mall, it couldn’t do so until at least June 30, 2007, assuming that an area including the Mall could be qualified for annexation as part of annexation studies in 2006.

- Property taxes of approximately \$684,000 per year are estimated to be generated by the Mall upon full development.
- The Phase One properties consist of approximately 49 acres, and are largely vacant, except for the Northlake Center Parkway, currently under construction; Phase Two property totals roughly five acres, and Phase Three properties are about 102 acres.
- The resolution sets Monday June 20, 2005 as the date for a public hearing on the voluntary annexation for Phase One. The property is owned by:
 - Northlake Land, LLC
 - Northlake Venture, LLC
 - TRG Charlotte, LLC
 - Metrolina Properties Limited Partnership
 - Faison Project North LLC
 - FDC Reames Road Limited Partnership
 - Daniel J. McAulay and wife Barbara A. McAulay
- City Council approved a set of policies to guide the evaluation and consideration of voluntary annexation petitions on March 24, 2003. This petition was considered in light of those policies, and staff believes it satisfies the conditions for annexation as stated on those policies. Specifically, the proposed annexation:
 - will not adversely affect the City's ability to undertake future annexations,
 - will not have an undue negative impact on City finances or services, and
 - will not result in a situation where unincorporated areas will be encompassed by new City limits.
- City Council will be asked to take formal action on Phase One of the voluntary annexation at the conclusion of the public hearings on June 20, 2005.

Attachment 22
Resolution

20. Multi-Jurisdictional Hazard Mitigation Plan

Action: Adopt the Multi-Jurisdictional Hazard Mitigation Plan for response to natural disasters.

Staff Resource: Wayne Broome, Emergency Management

Explanation

- The Federal Emergency Management Agency requires all communities to adopt an All Hazard Mitigation Plan that is compliant with the Disaster Mitigation Act of 2000. This plan must be adopted by May 2005 for communities to be eligible for federal mitigation funding in the event of natural disasters.

- The Plan was developed by representatives of all the jurisdictions in Mecklenburg County and included public participation and involvement through public meetings in each municipality over the course of a year. The lead agency was Mecklenburg County Storm Water Services.
- The Plan addresses response to natural disasters that may cause flooding, including hurricanes, ice/snow storms, severe thunderstorms, and tornadoes. It will improve Mecklenburg County's Community Rating System score, thus affording property owners a discount on flood insurance.
- The Plan is available in the Council library.

21. Human Patient Simulators Purchase

Action: **A. Approve the purchase of human patient simulators without competitive bidding as authorized by the sole source exception of G.S. 143-129(f), and**

B. Approve the one-time purchase of patient simulators from Medical Education Technologies, Inc. (METI Inc.) of Sarasota, Florida for a total cost of \$440,663 on behalf of MEDIC. The purchase will be funded by an Urban Areas Security Initiative grant.

Staff Resource: Jeff Dulin, Fire

Explanation

- Charlotte received an Urban Area Security Initiative Grant (UASI) on April 21, 2004 and City Council approved the grant implementation on May 24, 2004.
- Subsequently, the disposition of such grant funds to local government agencies was approved by City Council on April 11, 2005.
- Simulators will be used in a training facility to prepare first responders for work in a Weapons of Mass Destruction incident environment.
- The simulators will provide realistic physiologic models for the symptoms of a victim in a mass casualty incident.
- METI Inc. is the only company that manufactures high-fidelity human patient simulators in the United States at this time.

Small Business Opportunity

This contract is exempt from the Small Business Opportunity Program per Section 2.21 of the Program Policy.

Funding

USAI grant funding

22. Police Video Conferencing System

Action: Approve a contract with MPAC Systems for providing and installing a video conferencing system to the Charlotte-Mecklenburg Police Department (CMPD) in the amount of \$200,000.

Staff Resource: Sergeant Bud Cesena, Charlotte-Mecklenburg Police Department
Karen Ruppe, Business Support Services

Explanation

- CMPD and Fire departments are in the process of expanding their enterprise wide video conferencing network for the purpose of training and enhancing communications.
- Expansions will include additions to the Training Academy facility and new systems at several Fire Stations.
- Communication will be provided over the City's Intranet using configurations that allow multi-point calls.
- The existing system will be upgraded with additional cards and ports to support the new sites.
- Three proposals were received.
- A team consisting of CMPD and Procurement Services staff evaluated the proposals.
- MPAC Systems is recommended based on the firm's qualifications, experience, turn key solution and cost effectiveness.
- MPAC Systems has the required certifications for installing the equipment and is highly recommended by Polycom (manufacturer).

Small Business Opportunity

The Small Business Development Program Manager waived the SBE goal for this project. Pursuant to Section 2.21 of the Program Policy, this contract is exempt from the SBO Program.

Funding

The UASI Grant for Homeland Security that was approved by Council on May 24, 2004 funds this purchase.

23. Animal Control Ordinance Amendment

Action: Adopt an ordinance, amending Chapter 3 of the Charlotte City Code, to remove the waiting period for the adoption of puppies and kittens.

Staff Resource: John Joye, Charlotte-Mecklenburg Police

Explanation

- Section 3-140 of the Animal Control ordinance authorizes and regulates the Bureau's release of animals to the general public
- Ordinance currently requires the Bureau to keep puppies under four months of age for at least 7 days before they can be adopted by the general public
- Waiting period is medically unnecessary in most cases
- Ordinance amendment removes waiting period for puppies and kittens but continues to authorize the bureau to hold any animal on a medical necessity
- Current ordinance authorizes animals to be released by public auction, rather than adoption; new language will specifically authorize adoption as well as public auction

Attachment 23

Ordinance

24. Charlotte Mecklenburg Community Foundation Grant

Action: Adopt a budget ordinance, appropriating \$39,000 from the Charlotte Mecklenburg Community Foundation, for the God and Gangs Program for the Charlotte-Mecklenburg Police Department.

Staff Resource: Captain Diego Anselmo, Charlotte-Mecklenburg Police

Explanation

- CMPD received a \$39,000 grant from the Charlotte Mecklenburg Community Foundation.
- Grant funds a "God and Gangs" program in the Steele Creek Patrol Division
- Program provides at risk youth, ages 6-18 with alternatives to gang and other criminal activity
- Program partners police officers with religious institutions in the Steele Creek Division
- Steele Creek Youth Network Advisory Council will work with congregations to provide alternative youth activities through 2005-2006 academic year.
- Funds will be used for activities for at risk youth that are funded by churches, related expenses such as food and transportation, and marketing of the program to eligible youth.

Attachment 24

Budget Ordinance

25. Microsoft Enterprise Licensing Agreement Renewal

Action: Approve the exercising of a three-year renewal option of the Microsoft Enterprise Licensing Agreement to ensure software license compliance and support of included Microsoft products. Payments will be made on an annual basis, with a total cost for three years not to exceed \$1,800,000.

Staff Resource: Al Alonso, Business Support Services

Explanation

- The current Microsoft Enterprise Licensing Agreement has been in place for three years and will expire on June 30, 2005.
- There is a three-year renewal option available for the current agreement.
- The agreement allows all covered City PC's to load and run any version of Microsoft Windows, Microsoft Office Professional, and Microsoft Client Access Licenses.
- The agreement also includes licenses for servers and additional Microsoft products that may also be loaded on certain PC's.
- The agreement provides for support of existing software as well as upgrade rights to future versions.
- CompuCom was previously selected as the ESA (Enterprise Software Advisor) and reseller for this agreement, and they manage all agreement transactions and collect payments on the contract.
- Microsoft software products that are not continuously covered by software maintenance are not eligible for future maintenance contracts or upgrade rights.

Small Business Opportunity

Pursuant to section 5 of the SBO Program, no SBO utilization goal was set for this contract renewal because subcontracting is not anticipated.

Funding

Business Support Services Operating Budget

26. FY2005 Annual Financial Audit Contract

Action: Approve a contract with Cherry, Bekaert & Holland, LLP, Certified Public Accountants & Consultants, in the amount of \$112,379 to provide audit services for the fiscal year ending June 30, 2005.

Staff Resource: Greg Gaskins, Finance

Explanation

- State law requires Council to select a certified public accounting firm to audit the accounting records and annual financial report and to evaluate internal controls at the end of each fiscal year.

- In FY2004, Council approved an audit contract with Cherry, Bekaert & Holland, LLP for four years. The first year fee was \$109,000. Increases in subsequent years fees are limited to the increase in the Consumer Price Index (CPI) or less with a maximum increase of 5 percent.
- This second year fee is \$112,379.
- Audit to be performed by Charlotte office with local personnel.

Small Business Opportunity

Established SBE Goal: 0%

Committed SBE Goal: 0%

Pursuant to Section 5 of the SBO Program, no SBO utilization goal was set for this contract because subcontracting is not anticipated.

Funding

General fund, Water and Sewer Operating, Airport Operating, Transit Operating, Storm Water Operating, Risk Management

27. Arrowood/Windsong Storm Drainage Improvements

- Action:**
- A. Adopt a budget ordinance appropriating \$1,400,000 from Storm Water fund balance,**
 - B. Reject the low bid from Blythe Development Company of Charlotte, North Carolina pursuant to North Carolina General Statute 143-129 (b) as non-responsive, and**
 - C. Award the contract for Arrowood / Windsong Storm Drainage Improvements Project to the next low bidder, Sealand Contractors of Charlotte, North Carolina for \$1,280,294.64.**

Staff Resource: Tim Richards, Engineering & Property Management

Budget Ordinance

- Flood control program funding has been expended for the current fiscal year. The ordinance provides a supplemental appropriation of \$1.4 million from the Storm Water Operating fund balance to implement the project in the current fiscal year.

Arrowood/Windsong Storm Drainage Improvements Project

- Addresses stream erosion, street and house flooding
- Involves replacement of culverts and underground pipe systems, stream stabilization, construction of curb and gutter and related construction activities.
- Construction completion is scheduled for the first quarter of 2006

Reject the Low Bid of Blythe Development Company

- Reject the low bid of \$1,051,165 from Blythe Development
- Blythe's bid is non-responsive due to their failure to include the required 5% bid deposit or bond at the time of the bid letting (state statutes requirement).
- The project was advertised as a formal project on March 13, 2005.

Award the Contract to Sealand Contractors

- Award the contract to Sealand Contractors as the lowest responsive and responsible bidder.

Small Business Opportunity

SBE Subcontractor Utilization Goal: 6.00 %

SBE Participation: 6.00 %

Sealand Contractors Corp. has committed 6.00% (76,825.64) of the total contract amount to the following SBE firms: ACS Pavement Marking, H & H Hauling, and On Time Construction Inc.

Funding

Storm Water Operating Fund Balance

Attachment 25

Budget Ordinance

28 . 24-Inch Water Main Along South Boulevard

Action: A. Adopt a budget ordinance appropriating \$2,000,000 from Water and Sewer Revenue Bonds, and

B. Award a contract to Sealand Contractors Corporation, Charlotte NC, in the amount of \$1,880,032.35 for construction of a 24-inch water main along South Boulevard from Bland Street to E. Worthington Avenue.

Staff Resource: Doug Bean, Charlotte-Mecklenburg Utilities

Budget Ordinance

- The budget ordinance provides funds to cover the contract amount plus a contingency for future price increases for steel, concrete and gas.

Explanation

- This project is part of the overall South Corridor Improvement Project (SCIP).
- Due to the location of the water mains along South Boulevard, utility construction is beginning ahead of schedule in an effort to be out of the roadway prior to the storm water and street improvement projects.

Small Business Opportunity

Established SBE Goal: 7%

Committed SBE Goal: 7.01%

Sealand met the SBE goal, and exceeded the mandatory outreach. They have committed \$131,700 to the following SBEs: H & H Hauling and ACS Pavement Markings

Funding

Water and Sewer Capital Investment Plan

Attachment 26

Budget Ordinance

29. FY2006 Sanitary Sewer Pipe Cleaning

Action: A. Reject the bid of \$692,376 from L-J, Inc., Columbia, South Carolina for failure to meet required prior experience, and
B. Award contract to the next lowest bidder, Bio-Nomic Services Inc., Charlotte, North Carolina in the amount of \$789,072.

Staff Resource: Doug Bean, Charlotte-Mecklenburg Utilities

Explanation

- Project includes sewer line cleaning and CCTV inspection of approximately 127,600 linear feet of large diameter sanitary sewer lines, plus any necessary by-pass pumping and right-of-way clearing as required for access and restoration

Bid Rejection

- Invitation To Bid required bidders to demonstrate at least three years of documented experience in cleaning/clearing large diameter sewer lines.
- Low bidder neither meets the prior experience nor technical requirements, per the bid specifications.

Bid Award

- Bio-Nomic Services, Inc. has the current contract for sewer pipe cleaning services.
- They meet and exceed all required prior experience and technical capability requirements for this project.

Small Business Opportunity

Established SBE Goal: 5%

Committed SBE Goal: 0%

Bio-Nomic Services Inc. failed to meet the goal, but exceeded the Good Faith Efforts and mandatory outreach requirements for this project.

Funding

Sewer Capital Investment Plan

30. Long Creek Parallel Sanitary Sewer Outfall - Contract C

Action: **A. Adopt a budget ordinance appropriating \$500,000 from Water and Sewer Revenue Bonds, and**

B. Approve Change Order #1 for \$417,180 with Sanders Utility Construction Co. Inc. to cover the cost of additional materials and labor.

Staff Resource: Doug Bean, Charlotte-Mecklenburg Utilities

Budget Ordinance

- Additional funding is needed due to changes in tunnel design and project scope.
- The budget ordinance amount includes a contingency for future price increases for steel, concrete and gas.

Explanation

- NC Department of Transportation has added requirements for tunneling of NCDOT roads. Therefore, the following changes were made to the original project scope:
 - Installation of a shielded tunnel instead of utilization of standard tunneling methods
 - Increased size of tunnel from 72-inches to 84-inches
 - Addition of engineered dewatering system
- Project involves tunneling the following NCDOT roads:
 - Belhaven Boulevard
 - Oakdale Road
 - Brookshire Boulevard

Small Business Opportunity

Established SBE Goal: 0 %

Committed SBE Goal: 0%

All additional work involved in this change order will be performed by the current contractor, Sanders Utility Construction Co., Inc. and their subcontractors.

Therefore, this change order complies with Section 10.3 of the SBO Program.

Funding

Sewer Capital Investment Plan

Attachment 27

Budget Ordinance

31. FY2003 Sanitary Sewer Rehabilitation, Amendment #2

Action: Approve Amendment #2 for \$189,570 to the contract with American Water Services Underground Infrastructure, Inc. for additional sanitary sewer rehabilitation work.

Staff Resource: Doug Bean, Charlotte-Mecklenburg Utilities

Explanation:

- Amendment #1 provided an additional \$985,000 for rehabilitation of sewer mains in several areas needing immediate work, which were not included in the original scope of service.
- Amendment #2 provides funding for additional work in the Huntersville area that needs immediate rehabilitation.

Background

- Original contract was approved on July 22, 2002
- Contract established unit prices for rehabilitation and replacement of 82,000 linear feet of old sewer mains throughout the collection system, for a not to exceed amount of \$3,879,923.94

Small Business Opportunity

Established SBE Goal: 0%

Committed SBE Goal: 0%

Amendment provides no new subcontracting opportunities All work will be preformed by the current contractor and their team of subcontractors.

Amendment complies with Section 5 of the SBO Program.

Funding

Sewer Capital Investment Plan

32. Solid Waste Services East Zone Residential Solid Waste Collection Service Contract Unit Price Increase

Action: Authorize the City Manager to execute a 2.09% increase to Solid Waste Services, East Zone Residential Solid Waste Collection Services Contract with an effective date retroactive to January 1, 2005. The unit price increase is 15 cents, for a total monthly unit price of \$7.21 at an additional contract cost of \$44,316.

Staff Resource: Greg McDowell, Internal Audit
Wayman J. Pearson, Solid Waste Services

Explanation

- The City currently contracts with Solid Waste Services to provide residential solid waste collection services in the East Collection Zone.

- The East Zone is currently operating under a six month extension for the period January 1, 2005 to June 30, 2005. A new contract was awarded to Solid Waste Services for the East Zone and will begin on July 1, 2005.
- The City also contracts with Solid Waste Services for the North and South Zones; however those contracts are on a fiscal year schedule. In addition, the City contracts with a private firm to provide collection services for the West Zone.
- The East, North and South contracts provide that each year, 90 days prior to the contract anniversary date, the Contractor may request that the unit prices be increased up to a ceiling of 75% of any increase during the preceding 12 months in the United States Department of Labor, Bureau of Statistics, Washington, D.C. Consumer Price Index (CPI).
- Internal Audit has calculated the ceiling to be 2.44% while Solid Waste Services had actual cost increases of 2.09%. The following table summarizes the impact on the contract:

Collection Zone	Beginning Contract Date	% Of Increase	Increase to Unit Cost	New Unit Cost	Additional Cost for six month extension
East	1/1/00	2.09%	.15	\$7.21	\$44,316

- For the requested action, Solid Waste Services submitted a letter documenting increases in employee salaries, employee insurance, workers compensation liability and fuel. Internal Audit reviewed the documentation and found that it substantiates the requested increase.

Funding

Solid Waste Services Operating Budget

33. Airline Use Agreement for Air Tran Airways

Action: Approve an agreement with AirTran Airways, Inc. that permits the airline to operate at the Airport.

Staff Resource: Jerry Orr, Aviation

Explanation

- AirTran Airways, Inc. (“AirTran”) has requested to operate at the Airport. The terms and conditions for AirTran are equivalent to the terms and conditions for other airlines operating in a similar manner.
- Currently, Air Tran operates six daily flights at one gate.

34. Tolling Agreement with Doral II Limited Partnership

Action: Authorize the City Attorney to execute a Tolling Agreement with Doral II Limited Partnership and Cavalier Associates Limited Partnership to postpone the time limitation by which a lawsuit would have to be filed related to flooding at the Doral Cavalier Apartments.

Staff Resource: Mac McCarley, City Attorney
Jude Starrett, City Attorney's Office

Explanation

- Statutes of limitations are the rules of law that govern the period of time during which a claim must be filed. These time limitations ensure that property owners are diligent and do not present stale claims. An action that is not initiated within the designated time frame will be forever barred unless the running of the statute is "tolled" or "interrupted."
- The Doral Cavalier Apartments experience flooding in less than 10-year storm events. The latest significant flooding event at the Doral Cavalier Apartments occurred on June 7, 2003.
- The apartment complex owners believe that City storm water projects in the Briar Creek and Edwards Branch floodway may have caused an increase in the flood levels at the apartment complex. They have threatened to file a lawsuit against the City for damages resulting from either negligent design or construction of our projects or to compensate them for an alleged takings claim (inverse condemnation) under N.C. General Statute §40A-51.
- In response to these allegations, City and County staff in Storm Water Services have met with the owners and their attorneys regularly since the summer of 2003 to discuss what might be done to reduce the frequent flooding. As a result of these discussions, the City and the County hired consultants to conduct flood mitigation and feasibility studies to consider various engineering solutions and to determine what if any impacts they may have on downstream properties.
- A takings claim under G.S. §40A-51 must be brought within 24 months of the alleged taking. Attorneys for Doral/Cavalier at Akin Gump Strauss Hauer & Feld, LLP, in Washington, DC, have requested that the City enter into a tolling agreement to allow the parties to continue discussing and pursuing engineering solutions to the flooding, rather than forcing them to file a lawsuit before the statute of limitations ends on June 7, 2005.
- Staff does not think the City is liable for damages to the owners of the Doral Cavalier Apartments under any theory of recovery, but sees potential benefits to having the information from these studies available if litigation does occur in the future. The City will not lose or waive any rights to assert any and all applicable legal defenses if a law suit is filed so staff recommends entering into this agreement with the property owners.

Attachment 28
Tolling Agreement

35. Mt. Holly-Huntersville Road Intersection Condemnation Settlement

Action: Approve additional deposit of \$123,056 for a total settlement of \$263,906 in condemnation case 03 CVS 14631, entitled City of Charlotte v David Lee Kinney & Richard D. Guiney, Jr. Family LLC.

Staff Resource: Catherine Williamson, City Attorney's Office

Explanation

- Council previously approved condemnation at the appraised amount of \$140,850 for fee simple and temporary construction easement acquisition in connection with the Mt. Holly-Huntersville Road Intersection Improvement project. The property owners later obtained their own appraisal in the amount of \$490,960.
- The appraisals differed with respect to the value per square foot of property taken (\$3.50 vs. \$9.50).
- In addition, the owners' appraisal found damages to the remainder and the City's did not.
- From information presented at mediation and in subsequent discussions with the owners' attorney, the owners' appraiser appeared credible. At least one weak point was identified in the City's appraisal.
- The total amount of the proposed settlement represents a compromise between the two appraisers' opinions of value, which is the type of analysis a jury would likely apply in this situation. The proposed settlement is actually less than an outcome which would be achieved by "splitting the difference" between the two appraisals.
- The property owners agree with the mediated additional settlement amount of \$123,056.

Funding

Transportation Capital Investment Plan

36. Airport Property Exchange

Action: Adopt a resolution to approve a property exchange between R. T. Godley Investments, LLC and the City of Charlotte.

Staff Resource: Jerry Orr, Aviation

Explanation

- R.T. Godley Investments, LLC ("Godley") owns land south of the Airport at Byrum Drive and Larkmoore Court. The land is adjacent to Airport property.
- Godley desires to swap a portion of its property for a portion of the City's property in order to accommodate business expansion.
- The terms of the proposed exchange are:
 - The City will transfer to Godley .56 acres.

- The .56 acres will be subject to an aviation easement.
- The City will grant Godley a stormwater easement on other adjacent land.
- Godley will transfer to the City .016 acres.
- Godley will pay the City \$42,450, the difference in values of the parcels.
- The value of the land was determined by recent independent appraisal.
- This exchange has been advertised as required by state law.

Attachment 29

Resolution

37. Property Transactions

Action: Approve the following property acquisitions (A-D) and adopt the condemnation resolutions (E-G).

For property transactions A-C, the purchase price was determined by an independent appraiser and was reviewed by a second appraiser. Each appraisal takes into consideration the specific quality and quantity of the land. The tax value is determined on a more generic basis and will be higher or lower for land/house with certain attributes. Property is acquired for Federal Guidelines 49 CFR Part 24 of the Uniform Acquisition and Relocation Act of 1970. Acquisition costs are eligible for Federal Aviation Administration reimbursement.

NOTE: Condemnation Resolutions are on file in the City Clerk's Office.

- A. **Project:** Airport FAR Part 150 Plan Acquisition
Owner(s): Heirs of Keith C. Thompson Sr.
Property Address: 9231, 9225, 9101, * Walkers Ferry Road and 4008 Rockwood Road
Property to be acquired: 9.96 acres
Improvements: houses
Purchase Price: \$724,015
Zoned: R3 **Use:** residential
Tax Value: \$633,500
Tax Code: 113-161-40, 113-161-36, 113-161-41, 113-161-15, and 113-161-16

- B. **Project:** Airport FAR Part 150 Plan Acquisition
Owner(s): Keith Thompson Service Inc.
Property Address: 9203 Walkers Ferry Road, 4240 and 4215 Rockwood Road
Property to be acquired: 3.26 acres
Improvements: houses
Purchase Price: \$121,500
Zoned: R3 **Use:** residential

Tax Value: \$125,700
Tax Code: 113-161-38, 113-161-10, and 113-161-02

- C. **Project:** Airport FAR Part 150 Plan Acquisition
Owner(s): Timothy and Suzanne Severs
Property Address: 9110, 9200, 9212, 9218 Walkers Ferry Road and 4026 Rockwood Road
Property to be acquired: 4.11 acres
Improvements: houses
Purchase Price: \$658,500
Zoned: R3 **Use:** residential
Tax Value: \$610,600
Tax Code: 113-361-16, 113-361-15, 113-361-14, 113-361-13, and 113-161-33
- D. **Project:** South Corridor Infrastructure Project: South Boulevard Sidewalk Improvements, Parcel # 831
Owner(s): The Shuman Company, Inc.
Property Address: 3216 South Boulevard
Property to be acquired: 3,786 sq. ft. (.087 ac.) in Sidewalk and Utility Easement, plus 2,388 sq. ft. (.055 ac.) in Temporary Construction Easement
Improvements: None
Landscaping: None
Purchase Price: \$25,000
Remarks: Compensation was established by independent, certified appraisals in the area.
Zoned: B-2
Use: Commercial
Tax Code: 147-021-11
Total Parcel Tax Value: \$771,900

Condemnations

- E. **Project:** South Corridor Infrastructure Project: New Bern Sidewalks, Parcel # 524
Owner(s): Mostafa Farahmand And Wife, Monica C. Farahmand And Any Other Parties Of Interest
Property Address: 3500 South Tryon Street
Property to be acquired: Total Combined Area of 401 sq. ft. (.009 ac.) of Sidewalk and Utility Easement, plus Temporary Construction Easement
Improvements: None
Landscaping: None
Purchase Price: \$900
Remarks: Compensation was established by an independent, certified appraisal and an appraisal review. City staff has yet to reach a negotiated settlement with the property owner.
Zoned: I-1

Use: Commercial
Tax Code: 145-133-01
Total Parcel Tax Value: \$115,300

- F. Project:** South Corridor Infrastructure Project: New Bern Sidewalks, Parcel # 535
Owner(s): Jerry Robert Lahr, Trustee Of Vortex And Any Other Parties Of Interest
Property Address: 3115 Griffith Street
Property to be acquired: Total Combined Area of 5,142 sq. ft. (.118 ac.) of Sidewalk and Utility Easement, plus Temporary Construction Easement
Improvements: None
Landscaping: None
Purchase Price: \$6,300
Remarks: Compensation was established by an independent, certified appraisal and an appraisal review. City staff has yet to reach a negotiated settlement with the property owner.
Zoned: I-2
Use: Industrial
Tax Code: 147-014-01
Total Parcel Tax Value: \$669,300

- G. Project:** South Boulevard / Inwood Drive Storm Water Project - Phase II, Parcel # 21
Owner(s): Cathleen J. Kahler And Any Other Parties Of Interest
Property Address: 722 Rome Court
Property to be acquired: Total Combined Area of 5,502 sq. ft. (.126 ac.) of Storm Drainage Easement
Improvements: None
Landscaping: This will be a zero appraisal as there is an existing permanent drainage easement (PDE). All bushes and landscaping in the PDE have no value.
Purchase Price: (Appraisal Pending)
Remarks: Compensation was established by an independent, certified appraisal and an appraisal review. City staff has yet to reach a negotiated settlement with the property owner.
Zoned: R-4
Use: Single Family Residential
Tax Code: 171-011-76
Total Parcel Tax Value: \$113,100

38. Meeting Minutes

Action: Approve the titles, motions and votes reflected in the Clerk's record as the minutes of:

- April 25, 2005 – Business Meeting
- May 2, 2005 – Budget Presentation
- May 2, 2005 – Workshop