The City Council of the City of Charlotte, North Carolina, met in regular session on Monday, February 2, 1976, at 3:00 o'clock p.m., in the Council Chamber, City Hall, with Mayor John M. Belk presiding, and Councilmembers Betty Chafin, Louis Davis, Harvey Gantt, Pat Locke, and Joe Withrow present.

ABSENT: Councilmembers James B. Whittington and Neil C. Williams.

INVOCATION.

The invocation was given by Councilman Harvey Gantt.

MINUTES APPROVED.

Upon motion of Councilman Withrow, seconded by Councilwoman Chafin, and unanimously carried, the minutes of the last meeting on Monday, January 26, 1976 were approved as submitted.

RESOLUTION OF THE CHARLOTTE FIREMEN'S RETIREMENT SYSTEM BOARD OF TRUSTEES RECOMMENDING TO THE CITY COUNCIL CHANGES IN THE BENEFIT STRUCTURE AND METHOD OF FINANCING THE RETIREMENT SYSTEM, DEFERRED.

Mr. Hunter, Vice Chairman of the Firemen's Retirement System Board of Trustees, stated they are attempting to correct what they feel is inequity. The Board of Trustees and the retired firemen feel there has been an inequity, and the subject resolution which the Board of Trustees has passed is an attempt to change that.

Mr. Hunter stated the law under which they operate requires that they withhold 10.1 percent from all salary benefits. It has been determined that the checks which many of the retiring firemen get for accrued vacation and sick leave at the time they retire is salary within the meaning of the law. Unfortunately the law does not permit these funds to be considered in determining what the retirement benefit will be. Since these funds are not considered in this respect, they feel there should not be any portion of the funds 'taken to add to the firemen's retirement system. Therefore, they are requesting that the treasurer be permitted to refund from the firemen's retirement system all the 10.1 percent withholdings that have been made from firemen who have retired since July 1, 1971 and subsequent to that date where they receive checks for accrued vacation and sick leave, and that the policy be continued for future retirees, and that no refund be made to the City for its matching contributions. This will amount to $10,962.21 through December 31, 1975.

Councilman Withrow stated Council needs to know what it will be facing down the road. He asked the Finance Director to tell Council the pitfalls in years to come - where we are headed and what is going to happen. Mr. Fennell replied the main concern is the unfunded liability. The proposal being made will not have any real considerable effect on the unfunded liability; but it will have some - in principle, even though it is a small amount. It means you are considering the benefit without tying it into an actual study which would indicate the soundness of this particular fund. The unfunded liability has grown from 1965 from about $1.5 million to about $11.5 million. It is not a question of an amount he is speaking to but a question of a basic principle that you should address benefits as a general rule to the determinations that have been made by an actuary. It is appropriate for the Board to recommend to Council what benefits should be granted. They have considered this very thoroughly and have come up with the recommendation.
He stated there are several points he would like to make. One is the desirability that this be compared with other employees retirement systems so that a similar controversy will not be created. Too, as a general rule we do address ourselves to the long term unfunded liability with respect to granting a benefit. One of the problems if they grant the benefit, he would hope they would keep the matching contribution intact as it is. It has been a policy that the City contribute no more than an employee would contribute to a retirement system.

Councilman Withrow asked how long it would take to make a feasibility study of placing all future employees from a certain date under the State system like all the other employees? Mr. Fennell replied that would be contingent upon discussions with the State Retirement Board; it would be based on their determination. That it would not be out of order to make a comparison. During the discussion he stated any employee can go under the state system.

Councilman Gantt stated his question is why there are so many different systems. Apparently it is because at one time there did not exist for public safety officers the opportunity to be under the system.

Councilman Withrow stated if this resolution is passed today, could Council ask for a feasibility study on the systems to make it the same throughout for City Employees employed from this point on to be under the State Employment System. Mr. Fennell stated he does not believe you can decrease benefits under this system. Whatever alternatives are selected it would have to provide at least as good benefits as currently being provided. The City Attorney stated there would be some legal considerations also. This retirement system was created by a local act of the General Assembly in 1947. It is purely a local system. In order to merge the firemen in this retirement system to the State system might require a repeal of this legislation which established this. The earliest this could be considered would likely be in the General Assembly of 1977. It would seem in order to bring about a merger of this system with the general State system would probably take some legislation. Councilman Withrow stated he is not talking about a merger. The system now in effect would continue for the employees on board. He is asking for all future employees.

The City Manager stated one day they will have to face up to the unfunded part. One reason they have not now is because it has been growing so rapidly and adding new men in the system, that it is adding faster than retiring. On the contrary the reason Mr. Withrow's plan would have acute problems is if you cut one off, no one is going into it, and everyone is getting older. To do that might be the safest thing, and the cheapest way to fund an unfunded system would be for Council to assume this responsibility.

Councilman Davis stated if a fireman takes his vacation and is out sick a few days and receives pay for that, he is paid regular pay, and from that pay we deduct the percentage for the retirement plan. That is part of his compensation, and his benefits are based on that. What we are talking about here is a man accrues a lot of vacation and it is accrued to his benefit the year he retires. The reason for this law is to prevent someone from having a $10,000 income and having $10,000 in accrued benefits and retiring at $20,000 a year, which has happened in other municipalities. In view of the fact that the sick leave and accrued vacation is a part of compensation for retirement benefits, he believes the money is properly being deducted. Also, in view of the 60 some years it would take to amortize the unfunded liability we will be faced with making a contribution to the firemen's fund, and also, if we did this, it would necessitate a change in our other retirement benefits such as police and other City employees, he would propose that Council deny the request.

Councilman Withrow stated Councilman Whittington has asked that Council not vote on this until he is present.
Councilman Davis stated he will withdraw his proposal and moved that Council defer action until next week. The motion was seconded by Councilwoman Locke.

Mr. Fennell stated if Council does grant the request to not deduct employee's contributions on accrued leave, he would hope that Council would not contribute the matching funds from the City. That he thinks the unfunded liability should be faced up squarely. That he is not taking issue with the recommendations of the Board of Trustees; it is just the fact he thinks the contributions should remain matching.

Mr. Burkhalter stated perhaps Council should have Mr. Fennell look into the possibility of trying to change over the system. But he would like to point out in defense of what they will hear that if they were in this retirement system today, and no one from now on could go into it they would think that they would be forgotten. Before even starting it, he thinks we should say that it will be approached on a fair basis of seeing that it is reviewed regularly along with the benefits comparable to all other systems. Build that into it so they will not feel they have been deserted.

Councilman Withrow made a substitute motion that Council postpone decision on this matter until Council can have a study made to determine the effects of this request; at the same time the study should include the feasibility of placing future employees of the Fire Department under the North Carolina State Retirement System as other City employees. The motion was seconded by Councilwoman Locke.

Councilman Gantt asked if there is a time limit on the study? Councilman Withrow asked Mr. Hunter how long it will take? Mr. Hunter replied they have not entered into the kinds of study Mr. Withrow has requested; but they have been working on this matter for two years, and would like to have it brought to a decision.

Councilman Withrow stated then he will separate the two motions. Mayor Balk stated there is a motion on the floor to postpone for one week. The vote was taken on the motion, and carried unanimously.

Councilman Withrow moved that a study be made for the feasibility of placing future employees of the Fire Department under the North Carolina State Retirement System as other City employees. The motion was seconded by Councilwoman Chafin, and carried unanimously.


Councilman Gantt moved adoption of the subject ordinance changing the zoning from R-6 to B-1(CD), as recommended by the Planning Commission. The motion was seconded by Councilwoman Chafin, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 23 at Page 37.

REVIEW OF DISCONTINUED STREETS PROGRAM.

Mr. McIntyre, Planning Director, stated that the Discontinued Streets Program arose out of circumstances that pertain to the subdivision process and subdivision ordinance as existed prior to 1973. The basic circumstance was this: A situation where you had two tracts of land, undeveloped, probably in separate ownership with a stream between them at the boundary of both tracts along that stream line. Man "X" who had this piece of property, decides to subdivide his first and it was logical and reasonable from other points of view for him to extend a street down to the creek or branch.
There was no subdivision activity on the other piece of property, so the construction of a drainage facility across the stream could not be done at that time. It was a divided responsibility. Half the responsibility was on the man who owned this property and the other half was on the man who owned the other property. It was out of that circumstance, basically, that the discontinued streets problem arose. Mr. McIntyre stated Council asked for a study of the matter which was done. The results of the study were based on two different things: (1) A modification of the subdivision ordinance that provided in this certain case the man who developed this subdivision had to deposit with the City half of the estimated cost of the drain structure that would be required when the street was extended into his property. Then when this property was developed the other half of that cost was provided by the developer of this property and the structure was built. There have been a few different kinds of circumstances under which the Discontinued Streets Program has been used but this is the basic situation that brought it into being.

In addition to requiring the initial developer to post the money with the Engineering Department, which would assure construction of that, there is also provision in the ordinance which said where this kind of situation already existed, that when this developer came into being he would pay his half of the cost and the City would defray the other half.

Mr. McIntyre then reviewed several situations where the program has been put into effect and the results and problems. He called attention to the two large subdivisions in the Albemarle Road-Lawyers Road-Idlewild Road North area where Easthaven and Idlewild Farms are the two subdivisions and indicated a branch of Campbell's Creek separating the two. They were developed at different times and by different developers; neither developer was in a position to join the two; but the street pattern provided for the possibility for some connection in the future. The importance of that connection is that you have Albemarle Road Junior High, Idlewild Elementary School and the East Mecklenburg YMCA. Without the connection it is possible to live within a few feet of the schools or the Y and have to travel two miles to reach one. Another case cited was the Barrington Drive area with the Plaza Road area and the Cochran Junior High School where there are no sidewalks along The Plaza. Another area where a stream is not involved is the Dalton Village and Reid Park Area where there is a community center and recreational park. He also called attention to the Richland Avenue area where there is no way to get from Monroe Road to Randolph Junior High School without going out to McAlway and then following the parallel streets, or going over to Sharon Amity and coming back into the street system.

After the explanation, Councilman Gantt stated he would like to commend the previous Council that went into the Discontinued Streets Program. He asked if all these connections have been done or if they are proposed? Mr. McIntyre replied the first two examples have been done and the others are proposed.

Councilman Gantt stated they seem to be very logical in terms of providing access to convenience services, particularly those public facilities such as parks and school facilities within two neighborhoods. He stated the thing that concerned him was that one of the reasons for the program was for the provision of emergency services which he did not hear mentioned. He feels the four or five examples given are quite logical and make sense in terms of access to public facilities in the neighborhood without using major arteries.

Mr. McIntyre stated he hopes Council will not decide to discontinue the program. The only element he would want to add as a measure on whether we continue the program is that we make a neighborhood impact survey prior to developing a project to find out what the impact on the neighborhood is since we are all concerned with neighborhood preservation.
Councilman Davis stated he is concerned about the seven criteria listed. About four of them deal with after the fact, such as right of way and connections which need to be constructed. All these are factors to be considered but do not bear on the need for the roads in the first place. That brings it down to about three factors. One is the need for neighborhood circulation which seems to be the main one. Proximity in connection to schools has to be the lesser since it changes from year to year as school begins, and the relationship to major thoroughfare claims. The ones pointed out today he does not believe to be constructed to really get into the thoroughfare plan to any degree.

Mr. McIntyre stated Barrington was originally proposed as part of the major thoroughfare system. While it is an example of a major thoroughfare as it was originally considered we must also expect to have more examples of this in the future. Therefore, a requirement of funding should be available when a right of way is dedicated for a major thoroughfare. It is not reasonable to expect a developer to put the structure in himself. We should preserve the program, among a number of reasons is that we are still enforcing the major thoroughfare plan. He stated this is provided for in the subdivision ordinance but requires funding, and that the drain structure is put in place as part of the major thoroughfare connecting with the system. The developers do not have to deposit that money when the drain structure required is over 48 inches and when there is a secondary or major thoroughfare involved. If the program is not continued with funding we will have to have changes in the subdivision ordinance as the ordinance itself requires financial participation under certain circumstances.

Councilman Davis asked if there is some practical way to determine the need for neighborhood circulation in terms of the neighbors who actually reside in the area and would be using the connector? Mr. McIntyre replied they have done that on one occasion on the west side of town. The Planning Commission went through a mandatory referral process and felt it would be important to have a survey in the neighborhood and look to the neighborhood to express its reaction to the possibility of it being used more as a bypass through route to the neighborhood rather than providing convenience to neighborhood people. That is the way it came out. The people stated as far as they were concerned they were not going to get more convenience but might get more through traffic from bypass traffic.

Councilman Davis stated where the connector does not become a part of the thoroughfare plan under those circumstances Council would like some kind of input from neighborhoods to assure this is something they do want. Also, he would like to see criteria "B" interpreted in that manner - the need for neighborhood circulation not only in terms of planning forecast, but in terms of the neighbors themselves.

RESOLUTION PROVIDING FOR PUBLIC HEARINGS ON MONDAY, FEBRUARY 23, FOR PETITIONS NO. 76-7 THROUGH 76-16 FOR ZONING CHANGES.

Motion was made by Councilwoman Locke, seconded by Councilwoman Chafin and unanimously carried, adopting the resolution providing for public hearings on Monday, February 23, 1976, at 7:30 o'clock p.m., on Petitions No. 76-7 through 76-16 for zoning changes.

The resolution is recorded in full in Resolutions Book 11, at Page 275.

RESOLUTION CALLING FOR PUBLIC HEARING ON MONDAY, MARCH 1 ON COMMUNITY DEVELOPMENT PLAN AND THE REDEVELOPMENT PLAN FOR THIRD WARD TARGET AREA.

Upon motion of Councilwoman Chafin, seconded by Councilman Withrow, and unanimously carried, the resolution calling for a public hearing on
Monday, March 1, 1976 at 3:00 o'clock p.m. on the Community Development Plan and the Redevelopment Plan for Third Ward Target Area, was adopted and is recorded in full in Resolutions Book 11, beginning at Page 276.

RESOLUTION OF THE CITY COUNCIL RATIFYING SUPPLEMENTAL AGREEMENTS TO THE CONTRACT WITH SYSTEM DEVELOPMENT CORPORATION, CONTRACT NO. 73014.

Mr. Corbett, Director of Traffic Engineering, explained the supplemental agreements, stating they are things which became necessary to change during the course of the project. He stated all the items have been paid with the exception of the 10 percent which is held back from the contractor until the project is finished.

Councilman Withrow asked about having 45 degree walks at certain intersections where you can walk diagonally across instead of having to cross at one corner and waiting on another light to cross the other? Mr. Corbett replied this could be done. It completely ruins the main purpose for which the computer was purchased in that you have practically no progressive movement of vehicles from intersection to intersection. It would be a trade-off.

Councilman Gantt asked if these supplements are an application for things that have already been done to the system and really there is not anything Council can do about it anyway? Mr. Corbett replied along the line various things had to be done, and done quickly and they were done at the time. Councilman Gantt asked if future supplemental agreements would be based on work going on now and they would be asked to ratify them later? Mr. Corbett replied, yes this is possible.

Mr. Corbett advised that 77 1/2 percent of this is paid by the State and Federal government and 22 1/2 percent from local funds. There are several items where the State and Federal governments would not pay; that this related to the movement of the controls at Fourth and College and Fourth and Brevard because it was purely a city matter and they were not involved.

Motion was made by Councilman Withrow, seconded by Councilwoman Chafin, and unanimously carried, adopting the subject resolution.

The resolution is recorded in full in Resolutions Book 11, beginning at Page 280.

RESOLUTION APPROVING A MUNICIPAL AGREEMENT BETWEEN THE CITY AND THE BOARD OF TRANSPORTATION FOR THE PLAZA WIDENING PROJECT.

Councilman Withrow moved adoption of the resolution approving a municipal agreement between the City and the Board of Transportation for The Plaza Widening Project which obligates the City to 33 percent of the project right-of-way costs and all costs for new sidewalk construction. The motion was seconded by Councilwoman Chafin, and carried unanimously.

The resolution is recorded in full in Resolutions Book 11, beginning at Page 284.

RESOLUTION AUTHORIZING THE SUBMISSION OF STEP II AND STEP III GRANT REQUESTS FOR WASTEWATER FACILITIES IN THE METRO CHARLOTTE "201" AREA.

Councilwoman Locke moved adoption of the resolution authorizing the submission of Step II and Step III Grant requests for wastewater facilities in the Metro Charlotte "201" Area. The motion was seconded by Councilman Gantt.
After comments by Mr. Dukes, Director of Utility Department, the vote was taken on the motion and carried unanimously.

The resolution is recorded in full in Resolutions Book 11, beginning at Page 286.

CONTRACTS FOR WATER AND SEWER EXTENSIONS.

Upon motion of Councilwoman Locke, seconded by Councilman Withrow, and unanimously carried, the following contracts for water and sewer extensions were approved:

(a) Contract with Charlotte-Mecklenburg Schools for the construction of 600 linear feet of 8-inch sanitary sewer lines to serve Eaglewind Drive, inside the City, at an estimated cost of $9,820.00. The applicant has deposited 10% of the estimated construction cost and the remaining 90% will be deposited before construction by City forces. The sewer mains will be constructed at the owner's expense and will be owned and maintained by the City at no costs to the City.

(b) Contract with William Berry Company for the construction of 110 lineal feet of 8-inch sanitary sewer to serve Covered Bridge Cove, inside the City, at an estimated cost of $1,650.00. The applicant will construct the entire system at their own proper cost and expense and the City will own, maintain and operate said system and retain all revenue, all at no costs to the City.

(c) Contract with William Trotter Development Company for the construction of 1,365 linear feet of water mains and one fire hydrant to serve Northwood Park, Section 4, inside the City, at an estimated cost of $12,500.00. The City will prepare the plans and specifications; a deposit in the amount of $1,250, 10% of the estimated construction cost, has been advanced by the applicant. The applicant will finance the entire project with no funds required from the City. All mains will be owned, maintained and operated by the City.

RESOLUTION AUTHORIZING CONDEMNATION PROCEEDINGS FOR THE ACQUISITION OF PROPERTY FOR SANITARY SEWER TO SERVE JASON STREET, CARLOTTA STREET AND CONNELLY CIRCLE PROJECT.

Councilman Gantt moved adoption of a resolution authorizing condemnation proceedings for the acquisition of property belonging to Delmar Corporation located at 4301 Golf Acres Drive in the City of Charlotte for sanitary sewer to serve Jason Street, Carlotta Street and Connelly Circle Project. The motion was seconded by Councilman Withrow, and carried unanimously.

The resolution is recorded in full in Resolutions Book 11, at Page 288.

ENCROACHMENT AGREEMENTS AUTHORIZED.

Upon motion of Councilman Gantt, seconded by Councilman Withrow, and unanimously carried, the following encroachment agreements were authorized:

(a) Agreement with North Carolina Department of Transportation permitting the City to construct 762 feet of 8-inch WCP with three manholes to serve Blue Heron Drive at Highway 51.

(b) Agreement with North Carolina Department of Transportation permitting the City to construct 700 feet of 6-inch water mains in the right of way of Park Road and Drexel Place.
February 2, 1976
Minute Book 63 - Page 39

(c) Agreement with the North Carolina Department of Transportation permitting the City to construct 850 feet of 2-inch water line in Peachtree Road, 1500 feet of 6-inch water line in Rockwood Road, and 1600 feet of 8-inch water line in Crandon Drive, all in Crandon Park.

PROPERTY TRANSACTIONS AUTHORIZED.

Motion was made by Councilman Withrow, seconded by Councilwoman Chafin, and unanimously carried, approving the following property transactions:

(a) Acquisition of 15' x 2730.18' of sanitary sewer easement in Birchbark Lane, from John Crosland Company, at $1.00 for sanitary sewer trunk in Chestnut Lake Subdivision.

(b) Acquisition of 15' x 1588.40' of sanitary sewer easement off 7200 block Carmel Road, from Walnut Properties, Inc., at $1.00 for sanitary sewer to serve Walnut Creek II.

(c) Acquisition of 15' x 152.56' of sanitary sewer easement at 7341 Sardis Road, from Mecklenburg County, at $1.00 for sanitary sewer to serve 7301 Sardis Road.

(d) Acquisition of 15' x 1679.17' of sanitary sewer easement at 3061 Berryhill Road, from Johanna Berryhill, John Wearn Berryhill, Jr., Wilma Y. Berryhill and James Collins Berryhill, at $2,500.00 for sanitary sewer trunk to serve Ticer Branch Church of God Campground.

(e) Acquisition of 15' x 519.43' of sanitary sewer easement at 7201 Wilkinson Boulevard, from Susie Clark Smith (widow), at $1,000.00 for sanitary sewer to serve Ticer Branch Church of God Campground.

(f) Acquisition of 15' x 328.23' of sanitary sewer easement at 7126 Wilkinson Boulevard, from Clifton Herring and Nora L. Herring, at $750.00 for sanitary sewer trunk to serve Ticer Branch Church of God Campground.

(h) Acquisition of 15' x 5,330.06' of sanitary sewer trunk at 6900 Wilkinson Boulevard, at $1.00 for sanitary sewer trunk to serve Ticer Branch Church of God Campground.

(i) Option on 7,973 square feet of property at 1405 Estelle Street, at $900.00 belonging to Harry A. Goins and wife, for the Northwest Junior High School Area Park Site.

(j) Option on 7,381 square feet of property at 1501 Onyx Street, at 750.00 belonging to Mercier Leeper and husband, for the Northwest Junior High School Area Park Site.

(k) Option on 7,381 square feet of property at 1505 Onyx Street, at $1,000.00 belonging to Norris C. Cooper and wife, for the Northwest Junior High School Area Park Site.

(l) Acquisition of 10,070 square feet at 314 North Pine Street and 331 West Seventh Street, from George P. Salem (single), at $21,321.00 for the Fourth Ward Park.
SETTLEMENTS AUTHORIZED.

Motion was made by Councilwoman Locke, and seconded by Councilwoman Chafin to approve the following settlements:

(a) Settlement in the case of City of Charlotte v. Lincoln Company, Inc., in the amount of $25,000 (requiring an additional deposit of $5,215.00) for the Remount Road Widening Project, Parcels 37 and 38.

(b) Settlement in the case of City of Charlotte v. James R. Blakely, et al, in the amount of $23,050.00 (requiring an additional deposit of $6,000.00) for the Huntersville Water Tank Site, Parcel 1.

After explanation by the City Attorney, and during the discussion that followed, Councilman Davis stated he would like to know how many cases are settled without going to condemnation so that would give a true picture of what is going on; as it is they are only getting the exceptions. Mr. Underhill, City Attorney, stated the real estate people are negotiating a lot of purchases as Council can tell by the number of purchases that appear on the agenda.

The vote was taken on the motion and carried unanimously.

ORDINANCES ORDERING THE REMOVAL OF WEEDS, TRASH AND RUBBISH.

Motion was made by Councilman Gantt, seconded by Councilwoman Chafin and carried unanimously adopting the following ordinances:

(a) Ordinance No. 29-X ordering the removal of weeds and grass from the premises in the 1200 block of East 36th Street.

(b) Ordinance No. 30-X ordering the removal of trash and rubbish from the vacant lot adjacent to 4118 Glory Street.

(c) Ordinance No. 31-X ordering the removal of trash and rubbish from the premises at 1101 Herrin Avenue.

The ordinances are recorded in full in Ordinance Book 23, beginning at Page 38, and ending at Page 40.

CONSIDERATION OF APPOINTMENT TO INSURANCE ADVISORY COMMITTEE DEFERRED.

Councilwoman Locke moved that the appointment to the Insurance Advisory Committee be deferred. The motion was seconded by Councilman Withrow, and carried unanimously.

APPOINTMENTS TO ZONING BOARD OF ADJUSTMENT DEFERRED.

Councilman Withrow stated Councilman Whittington requested that Council defer action on the appointments to the Zoning Board of Adjustment as he would like the privilege of voting.

Councilman Withrow moved that appointments to the Zoning Board of Adjustment, both regular members and alternate members, be deferred. The motion was seconded by Councilwoman Locke, and carried unanimously.
February 2, 1976
Minute Book 63 - Page 41

COUNCILMEMBERS ABSENT DUE TO CONFLICT OF BUSINESS.

Mayor Belk stated that Councilman Whittington is absent today because of a funeral and Councilman Williams had to be in court.

ADJOURNMENT.

Upon motion of Councilwoman Locke, seconded by Councilman Withrow, and unanimously carried, the meeting adjourned.

Ruth Armstrong, City Clerk