

The City Council of the City of Charlotte, NC, convened for a Dinner Briefing on Monday, September 27, 2010, at 5:18 p.m. in Room 267 of the Charlotte-Mecklenburg Government Center with Mayor Pro Tem Patrick Cannon presiding. Council members present were: Michael Barnes, Jason Burgess, Nancy Carter, Warren Cooksey, Andy Dulin, Patsy Kinsey, Edwin Peacock III

**ABSENT UNTIL NOTED:** Mayor Anthony Foxx, Councilmembers David Howard, James Mitchell, Warren Turner

\* \* \* \* \*

Mayor Pro Tem Cannon said Mayor Foxx, of course, will be joining us. He had some public business to attend to in Washington, DC, of course, and should be on his way here shortly. We do have several items before us right now that we want to go ahead and discuss. I would like to ask Council if there are any Consent Item questions that you all might have at the present.

\* \* \* \* \*

**ITEM NO. 1: MAYOR AND COUNCIL CONSENT ITEM QUESTIONS**

Councilmember Dulin said I have no items tonight to pull. I am prepared to add some conversation if particular items are pulled.

Councilmember Cooksey said it's been awhile. Item 36 on the transit financial contract – I'm wondering have we ever or are we contemplating paying for a similar study to address our road funding monies?

**Curt Walton, City Manager**, said we have not contemplated that, Mr. Cooksey, I think because our road needs are incorporated into our City model. CATS being slightly different, we have a slightly different approach there. It's something that we could consider, but we haven't in the past.

Councilmember Carter said No. 19. There will be construction on Harrisburg Road, and I would like for folks to know when it would start and when it would finish as projected, please. Then No. 30 -- there is a statement on the third bullet point in explanation that we anticipate using these services for approximately 300 background investigation applications annually. It seems like a low-ball figure to me. I was wondering if that were a typo or if it were an accurate representation.

City Manager Walton said Police does its own, so that's outside of Police.

Councilmember Carter said thank you very much. That does help, so I will withdraw that one. Then 45 – it is indicating some property acquisition in the Eastway/Sheffield neighborhood area, and I would like to let those neighbors know about it, please.

City Manager Walton said, Mayor Pro Tem and Council, I just wanted to let you know on the policy agenda Item No. 13 we have pulled. We need to get you some additional information. It's a grant, 2010 Community Development Neighborhood Revitalization Grant. We'll bring that back next time.

Mayor Pro Tem Cannon said with regard to Item No. 16 I have a quick question with regard to that. This is the Paw Creek Force Main Replacement. We had a change in the goal setting on this, and obviously at each one of our desks right now in front of us in the write-up it's still as it was at the last meeting. Are we going to assume or make the correction in the meeting that it will be the goal that they have now set forth with going forward with on their commitment?

City Manager Walton said we'll be glad to note that the percentage is higher. The goal technically doesn't change because it's at the point of bid opening per your policy, but in many

cases, the utilization does increase after bid opening, so we will be glad to note that it has increased.

Mayor Pro Tem Cannon said on the percentage?

City Manager Walton said yes.

\* \* \* \* \*

**ITEM NO. 2: DESIGN-BUILD CONTRACT FOR McALPINE WASTEWATER TREATMENT PLANT FILTER UPGRADE**

**Curt Walton, City Manager**, said in 2007 we got special legislation to allow us to do design-build, and this is the first opportunity in water and sewer that we have wanted to do that for the McAlpine Wastewater Treatment Plant. So we would like to update you on that process, and it's something we will bring forward in November, I believe.

**Barry Shearin, Utilities**, said just wanted to update you on the project and the legislation and let you know kind of what we have planned for this for the McAlpine design-build project and really to get feedback from Council in terms of this new process. He began a PowerPoint presentation entitled, "Design-Build Contract for McAlpine Wastewater Treatment Plant Filter Upgrade," and said just a little bit of background of the McAlpine Plant, it is our plant down in the Pineville area that serves really everything in the brown and green, so it has a relatively large service area in terms of the county compared to the rest of our other four plants.

It is our largest plant. It's currently rated at 64 million gallons a day. What we are proposing in this project is to upgrade the filter portion of that process, which has a firm capacity of 48. It was not upgraded when the plant was expanded to 64. Two reasons: One was an analysis of the filter said that they could handle slightly more than 48 on a periodic basis, and flows were still below 48. We have now reached a point where our annual average flows are slightly above 48, and we are having months that are in the mid-50s, so as our Wastewater Master Plan in 2007 had projected, that was one of the projects that needed to be done was to upgrade those filters. We also now have a phosphorus limit that came out of the North Carolina-South Carolina lawsuit, and this is a pretty key component of making sure we continue to meet that requirement. Not very glamorous, but that's what a filter complex looks like, and we will essentially add about two-thirds of that same structure again to expand that to meet the full plant capacity.

On capital project delivery, the North Carolina statutes traditionally have two methodologies. The one we call the normal bid process is the one that Council usually sees every month. We hire an engineer, Council awards the contract, we design the project, and then we bid it. It's a low bid to the contractor. They also allow construction manager at risk, which was used for the Arena and NASCAR. It's a little different. Same two contracts – you hire a designer and then you hire a construction manager, and both contracts are awarded by the City. The construction manager doesn't actually do any of the work. They just manage all of the subcontract packages, which is a little different from the first one. Design-build has not been traditionally allowed. It's not legal across-the-board statewide.

As Mr. Walton mentioned, in 2007, we got the legislation for design-build under our state legislative package because it has been up and coming nationally, and with the proposed Long Creek Plant out on the ReVenture site, design-build or design-build operate, which our legislation allows for, has been used across the country off and on for new facilities for new treatment plants, so we really wanted just to have those options to look at. That was the intent of the legislation.

Some of the benefits of design-build that we found attractive and why we wanted to add it to the tool box, if you will, was it gives you a single point of responsibility between the designer and the contractor. One of the sources of claims and unfortunately lawsuits that we get into is when the design engineer and the contractor don't see eye to eye in the execution of the project, and then it ends up in our lap as a city because we hold both contracts, and legally that means they have to come back through us. At this point, if the designer and the contractor have an issue, it is

now contractually between them, and the City is not involved in that. The other thing is design-build allows for more of a best qualified approach. It's pretty heavily weighted on a qualification basis and value based whereas before with straight low bid if a contractor can meet minimum qualifications they are allowed to bid whereas here – It provides for, if you desire, you can be more selective about which contractors are taking your projects.

We believe it has potential and we are talking to contractors for a higher SBE participation. You can be more involved in the pricing of the job in terms of how it progresses, and I will talk a little more about that a little later because the design progresses, and you work hand-in-hand, and the job is priced and the bid packages are priced as you proceed, so it allows for a more proactive role by the City staff in those projects and during that bidding phase or pricing phase.

The other thing design-build offers, which is not really a key component we were looking for in the McAlpine project, ultimately it is faster delivery. In typical design-build, you can be still designing while construction work is starting, so if there is a need to fast track a project the private sector has been using design-build for a number of years really for that reason. It is faster project delivery and increased design creativity because now you have a designer not working in a vacuum, if you will, and then handing it over the fence to a contractor to bid. They are on the same team. They can look at the constructability issues and other ways of skinning the cat so to speak.

In this one, this would be our first design-build project. As I mentioned, the real driver was the Long Creek project, but that project is budgeted at roughly \$150 to \$175 or \$180 million of construction. The feeling was that probably wasn't a good project to do our first design-build project. We would like to start with something a little smaller. This one is about \$30 million, and it really is a learning tool for us to go through this project. The project is relatively straight forward. The contracts are typically different for these jobs because risk allocation is different, procurement is a little different, and the staff involvement is different, so it's really a learning project for everyone to say, and our regulators. Our regulators have actually not done a design-build project but are very interested in going through that experience.

Under this methodology, there are still two contracts. The first is what is called the owner's representative. It's really an engineer that we would hire based on qualification based selection just as design engineer is typically hired. Their real role is to do some of the front-end work to describe what it is we want built because obviously you don't want to just have it too open-ended, so they take it to a point that says here's what it needs to look and feel like, and then the design-build team takes it from there, which would be the second contract to hire design-build team, which also houses the detailed design engineer and the contractor. As we said before, you get to apply under our legislation it allows for qualifications and value.

**Councilmember Mitchell arrived at 5:30 p.m.**

Councilmember Barnes said regarding the owner's representative why is that not you?

Mr. Shearin said in that case usually you hire an engineering firm that has experience for design-build because of the logistics of risk management. They also in some cases will do 30% of the design. They will go into a certain level and say this facility needs to roughly look like this, use these types of processes, and that's expertise that we actually don't have in house to get to that level. Now, design-build can be sliced up about a half a dozen ways. If you go to another methodology called a guaranteed maximum price early in the process, they may do as much as a 60% design to get it to a point and stop, and then the design-build teams can come in and look at that, and they can offer up changes, but in a way they do the preliminary engineering work for you, and they also serve as on-site representatives during the construction because design-build team is working for you, but their competition is also based on what it costs – trying to give you low cost – but one of ours is low capital cost, but we also want to make sure the facility is low operation and maintenance cost. They help with that piece of the puzzle. It's a much smaller contract than you would typically see if we were hiring just the design engineer, and then they designed it all and then the contractors did it. They do have a much smaller role.

What we are proposing on this, and we have looked at several, is what's called a progressive design build. There again, actually in this methodology that owner's rep comes back to Mr.

Barnes' question. It actually minimizes their role. They really do a minimal amount of design. They help with the contract documents, working through the risk management issues and so forth, and then helping to make sure – they do some design review because ultimately design-build team gives us a product to review. They will help to make sure it meets our standards and meets what we need in progressive, and I'll talk a little bit more about why that is.

Essentially they do a minimal, and then you work with a design-build team to progress it forward, and you really get to be an active participant. There are two phases to this, so, for instance, what Council would see we would select a design-build team. We would come back with a Phase 1 contract, which is really the engineering and design work, if you will, to get us to what is called a guaranteed maximum price, which is what you all saw on the Arena and NASCAR was that guaranteed maximum price, and that is really what they call the offering. If you don't like that price, you have the opportunity to pay for what you have got for design and bid it or choose to do something. If the guaranteed maximum price looks good, you bid the packages, everything else works, then the Council would issue a Phase 2 approval, which really issues the construction contract, if you will.

We believe that way they know what they are bidding on. The rest is pricing up front. Needless to say, if they have risk, they will tend to price it higher because they have to cover their unknowns that are risks. There again, I mentioned before, we have a lot more hands-on approach during this process in terms of making sure we get – you can literally go and design-build, and the example is if we are specking a car, you just say I want one that holds four people and has four doors and see what you get. There are people who have built plants that way, and it didn't turn out that well. So, you want to keep your hands on it to make sure you get what you need. It's a good product at the end of the day.

Here's the one negative to this. I perceive it as a negative in that I guess it's a negative from the standpoint of outsiders, if you will. In this one, we would be breaking it up into packages, bidding the packages, and that's how you hopefully get a higher SBE participation because you can help control some of those packages; but there are two types of design-build contractors. There are those who just want to primarily manage the work like a construction manager, and then there are those who say we build things. We want to do some of the heavy construction. So what happens in the industry is they are allowed to bid on those packages.

The perceived conflict of interest obviously is to the folks bidding it say, well, wait a minute. You also helped put the package together and design, so you have an inside track – unlevel playing field. That, in all honesty, is inherent in this type of design-build. Now, on private sector and some cases, I guess, on water boards, some of that work is actually negotiated. Where they are going to self-perform it, they will negotiate it, but typically in public sector, those packages are put out, and the design-build contractor is allowed to bid just like everybody else, and if he is low bid, he gets it; and, if not, someone else does the work. I guess I put it as a conflict because that would be what I would call a source of a complaint from a contractor who wasn't successful to bid on a package. My understanding that is inherent in every design-build that is done. You just know going in that is one of the things of how it works.

Councilmember Barnes said would there be any opportunity or have you explored asking that successful construction manager if it decides to pursue the actual work to give us a 20% discount so that anyone else looking at it would say, well, yeah, they did get it, but they had to take a 20% --

Mr. Shearin said we have not had that level of discussion. We have asked this question of how that's handled, and I have not heard anyone say they had to offer a discount, but I guess we could always entertain that on the front end. You are right. I don't know.

Councilmember Barnes said one of the things – tertiary sort of issues – that I have always asked about was whether people are low bidding our projects in order to get the work and then submit five change orders and amendments and so forth, and you guys told me that we are the ones, we, the City, are the ones who typically are asking for the additional work that precipitates the amendment to the contract. But I have always had the sense that some of them – they seem to always get the low bid in, and they always seem to get three change orders or amendments, and that concerns me. I was wondering if with respect to this particular issue, this potential conflict,

whether we could just require upfront if you are going to do the management piece and attempt to do the construction piece that you have got to give us 15%, 20% off, whatever the number might be, and that way other bidders might feel like, okay, the playing field may not be absolutely level, but it's as level as it's going to get – something to create more certainty in the process.

Mr. Shearin said I think we can look at that. I think the only negative you might have because I have talked to a number of the contractors to do it by both methodologies. If the ones who typically like to build – feel like it's slanted towards the managers, they say they are less – they look harder at whether they are going to participate in the process because it does cost – One thing of design-build, the teams that participate and submit proposals spend a lot of time and energy. In some of these they can spend several hundred thousand dollars and don't know they are going to get the work in making proposals, so that is a negative, so they usually like a short list of really qualified firms. They know they have a good shot, and they know the people they are competing with are not the low-baller's. That's one of the beauties of this, but that is certainly something we can entertain. I haven't heard that concept yet, but it's one we can see what it plays.

Next steps: Kind of what we are looking for is feedback. Assuming Council is comfortable with this process and would like to see this project move forward would be in November come back with that owner's representative contract to help us get the ball rolling with the contract documents, the initial design that we might need to do. In this case, we don't think there is much design because we have actually done a lot of engineering work already on what we need. Then with the idea that we would go through the request for qualification process with the design-build teams and be back in the spring with the Phase 1 of that contract.

Councilmember Barnes said since this process is fairly new to all of us, I suppose I'm curious as to what the owner's representative fee typically is in a contract. You said it's about a \$30 million project.

Mr. Shearin said \$30 million, so usually if you figured a normal design fee would be \$4 million roughly, a little over 10%. I don't really know if I have a scale. It really depends on how much we ask them to do up front. I think it's several hundred thousand dollars. That will raise it to a million, \$1.5 million. I'm not sure at this stage. To be honest, we haven't gotten that far in the discussion. We do know this methodology we are proposing pretty well minimizes their level of effort.

Councilmember Barnes said would you issue an RFQ and an RFP for the first bullet point?

Mr. Shearin said under the state law for hiring engineers it is a qualifications base, so we will issue an RFQ, make a selection, and then negotiate a contract. That's really just like a design engineering contract that you all see today, but theoretically it should be a much lower value because the bulk of the engineering work will be under the design-build contract.

Councilmember Barnes said just want to make sure we are not adding another step and create another fee for someone else to add more cost to the City as we do the work. Sounds like what you are saying is we minimize that.

Mr. Shearin said we had the same concern, and what we have learned is there is not a throwaway cost there. What they do rolls to the design-build team. They pick that up and then move it forward so you don't have – because that is a concern. We have looked at some construction manager type contracts before and had the same concerns – just adding another layer.

Councilmember Carter said looking at the picture on page 2 through a different filter there is a supply of electricity there, and there is a cover for the facility. Has anyone considered solar panels?

Mr. Shearin said we have been looking at solar panels for a while, and we try to look at them every time. The last answer I got was – because I know Jackie Jarrell works a lot with that – was on the solar the concern is the energy, Duke Power. At this point, it is not such that solar is financially attractive. The cost is still very high compared to the credits you get back and for

selling the power. We are looking at some other projects that would use some energy, but the solar the last time we looked is still struggling.

Councilmember Carter said I was looking at the proximity of those poles thinking it might be feeding that facility, so if it could power itself that might be the feedback that you needed.

Mr. Shearin said one of the things we would look at is, for instance, the lighting. It may be that you could get enough voltage there, so to do things like lighting for the facility, that would be something we could definitely look at.

Councilmember Carter said may I encourage you, please.

Mayor Pro Tem Cannon said you are going to bring this back to the body.

City Manager Walton said in November.

\* \* \* \* \*

### **ITEM NO. 3: CULTURAL FACILITIES RENAMING TO LEVINE CENTER FOR THE ARTS**

**Curt Walton, City Manager**, said the next item is cultural facilities renaming to Levine Center for the Arts, and I will let Ron introduce this topic.

Mayor Pro Tem Cannon said do take your time. I know Mayor Foxx wants to weigh in accordingly.

**Ron Kimble, Deputy City Manager**, said so you want me to talk real slow.

Mayor Pro Tem Cannon said not quite that slow.

Mr. Kimble said we are here tonight to propose and offer up a great opportunity, we believe, on the heels of the gift that was given earlier this year. I asked Scott Provencher from the Arts and Science Council to come up first and walk you through what happened to have this gift appear to help with the endowment for the cultural facilities on South Tryon Street. Scott will then make the official ask from the Arts and Science Council to the Mayor and City Council, and then I will come back up to the podium and kind of discuss some of the features that would be included for this particular recognition of the gift. This item is also on your agenda later tonight for consideration by the City Council. So, if that is good with you, I will call on Scott Provencher, the president of the Arts and Science Council.

**Scott Provencher, Arts and Science Council**, said thank you for having me, and thank you, Ron, for the introduction. I will try to talk slowly as well as I give hopefully some context to the private endowment portion of this substantial partnership and then ask for some help from the City in some of the recognition elements as part of the renaming of the Wells Fargo Cultural Campus to the Levine Center for the Arts. Before I kind of give an overview of the completion of that campaign, I first want to say thank you to current members of Council, the leadership at the City, and also former members of Council, in particular John Lassiter, who was a real champion and mastermind around how we could put together what ended up being one of the most substantial public-private partnerships and one that we feel has kind of changed the face of uptown and our identity here in our community. I also want to thank the team that has worked from that point to help make the campaign a success, in particular Curt's team and Ron's team as well in helping to put together the recommendations you will see tonight.

First a little bit of context on the private endowment phase of this campaign. I think from the very beginning ASC and in particular Ken Lewis and Jim Rogers, who are the chair of the private endowment phase of this campaign were absolutely committed to the City and this public-private partnership to deliver this goal of \$83 million, and I think no one when we began this campaign envisioned what would happen in the economy and some of the challenges we are up against. I think that even with all of those challenges there was never a question that we knew

the horsepower and the willpower to make this project happen was there, and that came in the form of some really substantial gifts at the end of the campaign.

He began a PowerPoint presentation entitled, "Levine Center for the Arts," a copy of which is on file in the City Clerk's Office, and said as you recall, about a year ago, we were roughly \$20 million short of being able to raise the \$83 million for the private endowment to pay for the ongoing support of these facilities but were able to through the leadership of Ken Lewis and Jim Rogers and many other folks in the community to do that. How that came together in particular was a \$15 million gift from the Levine Foundation as well as an additional \$5 million from Duke Energy, which made their gift a total of \$10 million in honor of the Levine's in order to have a total gift of \$20 million to name the campus. I will have to also say there was a tremendous act of philanthropy from Wells Fargo in offering the naming opportunity for this campus to the Levine's in order to make that happen, and I think that is really a testament to this being bigger than just a cultural project but a huge public-private partnership that everyone wanted to see successful.

**Councilmember Howard arrived at 5:45 p.m.**

Mr. Provencher said the Mint is opening this coming Friday. Hope you can all be there for that opening, but that marks the final facility's opening and also I think with that thanking Bob Burtgess at Wells Fargo, who has been able to deliver this project on time and on budget in terms of the construction piece of it. As I mentioned, we are hoping, as the stewards of the private endowment, to ensure that with what ended up being one of the largest individual contributions given in this community through the Levine's that we recognize it in a substantial way, and there are a few items that we would like to ask for your help but know that all of the capital costs behind some of the renaming elements both the signage that currently says Wells Fargo Cultural Campus turning that to the Levine Center for the Arts as well as some of the other elements that Ron will talk about – all of these elements are being paid for with private dollars and being gifted to the project, so in that context, I would like to ask that the City do two things. One is to rename one block of First Street at the center of the campus the Levine Avenue of the Arts in honor of this gift as well as the completion of the campaign and accept, as in other parts of the project, accept the ongoing maintenance to some of the additional elements that would be added to the campus, and Ron will talk in detail around what does that look like in terms of the original budget and kind of the anticipated costs behind that. So, with that, I will turn it over.

Mr. Kimble said thank you, Scott. When we heard of the gift and then we were approached by the Arts and Science Council, we put together a small team of City employees to look in partnership with the Arts and Science Council, with Wells Fargo, with Center City Partners because we knew that there would need to be some recognition, and we developed a set of goals. When this recognition is to happen, what are some of the goals of the Center features that we might consider here? So we had four goals that are the main goals that came to mind that whatever features are put in place to mark this as the Levine Center for the Arts that they are complimentary to the building architecture and the existing street elements. We wanted to make sure that this didn't look like an afterthought, that it did come at the end of the campaign, but we didn't want it to look like it came at the end of the campaign. We wanted to make it look like it was integrated and complimentary from the start. So when we started looking at street features, we wanted to make sure that was kept uppermost in our minds.

We also wanted to make sure that a gift of this amount, of this magnitude, of this philanthropy that the features would make a statement that you are in this South Tryon cultural area, so they had to make a statement but they had to make a subtle statement that you are in this particular area, and they had to blend with all the other things that were going on with the facilities and the campus that was in place at the time.

**Mayor Foxx arrived at 5:50 p.m.**

We wanted the features to be noticed if you were in a vehicle traveling down the street. We wanted those features to be noticed by pedestrians that might be walking on the sidewalks, and we wanted them also to be noticed by patrons that would attend and come and be customers to the arts and cultural facilities that were in the area. Not every feature would be noticed by vehicles, by pedestrians, by patrons, but we wanted some elements that any one of those groups

might notice as they came onto the campus but do it in a way that was very architecturally in keeping with the rest of the facilities.

Then we also wanted to make sure the features were appropriate from a cost standpoint; that the capital cost could be handled by the Arts and Science Council, by the endowment campaign, and that the maintenance of these features would be kept to an absolute minimum and to just a very low cost, and I think we have been able to achieve all of these in the work that has been done. I would be remiss if I didn't thank Debra Campbell and Dan Philo from the Planning Department because they were instrumental. Jim Keenan is in the room. He is from Engineering and Property Management. Jim was key. Christine Hills-Bradbury, Tom Lawrence is here from the Levine Foundation, Scott Provencher. We had quite a bit of involvement from Center City Partners. We made sure that if we brought these forward to you tonight that there was going to be some acceptance by the community at large, and we were bringing this forward in a partnership way so that you would know it's reached consensus from the group.

The features I'm going to describe in just a little bit of detail that we would request the City accept them for maintenance – lighted street name signs at First and South Tryon and First and Church that will designate Levine Avenue of the Arts, etched concrete crosswalk bands at First and Tryon, which is right there in the center point of the campus, we would like some entrance markers at eight entrance points to the center that designate that you are now entering the Levine Center for the Arts from those entrance points, street pull banners that would be in keeping with the theme of the banners that are always prevalent in the Center City area, and we have talked to Center City Partners about that as well, and then there are name plate changes on public and private property and facilities in the campus. When you are coming to an elevator, there is a sign right now that says Wells Fargo Cultural Campus. When you are entering parking deck areas, when you are in the facilities themselves, it will have demarcations of Wells Fargo Cultural Campus. All those would need to be changed out to read Levine Center for the Arts.

All of the costs for doing this are going to be borne by the Arts and Science Council as part of the campaign, and there is about up to \$10,000 a year in annual maintenance that we have estimated it would cost to maintain all of the features. All of the first four on this list would be located in the right-of-way. That's why it's important for the City of Charlotte to be the group that says we should maintain those in the City right-of-way, and the other name plates would be the responsibility of the private property upon which they are located.

So, what are those elements? The Levine Avenue of the Arts – this would be the renaming of the one-block long section between Tryon, South Tryon, and Church on First Street, and there would be lighted LED signs that demark Levine Avenue of the Arts. This is pretty much the color scheme, the logo for the Levine Center for the Arts that would be up there on the particular street name sign. They would be lighted. There are similar signs like this at East Boulevard and South Boulevard right now that are lighted signs, and we would be mirroring what you see on those particular signs, but they would have the color that is depicted pretty much right here on this particular screen. Again, they would be on mast arms. This depiction is the traffic signal heads at the intersection of Tryon and First, and the signs would be between the signal heads on the mast arms that protrude over the street. Church is a one-way street, Tryon is a two-way street, so you have got double signs on Tryon and only single signs on Church Street at First.

Councilmember Carter said if a pedestrian is interested in those signs even though it's a one-way street, would it be a good idea to double face it?

Mr. Kimble said they are double faced and lit from both sides, so they are double faced on all the mountings on the poles. The other treatment, the second treatment that we talked about, was Levine Center for the Arts, and these crosswalks are in place today at the intersection of South Tryon Street and First Street. These are the paver crosswalks with concrete bands on both sides of each of the three crosswalks that are at South Tryon and First. We actually went out there and tried to picture what this would look like, did some mock-ups, and this would be Levine Center for the Arts in three concrete bands on the parts of the crosswalk that are furthest away from the intersection, so they are on the outside edge of the intersection, and these would be in three locations on each of the three crosswalk bands at South Tryon and First. It's a fairly subtle statement, but we think it makes an impact and makes a statement that this is kind of the center point of Levine Center for the Arts.



Thirdly, entrance markers – we are working currently on entertaining designers who would propose. These would be in the early workups that we have. They are on about ten-foot poles, they are in the size and scale of the rest of the street features in the area, they are meant to be that so they are more subtle demarcations of the entrance points, but atop the poles then would be lighted artist's works that we are now working through the RFP, request for proposal, stage to select an artist that would then design the features that go on top of the poles. They would be in eight locations – only eight locations. They are marked by the purple dots here on the map. The campus is in the center there. The two dots on South Tryon Street are right next to the Bechtler, and across the street from the Bechtler there would be two on each side of the street at First and Church, there would be one at the intersection of Stonewall and Church Street, again, entrance markers on both sides at Stonewall and South Tryon, and then down at the corner of the Gantt Center across from the Convention Center and across from the Westin would be another one because that marks an entrance into the facilities, so there are eight total that we would be designing the pole and the artwork that would go on top of the pole at each of those eight entrance points.

Councilmember Barnes said, Mr. Kimble, a question for you. I wanted to express a general concern, I suppose. We have already invested quite a bit of money in this wayfinding system but also that system along 77 with the north, south, east, or west, and we have established something of a line of demarcation with the crowns at the entrance of uptown and 277 on North Tryon. My concern is that we are now creating a subsystem within that box that we are leading people to that could potentially lead to visitor confusion because I still find those signs on 77 confusing. I may be the only person in the city, the only person who visits the city who finds it confusing, but I have yet to go by at 70 mph to figure out, okay, what should I have just done to get to a particular place? I know where to go because I live here, but just thinking as a visitor when you see the crown and it says east and it says Bobcats Arena or Time Warner Cable Arena, and you go, okay, what does that mean? So then you have to look for the next sign that has that same emblem on it. That gives me some concern that we are creating confusion with the further marker system in uptown.

Secondly, with respect to the maintenance issues, for example, when we install road humps, there is kind of a basic road hump that we do, and if a community wants stamped concrete or something else, they have to pay for it, and I assume maintain it. I don't know who maintains those. The cost here isn't great, but what's the source of the \$10,000?

Mr. Kimble said there is a Tryon Street maintenance account currently in existence, and we would simply have that funding for the maintenance. We may not spend \$10,000 every year. We are going to be able to purchase, for instance, banners that I'm going to show you next. There will be an allotment purchase of banners that could last us anywhere from seven to ten years with the allotment that is purchased, so we won't have every year an annual maintenance, but if we charted after the first five to ten years, we said, let's be reasonable. Let's show that there is an annual maintenance that maybe needs to go into a reserve account.

Councilmember Barnes said is that maintenance fund funded by the MSD tax?

City Manager Walton said, no, it's general fund. It's street cleaning, empty the trashcans, the flowers, all of the maintenance operations that go along with Tryon Street.

Councilmember Barnes said should it be funded by the MSD (Municipal Service District), and I ask the question in part, Mr. Manager, because University City Partners, for example, has been funding a lot of things itself that it would be great to have the City pay for, but they have been paying for it out of their own budget including signage. So I'm wondering whether it should actually come from the MSD since it benefits as much from this as anybody.

City Manager Walton said a portion of it has been paid by the MSD from time to time, but generally each time after a couple of years Council has stopped that. The enabling legislation says for economic development purposes, so you would have to make the extension, which you can make, that emptying the trashcans and sweeping the streets and cleaning the streets and the bus benches are part of economic development. In the past, Council has decided not to do that.

We visited it probably not since you have been on Council, but this account has been in place since the early '80s, and we have done it at least two or three times – visited it.

Councilmember Barnes said, Mr. Kimble, are you going to provide samplings of the potential marker designs?

Mr. Kimble said when we get to that point we'll be glad to do that. We don't have those now because we don't have the artists picked who will actually do the artwork, and all that is being paid for by the Arts and Science Council, and we are part of the team that is reviewing those proposals that come in with the Arts and Science Council.

Councilmember Barnes said how will we – again, this is fairly early on, but I'm just concerned about distinguishing those markers from everything else we are trying to do to avoid confusion because folks now are saying I can't find a place to park, trying to follow this wayfinding system, and can't find a place to park, and now you are putting up these additional markers to lead me to something that I can't locate either.

Mr. Kimble said it's an excellent question, and let me try and address it. We have addressed that in what we have been talking about. You are talking about directional signage, and this being a subset of directional signage. This is not directional signage. This is signage that once you arrive at this destination you know you are in the Levine Center for the Arts, but it's not directing you any place. This is once you get there this is what you see when you arrive at that place. We are distinguishing it. We wanted to be very careful that we didn't duplicate or create a subset of the directional –

Councilmember Barnes said I get that these are markers and not directional signage. I get that piece. What I'm wondering though is whether or not you say it's ten feet tall. How big is it?

Mr. Kimble said it's ten feet tall for the poll is generally what we are talking about, and then we were talking anywhere between two or three feet of artwork on top of it, so it's not a large scale, and it's not dwarfing anything else. It's keeping in mass and size and scale with everything else that is currently in existence because we didn't want it to be that glowing, the taller, out of scale, and we have made sure we keep it very subtle but very important to know that you are entering the area.

Mr. Provencher said I will also add that the cultural organizations, the actual facilities themselves, are part of that process as well to make sure it's not competing with the (inaudible – not near a microphone). It can be both subtle but not detracting somewhat (inaudible)

Mr. Kimble said we had a lot of conversations about how many features are enough, and we feel like we have gotten the right balance – that we have got enough features, but it's not an overpowering number or view of the features, that we have tried to keep it in the context of what the campus looks like today.

Councilmember Dulin said along those lines on the signage I tend to agree with Mr. Barnes. I mean I like to try to keep things uncluttered. I'm still curiously aware of the wayfaring system that is too much, but are these signs going to be lit at night either inside themselves or by something else we are going to have to put there to illuminate them, and I assume the City will have to pay for that bill if so.

**Councilmember Turner arrived at 6:05 p.m.**

Mr. Kimble said the intent is for the artists feature to be lit at night, and the wiring to wire those poles, the pole acquisition, all the costs of getting that done are being borne by the Arts and Science Council. Again, the only thing the City is being asked to do is pick up the small amount of maintenance which we pick up for all other features in the Center City in the right-of-way, and since these will be placed in the right-of-way, it was felt that was the small amount the City might undertake to be a partner in this.

Councilmember Dulin said does that include the cost of the power?

Mr. Kimble said yes. What you are saying is the lighting. That would be part of the annual maintenance cost that we would pay as part of that \$10,000. Good point, Mr. Dulin. I catch what you are saying.

Councilmember Dulin said we just stopped new streetlights this year to save money. Will they be on a timer?

Mr. Kimble said yes.

Councilmember Dulin said will they be lit up 24/7?

Mr. Kimble said I'm assuming they will be lit up in the same manner as all the other lighting in the Center City is lit up, and I think it's on timers.

Councilmember Dulin said but we don't, for instance, light our \$2.7 million wayfaring signs. They might be illuminated by streetlights, but they are not lit themselves; they are a metal pole with a metal sign painted. Just making that point, Council.

Councilmember Carter said there has been some discussion about flags announcing events at the various venues. Will these flags be part of the same thing? Will they be interchangeable? How will we deal with sign after sign?

Mr. Kimble said normally on the street side when there is not an event going on at the cultural facilities or another event in Center City, which you have events throughout the year, you might have the signs that look like this, but then there is the opportunity for any one of the cultural facilities to co-brand with the Levine Center for the Arts and their particular cultural facilities, and they will be responsible for producing those banners that co-brand those, and also Center City Partners – these banners might come down when another event for uptown Charlotte is going on at the same time. So we tried to look at the ways in which these banners fit within the context of everything else that is going on.

Councilmember Carter said so the double branding is mandated.

Mr. Kimble said is it allowed, or is it mandated when a cultural facility may want to have an event that they put on a banner – must they co-brand with the Levine Center for the Arts?

Mr. Provencher said I think the spirit of the conversation we have had with all the cultural partners throughout this process is the Levine Center would be part of their identity but not competing with their logo or brand. However, for example, (inaudible – not near a microphone). We would expect the same kind of co-branding to happen, but it wouldn't be a mandated design template necessarily, but all other times it would be a kind of rendering of the logo.

Councilmember Carter said I would hope that does at least include the Levine Center.

Mr. Kimble said so these are the four different features layered in with the number of locations where the nameplates and the sign plates next to elevators, next to parking decks, in the facilities where you see Wells Fargo Cultural Campus, those, too, would be changed out with funds that are provided by the Arts and Science Council – not a cost borne by the City. Again, the only cost we are talking about for the City are maintenance of the features in the right-of-way similar to the way you support and maintain all other features in the right-of-way in the Center City. That is what is on your agenda later tonight. Again, the action that Scott had talked about early in the presentation is the request by the Arts and Science Council to have two things: rename the one block of First Street to Levine Avenue of the Arts, and then to accept the four other types of features that would be located in the City right-of-way for maintenance.

Councilmember Kinsey said we are all very appreciative of this gift, but we wouldn't even have the cultural facilities if it were not for Wachovia and Wells Fargo. Is there any way we are acknowledging their gift or their commitment to the City?

Mr. Provencher said they are recognized. Just to give you kind of the infrastructure of investment, the gift from Wells Fargo to the endowment was \$15 million. In addition to that,

they bore a significant amount of cost in the actual management of the project and the investment that Bob Burtgess has made as the overall leader and kind of manager.

Councilmember Kinsey said I was there. I know all of that. Is there any way that is being acknowledged?

Mr. Provencher said Bank of America also invested a similar amount of money. Both are being recognized in the same way as a donor. They were part of this conversation, and, in fact, were part of the leadership of this overall private campaign. We have had the conversations with them, and I think they are comfortable and happy with the outcome that we have been able to complete this project that they were a significant visionary behind and to be able to do it in the face of the economic challenge that we had.

Councilmember Kinsey said it was a good dance, Scott. Is there any permanent recognition of Wachovia, Wells Fargo? They were the ones, and I have been on the Council long enough, from the very beginning, so I know exactly what went on. Is there any other permanent recognition? It is no longer called their campus. Is there anything else we are doing? That's all my question was.

Mr. Provencher said they are recognized on the signage with other donors of the same amount.

Councilmember Burgess said just a suggestion, and maybe you have thought about it and already tossed it out, but it might be nice to at the entry points to have one of the little permanent maps that has the center highlighted along with the surrounding streets so visitors might know what the center is and what it includes. You have probably thought about it and tossed it out, but just a suggestion.

Mr. Provencher said that's a great point.

Mayor Foxx said I first of all want to apologize for being here a little late. I just got off of a plane and scooted over here as soon as I could, but you have already made mention of it, Councilmember Kinsey, about the enormous amount of commitment that this gift from the Levine's as well as the companies that were leadership of this effort have given to this facility. What may not be as obvious from this is the amount of work that has gone on by our staff led by Ron Kimble and Debra Campbell and Danny Pleasant and many others as well as with Scott Provencher and obviously the Levine Foundation – Tom Lawrence and Larry Polski as well as the Levine's themselves. No city in the country has raised \$83 million in the middle of a recession to get something of this magnitude done. I mean it's really amazing, and I really think this is a great way to showcase this investment and to give it a name befitting of a gift that happened in the fourth quarter with two minutes to go to get us there. I'm not talking about the Panthers either by the way. Anyway, I think it's an enormous opportunity for us to say thanks, so I'm hopefully looking forward to moving on this.

Councilmember Dulin said in theory I mean I'm right with you. I mean the Levine's – and Patsy, I agree with you. Somewhere I would love to see something – thank you to the men and women of Wachovia Corporation for pushing this through. That is probably not going to happen other than what they are going to get, and it's not even going to say Wachovia, but I feel sorry for that community of people that were on the front side. I would love to see something with Bob Burtgess's name on it. He might not want to.

Mr. Provencher said there is a gallery in the Mint that is named for Bob Burtgess, which was part of the thinking on this because clearly he was one of the major visionaries on this project from the very beginning.

Mayor Foxx said if you have gone into some of the facilities you will see in various places the names of the very people you are talking about. I mean to get further into it, you know, Ken Lewis and Ken Thompson were extremely formidable people along with Jim Rogers in sort of kicking this thing off. I think that at certain places their names do appear, so there is recognition there, but this would not be possible if Wells Fargo/Wachovia hadn't agreed to do this, so people are comfortable with it.

Councilmember Dulin said I want to sort of get these in order. Thank you for mentioning the leadership of our former colleague, Lassiter. He went round and round with this thing years ago, I recall. I wasn't even elected then. I just remember reading about it in the paper when the first dream came up, and it sort of went away, and they were able to pull it back. So, anyway, I appreciate his work on it as chair of the Economic Development Committee at the time. The Levine gift and the Duke Energy gift, I guess for that matter the Bank of America gift, what is the duration of those commitments? Are they going to be paying the \$15 million in 20 years or five years, or are they in?

Mr. Provencher said every gift is paced differently within the span of already paid to ten years, and that was anticipated in the original forecasting in terms of being varied degrees of when companies and individuals could pay their pledges.

Councilmember Dulin said I get that. I mean I'm three years into my Harvey Gantt pledge. I only have two more years I have to go get that requisition of cash from Kathy Dulin so I can pay it and explain why. I have a little bit of concern about adding to the City's Tryon Street or to the City's expenses anywhere, you know, to add \$10,000 to our expenses is a drop in the bucket for the money we spend, but I sort of have a little bit of a problem with that. The lit sign, and to be very consistent I was for renaming a block at the NASCAR Hall of Fame – pardon me – for acknowledging Rick Hendrick at the NASCAR Hall of Fame but against renaming one block of Brevard Street even though it's the block that goes by. This one block of First Street continues on.

It's hard for me to support that, although you could change this to be First Street/Levine Avenue. It could remain First Street, and we could add Levine Avenue, or it could remain First Street, and here we are adding another sign, but like I said with Rick Henrick to acknowledge him along the sidewalk of the Hall of Fame. This thing could say without the patronage and love and support of Leon and Sandra Levine this would not have happened. Welcome to the Levine Center of the Arts – something like that, but I really have a problem with changing one block of a street unless you want to change the whole First Street. Can the City live without a First Street. It's only two blocks, so let's change the whole thing. That street can push on down to whatever --- Mint is down there. My first point is that I have a problem with changing the name of a street unless you change the whole thing, so I really would – if we have to break it out, I'm going to ask it be broken out.

The etched crosswalks, great – looks great. I think that's a classy little way to thank you to the Levine's. The street pole banners – let's see, the eight entrance points I think are redundant. I mean it's easy enough to put – there are wayfaring signs in and around those areas. As a matter of fact, it would be interesting to see where the wayfaring signs are within those borders and wayfare those people to an area. Scott, before you got your job, we fought over spending \$2.7 million on this wayfaring system that might or might not help people wayfare themselves around. I add that. The street pole banners – great – do that everywhere as long as we can use it for Speed Street and the ACC tournament, etc., and the name plates. You have got to change the name plates. That's fine. Those are my thoughts, Mayor, as I went down it.

Councilmember Barnes said I have a follow-up. Will this be the only lighted sign in uptown?

Mr. Kimble said only on Tryon Street. Is it the only lighted sign in the Center City?

**Danny Pleasant, Transportation,** said I believe so.

Mr. Kimble said the other lighted sign I referred to was the one at South Boulevard and East Boulevard. That was the one we used as kind of a template or an illustration of what could be done with the lighted sign. I would say, Mr. Dulin and Mr. Barnes, that Danny has been – I failed to mention him as a resource in the front, and, Danny, I'm sorry, but now I want to acknowledge you, and Danny had a lot of insights and did a lot to talk about the street naming and the street renaming and the lighted sign and how we needed to go about it. He is an instrumental part of our team.

Councilmember Barnes said just to get back to something I raised that Mr. Dulin raised regarding the maintenance. I know it's not a lot of money, but, Mr. Manager, I heard what you

said regarding why Councils in the past have chosen not to tap the MSD for it, but I think in light of the fact that we keep – as you all recognize thought this last budget cycle was one drip after another – five grand here, ten grand there, 20. That’s going to add up big time considering what is coming budget wise over the next two years, so I would prefer that money – I know Michael Smith isn’t here, and no representatives of Center City Partners are here, and I’m trying to get into their MSD, but I think it would be certainly a rational discussion to have in light of our own budget challenges and the fact they may have that capacity within their budget, but it’s going to be difficult to get – unless you all can get a response in the next hour from Mr. Smith, or if the Manager would like to issue an edict from on high here.

City Manager Walton said, no, sir. They have their own separate board.

Councilmember Barnes said I know. It’s a thought though.

Mayor Foxx said let’s remember. What is the value of the infrastructure that is being put in here by ASC.

Mr. Provencher said \$600,000.

Councilmember Barnes said, well, we give them \$2.6 million.

Councilmember Dulin said it’s our money.

Mayor Foxx said, well, you are getting some of it back. Any other questions on this?

Councilmember Dulin said when we vote on this tonight would we be able to break it out?

Mayor Foxx said if there’s no objection – just as normal.

Councilmember Dulin said I know where it’s going, but, okay.

Mayor Foxx said thank you very much. Very good presentation, and thank all of you for being here, and we’ll look forward to further discussion tonight.

\* \* \* \* \*

#### **ITEM NO. 4: ANSWERS TO MAYOR AND COUNCIL CONSENT ITEM QUESTIONS**

Mayor Foxx said do we have any consent items to come back to?

City Manager Walton said I want to make one follow-up comment after she is through.

**Julie Burch, Assistant City Manager**, said, yes, there is one remaining question from the consent item discussion earlier during dinner. Councilmember Carter asked about the project schedule for the Harrisburg Road 16” water main project. That is due to start within the next 45 days after Council approval with an estimated completion date of spring 2011. I believe that concludes all the questions at this time.

Mayor Foxx said I’m going to ask a question on Item 11, which is not a consent item. It’s the federal legislative services agreement. What are the termination provisions of that contract? Are they at will, or how does it work?

City Manager Walton said termination provisions for the contract? One comment. I answered Mr. Cooksey’s question on consent too narrowly about the CATS financial contract. The City has an overall financial advisor that advises us on all of our models, our debt models, including our debt issuances, so we have something similar – just not quite as specific as the CATS financial advisor item.

Mayor Foxx said we have just a few minutes to go downstairs, but I want to take – Mr. Kimble, do you have my answer?

bvj

Mr. Kimble said on the Holland and Knight federal legislative contract the City may terminate this agreement without cause by giving 30 days notice.

Mayor Foxx said let me say one thing. I just want to express to our staff and to our Council just a word of appreciation. We have had probably the loopiest, toughest year since I have been on this Council. I know we are asking staff to do a lot, but our citizens are asking us to get a lot done because they are facing challenges that they haven't had to face before, and whether we are talking about the Small Business Loan Program revisions or looking at Housing Locational Policy or the tree ordinance or any number of things that are going on that work goes on quietly, and you all have been doing a really good job of getting it done. I wanted you to know that, and I wanted to say to the Council, thank you for rising to the occasion. We have still got a lot more to do, but in the last couple of weeks I have felt like we have been able to do what I think we should do, which is we have differences from time to time. We talk about them, we try to get to a point of decision, and move on forward. I wanted to say that to everybody that I think we are dealing with a lot of tough stuff in a tough environment, but in relative terms I think we are doing pretty well, so thank you.

Councilmember Peacock said, Mr. Manager, did I understand that Item No. 13 has been deferred; is that correct?

City Manager Walton said, yes, sir. We'll bring that back.

Councilmember Peacock said I did have one question that related to our last dinner meeting. If you can turn in your tab to Section 5, and maybe staff can get back to me. It shows the Belmont CDC here and Neighborhood QLI Index and says that in 2006 that Belmont was challenged, and now in 2008 it is stable, but yet the violent crime rate went from 2.6 to 3.6 and property crime went from 1.1 to 1.9. This goes to the question I asked the presenter, which is I'm very confused by these categorizations, and there is nothing in here that really seems to suggest to me how a neighborhood could now all of a sudden be stable if their violent crime rate went up. So it puts into question I guess to a certain degree how I use the QLI as a policy maker, and maybe you know the answer now, but I just found that interesting going into this agenda item tonight. Since it's been deferred, I thought I would just ask the question now.

City Manager Walton said that's a good question, Mr. Peacock, and we will get you on Belmont and others the key factors to look at. I think looking at Belmont it's probably the percent of homeownership and the average house value. Those two moved pretty considerably for a neighborhood in the last two years, but we'll address that.

\*\*\*\*\*

The meeting was recessed at 6:28 p.m. for the Council to move to the Council Meeting Chamber.

\*\*\*\*\*

### **BUSINESS MEETING**

The Council reconvened for the regularly scheduled Business Meeting at 6:43 p.m. in the Council Meeting Chamber of the Charlotte-Mecklenburg Government Center with Mayor Anthony Foxx presiding.

\*\*\*\*\*

### **INVOCATION AND PLEDGE**

DeWitt McCarley, City Attorney, gave the Invocation and led the Council in the Pledge of Allegiance to the Flag.

\* \* \* \* \*

## CITIZENS' FORUM

### SECTION 8 PERCEPTIONS IN THE COMMUNITY

**Charles Woodyard, CEO, Charlotte Housing Authority, 1301 South Blvd.**, said I'm standing here before you this evening not so much as the CEO but as a supporter and an advocate for the families that we serve. For the past several years, affordable housing and more specifically Section 8 has been an important issue in the Charlotte community. You have heard from all segments of the population in our great city. You have not heard in any great detail from the families who have Section 8 vouchers or who live in affordable housing in the Housing Authority's portfolio. These families would like to change that tonight and want to begin a process, a dialogue, with their elected officials. These are voters, these are hardworking citizens in this community, and they want to have a dialogue with the people who represent them just like you represent the rest of the segments of our great city. I want to share with you very quickly an anecdote that sheds some light on these perceptions. About four years ago I took the board of the Charlotte Housing Authority at that time on a bus tour of Hidden Valley. As most of you know, Hidden Valley is a very large community in Charlotte that has perhaps the largest concentration per capita of Section 8 vouchers in the city. On that bus ride, we asked the board members to identify the houses they thought were Section 8 houses. We went through dozens of houses, and they tried dozens of times to choose a Section 8 – what we would call a Section 8 house. They got one right out of dozens that they tried. The point is that the perception that Section 8 housing or Section 8 voucher holders are somehow different, problem bringers to the community is one that we would like to challenge and one we believe that on the face of the evidence bears out that is not true. Tonight we have a speaker and we have representatives of the voucher holders to let you know who they really are, and they want to start a dialogue with the City Council members.

**Carolyn Canady, 1301 South Blvd.**, said I am one of the Charlotte Housing Authority employees. I am a former participant on the Section 8 program. I am now a lead supervisor down at the Section 8 program. Myself and a couple of coworkers are trying to get together what we call Unified Voices, and that is a campaign that we use for Section 8 participants to do just that – be able to come out, speak among the communities, and let you know what is going on in your communities. We are also letting you know that for some who are not aware of what the Section 8 program is it is a rental assistance that helps low-income families with payments. We also know there is a lot of unfamiliar or unfair stigmas that are in the community. We also carry the burdens of low income and criminals, known as criminals, in Charlotte. We are productive citizens. We do not contribute to any decrease in property value. We do not bring criminal activity in the community. Section 8 programs are now trying to requalify information that is known to the public as not true. We are now doing criminal background checks for each family household member age 16 and older. We do good neighbor training, which allows families to go out and know what it is to be a good neighbor for other individuals that are next to you. We have fact that we serve over 4,600 families, and out of the 4,600 families 5% of our families have any type of violations. Out of the 5%, only 1% was ever convicted of any crime. We would like to take this moment to let you know as Section 8 participants that we look forward to constantly coming out to meetings, gathering more families who can come out and actually speak to let the community know that we are out here, that we are productive citizens, that we are retired volunteers, that we are teachers, that every now and again money got a little scarce, and we got fortunate to receive assistance with help, that we are not looking out for a handout, that we are asking that the community come together and just assist the families. We do look forward to meeting with you in the future in each one of your communities, and we hope that we are welcome.

Mayor Foxx said very well put.

\* \* \* \* \*



## **ABOVE AND BEYOND STUDENTS WALK-A-THON**

**Carmen Blackmon, Above and Beyond Students, 3743 Havenwood Rd.**, said I am the founder and program director for Above and Beyond Students, an after-school tutoring and mentoring program located right here in Charlotte, North Carolina. Behind me, you will find some of my board members, who are also here to support what we are doing. Currently, we provide services to over 400 students in grades kindergarten through eighth grades. In October 2001, we began providing free tutoring to students that were academically challenged, and our goal was to provide them with quality tutoring that would help them to achieve academic and social success and be productive in our global economy. As a nonprofit organization, I fully understand how it is to operate year-to-year and month-to-month without the assurance that you will meet your program demands or your budgetary needs because you are dependent upon grants, corporate funding, or community support. In the after-school world, we have one common thread we share, and that is we share about our care of children, but our constant thread that we share is that we need solid funding and consistent funding. It is for this reason that Above and Beyond Students has taken the initiative to sponsor SOAR. If you look at the brochure that has been handed out to you, SOAR is an acronym for Support Our After-School Resources. It is an annual walk-a-thon that will raise community awareness to the needs and the benefits of after-school programs. Would it surprise you to know that every day in American 15 million youth go home to unsupervised care? Would it surprise you to know that right here in North Carolina we have more than 450,000 children that go home to unsupervised care after school. In case you have not heard, the critical hours for youth in our city are the hours between 3:00 p.m. to 6:00 p.m. Those are the hours when most of our youth can find themselves falling into the path of the ills of society; however, that can be ratified. After School is a remedy for the many students that are going home unattended. Funding raised from the walk-a-thon will be used in the following areas. We need to expand after-school opportunities in underserved communities. As you can see, Charlotte is continuing to grow, but the base of after-school program is not keeping up with the demands of our children. We need to provide professional training and development that focuses on best practices for after-school programs to make sure that our providers are producing global citizens. Also, we want to provide funding in the way of grant opportunities so that after-school programs will be able to meet and fund many of the projects that are outside of their budgetary needs. Our walk-a-thon will take place on Saturday, October 23<sup>rd</sup>, in downtown Charlotte at Central Piedmont campus. We have provided you with a walk-a-thon brochure and also a brochure about Above and Beyond students. Our theme for this walk-a-thon is if you will walk our children can soar. They can soar academically, they can soar socially, and they can soar into bright futures. We are asking the support of each City Council member.

Mayor Foxx said I'm sorry, Ms. Blackmon, but I'm going to have to cut you off, but we have to stick to the time limit. I apologize, but we really got the message from you, and it sounds like a great program. How many kids are in your program?

Ms. Blackmon said we serve 150 students at Eastway Middle School, and then we serve another 350 students throughout the city and state of North Carolina.

Councilmember Howard said could you share with us what you would like Council to do?

Ms. Blackmon said, yes, sir. One of the things we would like our City Council to do is first of all endorse the need for credible after-school programs in the City of Charlotte and the increased need for after-school programs. We would also like for you to get businesses behind the need for after-school programs in the city and to get your district constituents to support our walk-a-thon – to come out in numbers and support the walk-a-thon.

Councilmember Mitchell said one question. How long is this walk?

Ms. Blackmon said it is a 3.5 walk, Mr. Mitchell, and I know you are good at that, so we look to see you out there, and we especially want Ms. Patsy Kinsey to come out and walk because we represent your district and Mayor Foxx because I have been to your different programs about the youth through the city over the last month. We really would love to see you out, and definitely all of our City councilmen.

Councilmember Mitchell said 3.5 miles. Are there refreshments at any of the –

Ms. Blackmon said we have many vendors that are donating food and beverages.

Councilmember Barnes said the more crucial issue is you expect us to walk 3.5 miles in an hour.

Ms. Blackmon said it can be done, Mr. Barnes. I actually have a representative here that has done many walk-a-thons – Ms. Leslie Bing – and she can testify that even the most inexperienced walker can do it in 54 minutes.

Mayor Foxx said sounds like we need some City Council exercise.

Ms. Blackmon said I will take this as your endorsement of our walk-a-thon.

Mayor Foxx said, yes, ma'am. Thank you.

\* \* \* \* \*

### **I-485 PROJECT**

**Brent Johnson, 12004 Mourning Dove Ln.**, said I stand before you tonight on behalf of Robins Glen neighborhood as a plea for help. Robins Glen is a quiet neighborhood of 167 houses located in the north Charlotte area off of Mallard Creek Road, I believe in District 4. Most homes were built in 1995-96 timeframe. The average value is about \$150,000 right now. There are three main reasons our neighborhood attracts buyers at this price point. Number one is location. It is very close to I-85, 485, as well as Concord Mills and the race track. Number two, our yards are fairly substantial given the size of the homes. We have maybe a quarter of an acre in each yard. But, third, and probably primarily the trees. The builder was nice enough to keep as many trees as possible and just plant houses instead of knocking down all the trees. It becomes very desirable especially in this price point when you are looking at houses that are \$150,000. These days they basically wipe off the whole land and then replant, and you get a Charlie Brown Christmas tree at the end of the day. Over the past years, we have seen welcome growth in the community – Cochran Commons Shopping Center, Concord Mills obviously. Mallard Creek High School just recently was built about four years ago. It's right across the street from our neighborhood. While we have welcomed these changes and also welcomed the long anticipated and much publicized completion of 485, the DOT has been less forthcoming as it comes to widening of Mallard Creek Road in preparation for 485. This widening project will drastically affect three of our homeowners. This is where we need your help. The DOT has seemed to be very secretive in this project. In fact, most of the homeowners did not find out about something that is happening in their own backyards until they saw the stakes, and those stakes are about 20 to 25 feet away from their actual homes. They normally had giant yards, and now they are down to a very short size. We are concerned with this, and we need your help. I won't get into specifics on the actual details of the map, but you do have maps in front of you. What I will say is that we do believe there is an alternative solution, or at least there are alternative solutions worth exploring. I believe there are three major drawbacks if the DOT is successful in purchasing this land from our neighborhood. First, of course, would be a quality of life of the homeowners themselves that are directly affected. Two of the three of them are here; the third one is actually working right now. These three owners will lose the majority of their backyards including large sheds for storage, personal landscaping, along with plenty of years of work on patios, decks, and gardens, not to mention all of their private trees and fences that separate them from Mallard Creek Road itself. Second, of course, is the loss of value of these homes.

Mayor Foxx said if you had another 30 seconds, what would you say?

Mr. Johnson said what we are asking for essentially is any and all assistance that you guys can provide. We are getting nowhere with the State of North Carolina on this. What we are looking for is essentially a way for them to prevent or at least to reconsider ways to go about this. There are three houses that are affected in a neighborhood of 167 but will impact all of us.

Councilmember Howard said just to help understand what you are saying – the pink is what and the orange is what?

Mr. Johnson said the pink is the utility pipes that are coming in.

**Unidentified Speaker** (inaudible – not near a microphone)

Councilmember Howard said, Mr. Manager, I'm a bit confused. Is this the pathway of 485; do we know?

Mr. Johnson said what you are looking at is Mallard Creek, parallel to Mallard Creek.

Mayor Foxx said, sorry, at this point, we have to take the question where it's directed.

Councilmember Howard said maybe the district rep knows.

Councilmember Barnes said I had a meeting I believe it was sometime in 2009 with a number of your neighbors about the impact of 485, and, yes, Mr. Howard, the associated construction related to it. This project is a part of the overall 485 project. At that time, Tim Gibbs from our staff, was assisting me and your neighbors, and what we did was to try to connect the neighbors with NCDOT. To the point you just made, I don't think they are really interested in being very flexible right now, but the challenge I had was the City doesn't have any control over the 485 project itself other than to express and articulate the concerns that you have. He is right. I went out there, and there were a couple of folks who literally lost all their yard to the right-of-way, and to this day, I have not heard a set of solutions that will work for both the road project itself and the neighbors because what the State has said is essentially in order to build this road we have to do the taking that we are doing. I would be happy to determine if we can revisit the issue, but what I heard last year was – and we can get the report. I think Mr. Gibbs, Mr. Manager, or someone at CDOT – essentially the State had no other options. I thought there were some other reasonable alternatives, but I'm not a road engineer at all – just sort of looking at it thinking, okay, why can't it go farther this way as opposed to that way. So, anyway, I would be happy to have our folks, if you can help me connect that, provide the responses that we received. We also referred people to state legislators to see if they could assist, and I don't know if anything ever came of that, but I was trying to find a way to help create some flexibility, and I don't know if it really worked.

Mayor Foxx said, Mr. Manager, I don't know if there is a conversation we can broker with NCDOT on this to see if there are other solutions out there, but it sounds like a good amount of work has been done, but maybe we should take another step.

City Manager Walton said we'll be glad to try to see what we can do.

\*\*\*\*\*

## **CHARLOTTE EAST COMMUNITY PARTNERS 4<sup>TH</sup> ANNUAL BLACK TIE GALA**

**Jeannie Welch, 5736 Ebley Ln.**, said this is Vicky. We are here from Charlotte East Community Partners to invite all of you to the 4<sup>th</sup> Annual Charlotte East Black Tie Gala. Our featured speaker will be your distinguished colleague, Councilmember Kinsey. This is going to be held at the Charlotte Museum of History on Saturday, October 16<sup>th</sup>, from 7:00 p.m. to 10:00 p.m. We are going to have heavy hors d'oeuvres, live music, a silent auction, and this gala will benefit the Salvation Army Boys and Girls Club on Milton Road, a very worthwhile cause. So for all of you contemplating running for reelection next year or running for office this year, this is a wonderful time to press the flesh of your constituents and potential voters and supporters in a very family friendly atmosphere. I'm just saying. We hope that you will all be able to attend this year's Black Tie Gala. Also, we would like to invite you to the 7<sup>th</sup> Annual Taste of the World. The Taste of the World has been held where you go to the Van Landingham Estate and you go to various ethnic restaurants on the east side. It will be Thursday, October 7<sup>th</sup>. Just to emphasize coming to our auction, Vicky is modeling one of the handmade, custom made jewelry items that will be available there. We want to thank you very much for this opportunity, and we hope you will attend both of these events on the east side.

Mayor Foxx said these are great events that happen in east Charlotte and looking forward to them.

\* \* \* \* \*

#### **DEMOLITION OF HOUSE AT 4513 WILDWOOD**

**Lenn Robinson, 1335 Thriftwood Dr.**, said I bought a house at 4513 Wildwood Avenue, and it's under a demolition order, but my attorney never got a notice nor did I. I talked to the code enforcement, and he said it was already to the City Council, and he couldn't do anything about it. So, there's my problem. I asked for an extension from the City Council. I talked to my Council man, Mr. Mitchell, and all I need – if you give me 60 days, I will bring it up to code guaranteed or I'll tear it down myself, but that's all I'm asking for.

Mayor Foxx said can we get some more information on this one.

**Curt Walton, City Manager**, said this was a condemnation approved a couple of months ago, so Mr. Mumford will give you an update.

Councilmember Dulin said was there any discussion on this particular property address during our hearing a couple of months ago for the demo?

**Pat Mumford, Neighborhood and Business Services**, said this was a property that was approved for demolition several months back. I don't recall the exact discussion at the time.

Mayor Foxx said can you give us some background on this request? When did you purchase the property, sir?

Mr. Robinson said a week ago today, and I knew nothing about a demolition until I was told by the City code enforcement. I talked to him trying to get an extension, and after I found about it, but I couldn't get an extension because he said it was in the City Council man's hands now and they would have to get approval for it. All I ask for is 60 days, and I will fix the house up.

Mr. Mumford said the demolition order that went through rides with the property, and it's a legal document. I'm not sure why there was confusion as to that being on that property. But we will do what you want to do with this, but as of today, we are proceeding with the demolition as you instructed several months ago.

Councilmember Cannon said, Mr. Mumford, who is the owner of the property? Who did the information go to in terms of the notice? Are they different owners other than the one that is represented this day?

Mr. Mumford said Anna Schleunes is going to speak to that.

**Anna Schleunes, Assistant City Attorney**, said I wasn't directly involved in this particular demolition order, but my understanding is that this property was owned by a woman who was deceased, and the tenant was her son.

Councilmember Cannon said who was deceased?

Ms. Schleunes said yes. The owner – our title search brought up information that the owner was deceased. The tenant was notified, and my understanding, and again this is based on a discussion I had with Walter earlier today is that the gentleman over here got a quitclaim deed from the tenant just last week. Now, we would have filed a lis pendens to put any potential purchaser on notice that this was under code enforcement, and I'm not sure it was several months ago. I think it may have been a couple of week ago. I can certainly find that out for you.

Councilmember Cannon said I guess that's a level of concern. I mean he has obviously acquired a piece of property that is about to be demolished.

Ms. Schleunes said correct, but it was under demolition order before he acquired it. So he purchased it from – we are not even sure that the person he purchased it from actually had any ownership rights to the property, but we would have filed all the proper lis pendens notices on the property before we brought it to Council for a demolition ordinance.

Councilmember Cannon said so essentially that's a legal matter that has to go back between I guess other entities.

Ms. Schleunes said if he purchased the property potentially fraudulently from someone who didn't have title to the property that would be a private issue between the new purchaser and the person who gave him a deed.

Councilmember Cannon said, Mr. Mumford, do we know where we are in the process of the In Rem to take place?

Ms. Schleunes said, again, my understanding is that we actually are moving for a summary ejectment tomorrow morning to get the tenant out of the property so we can move forward with the demolition. Obviously we don't demolish buildings with people in them.

Councilmember Mitchell said thank you, sir, for calling and bringing it to my attention, but I think do you have the gentleman beside you who owned the property who sold it to you?

Mr. Robinson said he's the only remaining survivor. He was told that he had the custody of it. When he sold it to me, he had the custody of it, and he signed it over to me on a deed. We got a certified copy from the deed for the house, and that's when I found out it was under demolition. Then I asked for 60 days, and I went to (inaudible) and he said it was out of his hands and hung up on me. I thought it was very rude that City code enforcement wouldn't answer the question. I met with his supervisor today, and she was a lovely lady. I mean she talked about it and told me it was up to City Council; if they gave me 60 days, then I had 60 days to get it up. She would not protest it at all.

Councilmember Mitchell said what is the total cost of the repairs, staff, by your estimation?

Mr. Mumford said, Mr. Mitchell, I don't remember the cost of the repairs for this particular one. Mr. Abernethy has been sick for the last five days and was not able to make it tonight. We can follow up with that certainly tomorrow.

Mr. Robinson said the general contractor and a lot of the stuff he has got under it a general contractor in the State of North Carolina does not have to be on anything owned by a house that is under \$3,500. Like the chimney, he has got the repair to chimney he has got to have a general contractor there. Right there is a couple of thousand dollars if you have a general contractor out, and then he turns around and says –

Mr. Mitchell said let me do this for my mayor. What is the total cost, based on your estimation, to repair the house?

Mr. Robinson said less than \$10,000.

Mr. Mitchell said and you can do that within 60 days?

Mr. Robinson said, yes, sir. I promise if it's not I will tear it down myself. I own the house next door to it – well, I don't own it myself, but me and my brother does.

Councilmember Mitchell said based on the information I would like to make a motion that we can give Mr. Robinson 60 days to repair the house. But, Mr. Robinson, let's be very clear, sir. I know there are some other issues with the house, so if you can really help us –

Mr. Robinson said I will have it done.

Councilmember Mitchell said we are very sensitive to the situation, but you can be a man of your word and fix the house for us.

Mr. Robinson said I promise.

Mr. Mitchell said I would like to make a motion for us to consider that – give Mr. Robinson 60 days.

[ Motion was made by Councilmember Mitchell and seconded by Councilmember Howard to ]  
[ give Mr. Robinson 60 days to fix the house. ]

Councilmember Howard said it sounds like we need to figure out the ownership issues and whether or not he even has that right. It sounds like something that should be tracked down, but we need to probably spend some time on that.

Mr. Mumford said I was just going to say that is true, and we'll need to have an agreement on that 60 days as well, so we will take a look at all of that when we get back in touch with Mr. Robinson.

Councilmember Howard said another thing I guess is for Anna or Mac. What is the best way to handle this so it's 60 days and doesn't have to come back here to start the process over to then go into months in addition to that?

Ms. Schleunes said what we have done in the past on the rare occasions this happens is we actually enter into an agreement with the property owner. One of the things we would require is proof of ownership, and then there are several – Walter usually requires a bond in the amount of the cost of the demolition to protect the City in the event that the owner doesn't meet its obligations. The other thing we do is if any aspect of the agreement is breached during the term it immediately reverts to your demolition order, which is already in place.

Mayor Foxx said do we need to express that in the motion?

Councilmember Mitchell said all the great things that staff said I would like to include that in my motion.

Councilmember Howard said and I second it.

Councilmember Dulin said we all go through these demolitions to a difference of degree, but I go through them heavily and read them and study them and write up or down on them, and every now and then if we have ten to look at there will be one or two that I will make a note to myself and say "savable"? Every now and then – it's been pretty rare – but every now and then we'll adjust this. Quite frankly, sir, I'm sorry. I mean I just cannot remember this particular property. It might be a couple of months ago I wrote savable on a couple of the properties, and I don't know if this is one of them or not. So, I really don't like to go back against something we have already done, but then again this man right here has come and said he wants to fix this property, so it's very rare that this Council starts to get this. I would love to be able to know which particular property this was because I look at them all closely. We are talking about 60 days already. Can we talk about an extra seven or Mr. Cooksey might have it up on the Internet. But, anyway, that's my thought. This man has come down here and asked this of us, and Mr. Mitchell has asked this of us, and I don't mind supporting that, but I really am struggling to figure out which property this was.

Councilmember Cooksey said, sir, tell me again what your estimate on the cost of fixing the place up is.

Mr. Robinson said I figure I can fix it up with my men for \$10,000 or less, and that's a high estimate. The house is –

Councilmember Cooksey said I'm sorry. Mayor, speak to the motion a bit?

Mayor Foxx said sure.

Councilmember Cooksey said I found it was from June. The tax value of the property \$31,500. Staff estimate on the interim repair cost was \$48,539, 154% of the structure tax value, which is what triggered the demolition order. I say that by way of reference to what our documentation was at the time.

Councilmember Dulin said do you have a picture of the structure on your little computer doo-hickey?

Councilmember Cooksey said I have.

Mayor Foxx said it's coming around to you. Is there a readiness to consider this action?

Councilmember Howard said the question about whether or not legally they found out about the impending demolition is important. The lien is pending, and the reason why that is concerning to me is because right now in this economy, Mr. Manager, so many houses out there this could happen again. I would like to make sure that we are kind of shored up when it comes to that, and I think that being a little unclear to me is why I guess I'm giving this one the benefit of the doubt. I think I would like to know more about if it was filed, if he – just kind of the process so we know that this could happen again.

Mayor Foxx said so you want more information on that just FYI as we go through this.

Ms. Schleunes said generally or right now?

Councilmember Howard said generally in the future.

Councilmember Barnes said just to clarify my own thinking what I'm hearing from staff is that the appropriate owner, the owner at that time, had notice of the lis pendens and of the demolition order, and that this gentleman bought the property a couple of weeks ago and did not know of it because his closing attorney didn't tell him or that predecessor owner did not tell him. As I recall, we historically spend several months from the time that we become aware of the condition of a property to the time that we take action to the time that we get to issuing a demolition order. What I heard you say is that if we grant the additional 60 days there would be a bond required. Would that bond be for the 154% of value because essentially what Walter said was it would cost more than the value of the house to fix it if the tax value was \$31,000. He is saying he can get it done for a third of the value, so obviously there is a huge discrepancy there.

Ms. Schleunes said historically the bond that we ask for is the amount it would cost the City to undertake the demolition if the party to the agreement breaches the agreement. Generally speaking, it's usually within the \$3,500 to \$6,000 range.

Councilmember Dulin said after seeing Mr. Cooksey's research I'm going to vote in favor of the 60 days, Mayor and Council.

**DeWitt McCarley, City Attorney**, said procedural point. To add an item at the dais, you need everyone's consent to do it.

Mayor Foxx said is there an objection? Hearing no objection.

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

Mayor Foxx said we'll delay for 60 days subject to the conditions that have been set forth, sir. Thank you for coming.

\* \* \* \* \*

## **AIRPORT TAX ISSUE**

**Abdi Duale, 6818 Chiestain Dr.**, said I'm a taxi driver. I work at the Airport. I have been working at the Airport for over 12 years. I know you realize the Airport RFP makes an issue. We have been discussing this for several months. It has been revised, and the new RFP is very

bvj

much the same as the old one. The new RFP amends the current City ordinance, and in a way we are confused between the ordinance that this body set it up and we have been following for the last ten years and the RFP that just came out. The RFP that just came out did not go to the public hearing, did not go to the Passenger Vehicle for Hire that this body set up to address these issues. It came out and is going to be implemented in a few months. To give you an example, on the City ordinance, it states taxicab age limits ten years. A brand new car. You bring it into service. You can drive that car up to ten years with the requirement of fulfilling all the inspections and so on. The RFP only states that the car has to be from zero to three years, and after three years, you out with six years. It's a major economic hardship that is put on us. The RFP also eliminates 89 drivers that currently work at the Airport. It also 95% of the other drivers that work at the Airport currently have cars that are like four or five years old – 2006, 2005, 2007. Those cars will not be even qualified to continue to work at the Airport. We are talking about tens of thousands dollars cab drivers sitting right here have to pay and come up. We cannot come up with this kind of money within two, three months. The reason I'm here today is I'm asking you guys, the City officials and the City managers, to be on record and tell us if there is anything you can do for us. At this point, we are really exhausted. Is there anything you can do? At least give us some time to prepare for the RFP. That's one question. The second question is is it possible for the whole body to listen this case instead of just the subcommittee because frankly last time we attended the subcommittee we didn't get any chance to speak. We want this issue to be addressed by all of you because the City ordinance that we have been following is set up by you guys, so I would like to stop there and see if I can get an answer or a question and I will be happy to answer it. You have some detailed information on the sheet I give it to you.

Mayor Foxx said thank you, sir, and I'm going to let your other speaker speak, and then there may be some response by Council members.

**Amanuel Hagos, 4120 Providence Rd.**, said we have been here two days the first time. We were here, to remind you, January 25<sup>th</sup>, June 18<sup>th</sup>, August 23<sup>rd</sup>, and September, today, 27<sup>th</sup>. We are very proud of you when you gave a solution for this gentleman right here. I remember last time when Mr. Michael Barnes he say I'm not something that you want to deal the case honestly and sincerely. I was believing and trusting that the City Council members are going to see our case. When we sit down last time September – last September even they didn't discuss five minutes. They didn't listen from us. We heard from Attorney Mr. Majeed. We already explained for five months to Ms. Kinsey and Patrick Cannon and our Mayor, this attorney, he can't represent us because he has (inaudible), and we already explained to City Council that this person who can't. We already inform five months ago, six months ago, and this guy they gave me a chance, and we never even get a chance to defend ourselves. We are here four times, and he brought the Safety Committee meeting that are here different things. So we are here today to hear from you. One hundred forty four Airport drivers, 620 on-the-street drivers, their livelihood is threatened and in bad condition. So why we are here? We came four times, and we didn't hear any solution from you. We are expecting. We have trust on you. That's why we came here four, five times. We don't want to lose your time and energy, so we are here. The only trust we have is the people in front of us. So we are just giving us the full session of this City Council to give time at least one hour to see the case in detail. Even our City Council members – I'm glad that Mr. Andy Dulin gave me a chance to talk to him and Ms. Nancy Carter, she gave chance for her residents to listen to them. Some of them even they didn't return their calls, so, please, we are here again. Because we are here we have trust on you. If we don't have trust on you, why we came here. So we are here –

Mayor Foxx said I think we got the point. Mr. Cannon, I know this has been in the Community Safety Committee. Do you want to respond?

Councilmember Cannon said, thank you, Mr. Mayor, I appreciate that. I certainly want to thank Jerry Orr, who I know is here this day. He has gone and re-let the RFP. It was stated there were no changes to the RFP; however, there have been changes to the RFP with regard to the age limit of the cars as well as I want to say there is an issue surrounding the fees that has been recrafted to be readdressed by the cab companies of those that would be interested in looking to participate in this RFP. Beyond that in committee we had several issues before the Community Safety Committee, and with that as you well know in typically all of our committee meetings we don't allow people to be able to speak in those committee meetings. That's typically a time where the



members of the body, of the City Council, come together to discuss the related issues that are there. We hear from staff, we make any other related recommendations that we might have, and then, of course, we move forward. There has been some level of concern though with regard to the passenger vehicle for hire ordinance and the ability for one to be able to operate under that. There was some contention with regard to the Airport not operating within the confines of the passenger vehicle for hire ordinance, an issue raised with regard to, say, for instance, the number of years right now or the age limit for cars is ten years right now by the way of our PVH ordinance. The Airport was requesting something else, something other than the zero to three, which did change. But with that, I do want to take this opportunity because unless it's heard through public information about really the level of the difference or the latitude that the Aviation director or the Airport has to operate under the PVH ordinance we need to make sure that is clear, and, Mr. McCarley, I would like for either yourself, as our attorney, or Mr. Mujeeb, your designee, to explain, if you would, please, to the general public and the cab drivers that are here, of course, the difference that is in place right now in terms of how the Airport is able to operate under the current PVH ordinance as it does.

**DeWitt McCarley, City Attorney**, said Senior Assistant City Attorney Mujeeb Shah-Khan is here, and he has been handling the policy issues related to the PVH ordinance.

**Mujeeb Shah-Khan, Senior Assistant City Attorney**, said to answer the question of how the Airport director is able to set a different age limit than what your ordinance normally requires. In the ordinance when it was passed by Council in 2000, it carved out an opportunity for the Aviation director to create reasonable rules for operation of vehicles at airports plus he is also allowed to enter into operating agreements with companies. So what he can do is instead of saying a vehicle has to only be ten years and under he can say it's five years old. He can't say a vehicle can be 12 years old and operate at the Airport, but he can say less than ten down to a number he feels appropriate. The initial RFP was up to three years. I understand there may have been some modification, so that is purely within the authority that Council originally provided the Aviation director under the PVH ordinance.

Councilmember Cannon said, now, let me state, Mr. Mayor, if I might. That can be also a matter of interpretation. Certainly as has been stated, he cannot supersede ten years, but one might argue that if you reduce the age limit down that when Council set its ordinance up that really if you close the gap that really lessens the number of years that one could have to operate or be expected to have a vehicle to operate by. So, in other words, if it's three years and we have set it at ten years, really probably sets someone up who probably was looking to have their vehicle for ten years to do business with rather than three to five. So, again, it's a matter of interpretation. What you just heard is the interpretation from the Attorney's Office, but you have to make some determination about if that indeed makes sense. Me, personally, I just think it's the reverse on that particular item. Mind you, other issues they are what they are, but that's just a matter of interpretation, and we should have that debate at some point.

Now, I have another question, Mr. Mayor, if I can ask this. With regard to – the RFP has been let. When is it due?

Mr. Shah-Khan said I would have to defer to the Aviation director on that. I believe he is here.

Councilmember Cannon said while he is coming I want you all to be thinking about this last question I have, which is you asked for a timeframe to be able to purchase vehicles. What kind of timeframe are you looking at?

Mr. Duale said we are looking for somewhere about a year or two years. The reason I said that is 144 drivers and all of them have to upgrade their cars. Right now they drive 2006, 2005 – four or five years old. Doing all this is an economic hardship on all of them.

**Jerry Orr, Director, Aviation**, said the RFP was reissued last Monday after your committee met.

Councilmember Cannon said when are all the proposals due in, sir?

Mr. Orr said I think it's about the end of October.

bvj

Mr. Duale said October 11<sup>th</sup>.

Councilmember Cannon said that's all I have right now.

Councilmember Carter said, Mr. Shah-Khan, there were some indications that there were transformations to the RFP. We have a copy before us of those suggested changes. Could you go through what is changed in the new RFP?

Mr. Shah-Khan said, again, I'll defer to the Aviation director on that.

Councilmember Carter said number one was the number of operating companies.

Mr. Orr said, no, ma'am, the original RFP said the cars could be – the taxis could be no more than three years old in service. We changed that to less than three years old when they enter service, and they can stay in service until they are six years old. The other major change in the RFP was to delete the fee and allow the taxi companies to include that in their proposal. In other words, the companies are to tell us how would they like to be charged.

Councilmember Carter said the number of taxis permitted – did that change at all? It's indicated here current rule is 144, and 105 is what is in the new RFP.

Mr. Orr said, again, we will wait to see what we get in the RFP from the companies and ask them to use their expertise to suggest how many taxis should be licensed to meet the demand.

Councilmember Carter said so this is something of an interactive process.

Mr. Orr said, oh, absolutely. That's what an RFP is designed to do.

Councilmember Carter said will we see the final results before it is issued?

Mr. Orr said, yes, ma'am. We will come back to you to award contracts to whatever companies are selected.

Councilmember Carter said thank you very much, Mr. Orr. I feel very much enlightened.

Councilmember Howard said, Mr. Orr, just one quick question. Any thought, and I know the RFP has been sent out to us, and I can't remember if I saw this in it. Any latitude given to the current operators to have a grace period to buy new vehicles? We just heard two years. Was there anything contemplated that would give them time to switch over so that on day one of this new agreement they don't all have to go out to buy new cars.

Mr. Orr said there are plenty of cabs in the city that meet the age requirement.

Councilmember Howard said the ones, I guess, I'm concerned with are ones that are currently operating at the Airport. Those are the ones I would say if there were any leeway to give to anybody would be those.

Mr. Orr said, well, if you are going to allow old cars, there is not much point in the RFP. The RFP's purpose is to get newer, updated cars.

Mayor Foxx said the PVH ordinance, as I understand, is still moving its way through committee, so the non-Airport but ordinance issues related to passenger vehicles for hire is still working its way through the subcommittee. I know you asked us about going through the full Council, but our process is to work through our committees, and there are five members of that committee who can be reached out to individually. There may be some potential to have an opportunity for the drivers to present information to the committee, and that is something that the committee can discuss, but all of that comes back to the full Council, and there will be opportunities at the full Council level for you to express your views on what they come out with. That's where we are. Thank you very much, and that process is still going, so make sure you know when the

committee meetings are happening. I'm sorry, sir. We have to move on. I will be happy to talk to you later.

\* \* \* \* \*

### **SUSAN BURGESS BENEFIT**

**Ben Lassiter, 255 W. Martin Luther King Jr. Blvd.**, said on behalf of Strengthen Charlotte I wanted to formally invite each Council member to attend the Susan Burgess benefit on Friday, October 8<sup>th</sup> at Black Fin in the EpiCentre. This event will take place from 5:30 to 8:30. I also sent out an email to the City Council, School Board, and County Commission about the event, and I appreciate all the responses so far. We all know how much Susan Burgess meant to this city and the entire community. I had the privilege of meeting Susan several times over the last 15 years, and I have always had a tremendous amount of respect for her work ethic and dedication to improving the City of Charlotte whether that was here on the City Council or working on the School Board. We will be selling in memory of Susan Burgess bracelets for \$10 apiece with 100% of the proceeds benefiting Crisis Assistance Ministries, which was Susan's favorite charity. The bracelets will entitle you to drink and food special while at Black Fin and allow you to get into different venues in the EpiCentre for no cover for the rest of the night. Whether you can attend the event or not, I hope you will at least consider making a contribution and purchasing a bracelet as it is for a great cause. We wanted to personally thank Jason and the rest of the Burgess family for helping us with this event and also thank Jason for all of his hard work on the Council. For more information on the event and how to get your own bracelet, you can check out Strengthen Charlotte on Facebook. I hope to see each of you at the event on October 8<sup>th</sup> from 5:30 to 8:30 at Black Fin in Epicentre as we celebrate Susan and her dedication towards improving this great city.

Mayor Foxx said thanks for honoring Susan Burgess, a great friend to all of us.

\* \* \* \* \*

### **AIRPORT TAXI ISSUE**

**Williams Dobbins, 7910 Waterford Ridge Dr.**, said, first, giving honor to God. I'm sure as president of the association at the Airport for taxi drivers I have approached this situation a few times. You have heard me speak in the past. Today I'm seriously just a little concerned when reference to how the committee operates because I noticed that during the committee process the way our issue of the medallion was treated wasn't fair to the drivers or myself just to the extent that the Council meeting was almost completely over before our issue was brought forth and that a PVH attorney, which just spoke with you recently, just a moment ago, presented a case which really had no bearing to the actual medallion process we were trying to implement here. It gave the example of New York and Detroit. Those two jurisdictions we all would have to sit here and say these places are so adversely different than Charlotte how could they be compared to the same – so it was like apples and oranges and then suddenly saying they are all oranges. My point is just that after talking to Mr. Cannon at his office he agreed with me that he didn't think the process went smoothly, and I hope that he would take appropriate steps to try to at least get this issue treated fairly. We know there are a lot of things that have to be done with reference to the ordinance. We know that is going to take a little more time. The point is just that anyone that is working here deserves to have an opportunity to have a retirement plan. This is what the medallion basically does. Regardless of how you look at it, it's a process of having something that acquires value over time. That was the purpose of that; nothing more than that. For some reason it's gotten so complicated and pushed out of proportion that it maybe looks like it's impossible. It's really not. It's very simplistic. We are just asking that you please look at it carefully and give us consideration for that process.

Mayor Foxx said thank you very much. I really appreciate your input.

\* \* \* \* \*

## AWARDS AND RECOGNITIONS

### EASTER SEALS WALK WITH ME CELEBRATION PROCLAMATION

Mayor Foxx recognized Basil Williams, Executive Director of Easter Seals of Charlotte.

Councilmember Dulin said I have had some volunteer experience with Easter Seals UVC, and my experience was fabulous. Actually I was a client of a copy shop, CopyMatic, and was in and out of there a lot dropping off things to be copied and picking up things to be copied, and the work that they do, and when she says that Lucas is going to be able to live independently, he will. That child will live independently if that is what he chooses some day and it's because of the work these folks are doing. So, Basil, thanks, and good to see you again, friend. There are businesses and folks that Easter Seals has touched all over this community that are adding to what we do here and not subtracting to what we do here, and it's a big deal, so thanks for coming down. Well deserved.

Councilmember Peacock read a proclamation about the "Walk with Me Celebration Day – a Day to Celebrate People of all Abilities".

\* \* \* \* \*

### CONSENT AGENDA

[ Motion was made by Councilmember Mitchell, seconded by Councilmember Carter, and ]  
[ carried unanimously to approve the Consent Agenda as presented with the exception of ]  
[ Item Nos. 19 and 45, 47-J, 47-L, and 47-M for speakers, and Item No. 47-K, which was ]  
[ settled, and Item No. 13, which was pulled by staff. ]

The following items were approved:

18. Contract to the lowest bidder, Hall Contracting, in the amount of \$2,298,600 for Airport drainage pipe repair for Aviation.

#### Summary of Bids

Hall Contracting	\$2,298,600
Blythe Development Co.	\$2,392,840
Sanders Utility Construction	\$2,438,332
Paul Howard Construction Co.	\$2,775,340
Triad Engineering & Contracting	\$5,205,100
ProShot Concrete	\$6,596,425

20. Contract to the lowest bidder, Ferebee Corporation, for the West Craighead Road storm drainage improvements for Engineering and Property Management.

#### Summary of Bids

Ferebee Corporation	\$2,323,247.62
Sealand Contractors	\$2,578,894.45
Blythe Development Company	\$2,848,576.94
United Construction Company	\$2,985,843.30
Blythe Construction, Inc.	\$3,611,383.05
Moorhead Construction	\$3,836,973.80
Rockdale Pipeline	\$4,055,632.33

21. Service contracts with the following companies for large generator preventative maintenance, electrical output testing, fuel tank cleaning, and repair services for an initial term of three years: 1) Carolina CAT, \$128,100 (\$42,700/year); 2) Covington Power Solutions - \$89,100 (\$29,700/year), 3) Cummins Atlantic - \$159,000 (53,000/year); and authorize the City Manager to approve up to three additional one-year renewal options as authorized by the contract and contingent upon the Company's satisfactory performance.

22. Change Order #1 in the amount of \$493,500 to the Briar Creek Relief Sewer Phase 1B construction contract with Rockdale Pipeline, Inc.
23. Sole source contract for the purchase of water quality analytical instruments and reagents manufactured by Hach as authorized by the sole source purchasing exemption G.S. 143-129(e)(6); award contracts to the following authorized distributors of Hach products for the term of two years in the combined estimated annual amount of \$400,000: Hach Company, Heyward, Inc., Beck Sales & Engineering, Inc., Gary Visser, James Hutcherson; and authorize the City Manager to renew the contracts for three additional one-year terms with possible price adjustments at the time of renewal based on the terms of the contract.
24. Contract to the second lowest bidder in the amount of \$20,009,059 with Edison Foard, Inc. for construction of the East Terminal Expansion, approve a contract in the amount of \$473,800 with Mactec Engineering and Consulting, Inc. for construction materials testing and special inspection services for the East Terminal Expansion, and adopt Budget Ordinance No. 4522-X appropriating \$20,482,859 from the Airport Discretionary Fund Balance to the Airport Capital Investment Plan.

The ordinance is recorded in Ordinance Book 56 at Page 801.

25. Airport use agreement with jetBlue Airways for space at Charlotte Douglas International Airport.
26. Contract with Scheidt & Bachmann in the amount of \$4,692,904 for the purchase and installation of a Parking Revenue Control System.
27. Authorize the City Manager to execute a contract with BFI Waste Services, LLC doing business as Republic Services of Charlotte for refuse, recyclables, and bulky item collection services to multifamily communities and designated public facilities for an initial term of three years, and authorize the City Manager to renew the contract for two additional one-year terms. The five-year cost of the contract is estimated at \$12,500,000.
28. Contracts for citywide information technology contract professional services for an initial term of three years with a combined estimated annual expenditure of \$2,000,000 with the following service providers: Apex Systems, Inc., CCCi, CIBER, COMSYS, a Manpower Company, ComTec Information systems, CedarCrestone, DISYS, Global Networkers, Inc., ITP Consulting/Debbie's Staffing, Premier Alliance Group, Sapphire, Skybridge Global, SoftSol, SYSTEMTEC, Tailwind Associates, Team Technology, Inc., TECHEAD; and authorize the City Manager to approve up to two additional one-year renewal options as authorized by the contract and contingent upon satisfactory performance.
29. Purchase of Caterpillar equipment parts as authorized by the sole source exemption of G.S. 143-129(e)(6), and contract with Carolina Tractor and Equipment for the purchase of repair and replacement parts and diagnostic services in the estimated annual amount of \$125,000 for the term of five years.
30. Contracts for citywide background investigation services for an initial term of one year with a combined estimated annual expenditure of \$135,000 for the two following service providers: U.S. Investigative Security Services Agency, LLC (ISS), Hirease, Inc.; and authorize the City Manager to approve up to four additional one-year renewal options as authorized by the contract and contingent upon satisfactory performance.
31. Purchase of maintenance, repair, and operating supplies as authorized by the cooperative purchasing exemption of G.S. 143-129(e)(3); contract with Grainger for the purchase of maintenance, repair, and operating supplies in the estimated annual amount of \$650,000 for the term of one year, and authorize the City Manager to extend the contract for three additional one-year renewal terms with possible price adjustments at the time of renewal as authorized by the contract.

32. Purchase of specialized equipment parts as authorized by the sole source exemption of G.S. 143-129(e)(6), and contract with Carolina Industrial Equipment for the purchase of repair and replacement parts and services in the estimated annual amount of \$110,000 for the term of five years.
33. Purchase of JCB Construction Equipment parts as authorized by the sole source exemption of G.S. 143-129(e)(6), and contract with Interstate Equipment Company for the purchase of repair and replacement parts and services in the estimated annual amount of \$80,000 for the term of five years.
34. Contract with Cummins Atlantic for providing vehicle and equipment diagnostic and repair services in the estimated annual amount of \$110,000 for the term of five years.
35. Authorize the City Manager to negotiate a contract with Gannett Fleming in an amount not to exceed \$560,000 for architectural and engineering design services for renovation of the Davidson Street Facility Fuel and Wash Facility.
36. One-year contract with Jeffrey A. Parker & Associates, Inc. in the amount of \$142,500 to research and recommend methodologies which can be used in advancing the 2030 Transit Corridor System Plan, and authorize the City Manager to negotiate and approve two, one-year renewals of the contract.
37. Grant from the U.S. Department of Justice in the amount of \$349,200 for DNA analysis in the Charlotte-Mecklenburg Police Department Crime Lab.
38. Payments to Duke Energy in the amount of \$290,158.90 for the relocation of overhead and underground utility facilities for the Archdale Project.
39. Contract with Collins & Baker Engineering, PA for engineering services in the amount of \$200,000, and authorize the City Manager to execute up to two renewals not to exceed \$200,000 each based upon consultant performance.
40. Amendment to the original lease with Ghiz Investments I, LLC to modify the term of the lease as follows: 1) Add 1,700 square feet of office space for Police's South Division District Office, and 2) revise the term of the lease to extend the termination of the existing lease from July 31, 2012, to July 31, 2013, and replace the one, five-year lease extension with up to three, one-year options to renew based on performance.
41. Resolution to donate an equipment trailer to West Mecklenburg Volunteer Fire Department.  
  
The resolution is recorded in Resolution Book 42 at Page 730.
42. Payment of \$185,000 in full and final settlement of the indemnity portion of a Workers' Compensation claim for Charlotte Fire Department employee, Jessica Jarrell.
43. Resolution authorizing the refund of business privilege license payments made in the amount of \$260.54.  
  
The resolution is recorded in Resolution Book 42 at Pages 731-732.
44. Contract for property acquisition services for Thomasboro/Hoskins Neighborhood Improvement Project, Phase 4, with Professional Property Services Inc. in an amount not to exceed \$232,000.
46. Resolution proposing to accept the offer from The Salvation Army to purchase approximately .54 acres of surplus City-owned property located at 922 Louise Avenue (portion of 08111207) for \$82,350, and establish the details of the sale using the upset bid procedure.  
  
The resolution is recorded in Resolution Book 42 at Pages 733-734.

- 47-A. Acquisition of 809 square feet in sanitary sewer easement plus 1,302 square feet in temporary construction easement at 2607 East 7<sup>th</sup> Street from Assembly Tower Center Association, Inc. for \$14,600 for Briar Creek Relief Sewer Phase 2, Parcel #14.
- 47-B. Acquisition of 2,545 square feet in storm drainage easement plus 1,996 square feet in utility easement plus 1,925 square feet in temporary construction easement at 5624 Glenkirk Road from Rebecca Schenck for \$11,800 for Eastburn Storm Water Capital Improvement Project, Parcel #3.
- 47-C. Acquisition of 1,306 square feet in sanitary sewer easement plus 916 square feet in storm drainage easement plus 1,201 square feet in temporary construction easement at 4822 Fairheath Road from Brian H. Grinde and wife, Ansley S. Grinde for \$11,000 for Eastburn Storm Water Capital Improvement Project, Parcel #36.
- 47-D. Acquisition of 2,501 square feet in storm drainage easement plus 895 square feet in temporary construction easement at 4833 Fairheath Road from James Wilson Largen, Jr. and wife, Tanya L. Baker, for \$11,275 for Eastburn Storm Water Capital Improvement Project, Parcel #39.
- 47-E. Acquisition of 378 square feet in sidewalk and utility easement plus 645 square feet in temporary construction easement at 2918 Park Road from Todd Murphy for \$12,800 for Park Road Sidewalk @ Poindexter and Sunset, Parcel #3.
- 47-F. Acquisition of 27,079 square feet in sanitary sewer easement plus 35,846 square feet in temporary construction easement at 6325 Wilkinson Boulevard from Duke Energy Carolinas, LLC f/k/a Duke Power Company for \$29,821 for Paw Creek Force Main Replacement – Phase 2, Parcel #3.
- 47-G. Acquisition of 2,818 square feet in sidewalk and utility easement plus 42 square feet in utility easement plus 4,947 square feet in temporary construction easement at 1101 Turnbridge Road from Warren Lester West and Marie Ellen West, Trustees of The Warren Lester West and Marie Ellen West Revocable Trust Dated March 9, 2007, for \$22,948 for Providence Road Sidewalk II (Folger Drive to Blueberry Lane), Parcel #6.
- 47-H. Acquisition of 1,321 square feet in storm drainage easement at 8516 Greencastle Drive from D. Edwin Rose and wife, Carla R. Rose, for \$25,975 for Shillington Storm Water Capital Improvement Project, Parcel #15.
- 47-I. Resolution of condemnation of 2,457 square feet of storm drainage easement plus temporary construction easement at 939 Sedgefield Road from Michael Seaton and Jennifer L. Seaton and any other parties of interest for \$12,500 for Colonial Village/Sedgefield Neighborhood Improvement Project – Phase II, Parcel #211.

The resolution is recorded in Resolution Book 42 at Page 735.

- 47-N. Resolution of condemnation of 1.57 acres at 8918 Byrum Drive from Thomas Stephen Autry for \$235,000 for Airport Master Plan Land Condemnation.

The resolution is recorded in Resolution Book 42 at Pages 739-740.

\* \* \* \* \*

**ITEM NO. 19: HARRISBURG ROAD 16-INCH WATER MAIN**

Councilmember Carter said this is the 16-inch water main along Harrisburg Road and Robinson Church Road. The construction will start in the next 45 days and be over in spring 2001. It addresses water pressure and water quality in this area, so I definitely want the citizens to know what will be going on in their neighborhood.

[ Motion was made by Councilmember Carter, seconded by Councilmember Kinsey, and ]  
[ carried unanimously to award a low bid contract for \$851,309.27 to Davis Grading, Inc. ]  
[ for the construction of a 16-inch water main along Harrisburg Road and Robinson Church ]  
[ Road. ]

**Summary of Bids**

Davis Grading, Inc.	\$851,309.27
Monroe Roadways Contractors, Inc.	\$881,094.88
Dellinger, Inc.	\$883,962.45
Propst Construction Co.	\$886,150.49
RH Price, Inc.	\$894,710.78
Buckeye Construction Co., Inc.	\$928,943.65
State Utility Contractor, Inc.	\$933,630.29
RF Shinn Contractor, Inc.	\$943,438.86
Spur Construction	\$1,083,326.69
Yates Construction Co., Inc.	\$1,167,273.44
Bullseye Construction, Inc.	\$1,281,079.80

\* \* \* \* \*

**ITEM NO. 45: PROPERTY ACQUISITION SERVICES FOR EASTWAY/SHEFFIELD NEIGHBORHOOD IMPROVEMENT PROJECT**

Councilmember Carter said this is again property acquisition for the Eastway/Sheffield Neighborhood Improvement Program, and it's going to provide \$3.3 million of storm drainage, sidewalks, and traffic calming in that area. It's dealing with 153 parcels of our neighbors who live in that area. Just wanted them to have a warning.

[ Motion was made by Councilmember Carter, seconded by Councilmember Mitchell, and ]  
[ carried unanimously to approve a contract for property acquisition services for Eastway/ ]  
[ Sheffield Neighborhood Improvement Project (NIP) with THC, Inc. in an amount not to ]  
[ exceed \$180,000. ]

\* \* \* \* \*

**ITEM NO. 47-J: CONDEMNATION AT 6400 HAZELTON DRIVE**

**Andrew Thrasher, 6400 Hazelton Dr.**, said as you may recall, I was here a month ago to share with you my concerns around the Eastburn Storm Drainage Improvement Project. At that time, several of you raised many of the same questions that my wife and I raised when we first learned the details of this project. Per your request, City staff provided you with a report about a week ago that addressed some of these questions. Thank you for taking the time to consider this information presented in this report. After reading it, I was still left with several questions – questions which I outlined for you in a letter delivered to you via email last week, and I also have copies for you here this evening. Staff's report identified four options that were evaluated for the routing of this new culvert; however, the report that I saw did not detail the all-inclusive cost estimates for each option. The proposed route is said to be the most cost effective option, but does the financial analysis include all the inputs that would allow one to compare the real cost of each alternative such as realistic estimates for easement acquisitions and additional pipe. After all the costs are considered, if it truly is the most cost effective option, how much cheaper is the proposed route versus the other options? While I am a proponent of fiscal responsibility, I believe that the cheapest option is not always the best option. In some cases, a little extra expense may be warranted to minimize the impact on property owners and the environment. As you are again tonight faced with the decision on whether or not to condemn our property and our oak trees to pave the way for this project, I stand before you tonight to reaffirm my objections to the project plan and to ask for your support.

Councilmember Kinsey said I would just like to make a comment. I am disappointed that a resolution wasn't reached for this, and because of that I'm going to vote a "no" vote.



Councilmember Howard said I wanted to actually give staff some kudos. I actually read the report they sent us, and this does not seem like this was a very easy thing to come to. They actually showed us how to take each one of the options, and this one came down to the houses that were the furthest apart; this one came down to the one that made the most sense, and they gave us very detailed reasons why this made sense, and I actually read the whole thing, so I wanted to thank staff for that amount of information.

Councilmember Dulin said the Thrasher's know me pretty well. I mean I'm at their house relatively often – more so than you know. I drive that way now. This is difficult because the water that comes – actually it doesn't even come past his house. The water that comes down that hill isn't his water, and this is the City trying to take care of water that is coming down a hill, and these folks and a couple of other families are right in the way, and it's too bad because that's not what he signed up for. So I have had real trouble with this knowing – we work with Storm Water a lot, Mr. Thrasher, knowing it's our responsibility to take care of things. It's not very sexy, but storm water is our responsibility to take care of, and unfortunately you and your wife and your family are in the route, but the route goes uphill. He is uphill from where the water is. Sir, we have got to bring that pipe through there. Staff has worked real hard on it, and Jennifer Smith is here, and she is a real professional, but I'm going to support Mr. Thrasher in this and support Patsy. Thank you, Patsy.

We are going to have to keep working on this some. At the same time, I know there is some demand up the street, so we might end up being back over there, Mr. Thrasher. We certainly are going to have to do some more talking. Here it is we are fighting for every tree in Charlotte, and right in the way of this project there are some big, beautiful, shady trees – old things – easily 100 years old. Thank you for supporting that, Mr. Thrasher, Patsy. I'm going to vote to keep talking about it.

Mayor Foxx said any further discussion on this? So a yes vote, to clarify, would mean going forward with condemnation and a no vote would mean not doing so.

Councilmember Howard said I was wondering if it would help my colleagues to hear if anybody had a chance to read what staff gave us, and if it would help to have a presentation?

Councilmember Turner said I think everybody read it.

[ Motion was made by Councilmember Barnes and seconded by Councilmember Cannon to ]  
[ approve a resolution of condemnation for 2,782 square feet of storm drainage easement plus ]  
[ utility easement plus temporary construction easement at 6400 Hazelton Drive from Andrew ]  
[ D. Thrasher and wife, Marsha H. Thrasher, and any other parties of interest for \$13,100 for ]  
[ Eastburn Storm Water Capital Improvement Project, Parcel #48. ]

**The vote was taken on the motion and recorded as follows:**

**AYES:** Councilmembers Barnes, Burgess, Carter, Cannon, Howard, Mitchell

**NAYS:** Councilmembers Cooksey, Dulin, Kinsey, Peacock, Turner

The resolution is recorded in Resolution Book 42 at Page 736.

Mayor Foxx said I share Ms. Kinsey's concerns about why I wish we had been able to work something out, but thank you for coming down. We tried.

\* \* \* \* \*

**ITEM NO. 47-L: CONDEMNATION AT 400 EAST 33<sup>RD</sup> STREET**

[ Motion was made by Councilmember Howard, seconded by Councilmember Carter, and ]  
[ carried unanimously to approve a resolution of condemnation for 99,282 square feet of fee ]  
[ simple plus existing right-of-way at 400 East 33<sup>rd</sup> Street from Gateway Communities, LLC ]

bvj

[ and any other parties of interest for \$365,850 for CATS: Northeast Corridor Light Rail ]  
[ Transit, Parcel #1237.1. ]

The resolution is recorded in Resolution Book 42 at Page 737.

\* \* \* \* \*

**ITEM NO. 47-M: CONDEMNATION ON EAST 33<sup>RD</sup> STREET**

[ Motion was made by Councilmember Mitchell, seconded by Councilmember Howard, and ]  
[ carried unanimously to approve a resolution of condemnation for 18,564 square feet of fee ]  
[ simple plus existing right-of-way on East 33<sup>rd</sup> Street from NoDa Yards, LLC and any other ]  
[ parties of interest for \$115,200 for CATS: Northeast Corridor Light Rail Transit, Parcel ]  
[ #1238.1 ]

The resolution is recorded in Resolution Book 42 at Page 738.

\* \* \* \* \*

**ITEM NO. 7: PUBLIC HEARING ON RESOLUTION TO CLOSE MOSS STREET, BENSON STREET, AND PORTIONS OF DEARBORN AVENUE, BADGER COURT, AND HORNE DRIVE**

The scheduled public hearing was held on the subject item.

[ Motion was made by Councilmember Carter, seconded by Councilmember Barnes, and ]  
[ carried unanimously to recuse Councilmember Howard. ]

[ Motion was made by Councilmember Barnes, seconded by Councilmember Carter, and ]  
[ carried unanimously to adopt a resolution to close Moss Street, Benson Street, and portions ]  
[ of Dearborn Avenue, Badger Court, and Horne Drive. ]

The resolution is recorded in Resolution Book 42 at Pages 710-720.

\* \* \* \* \*

**ITEM NO. 8: PUBLIC HEARING ON RESOLUTION TO CLOSE DUNBAR STREET AND A PORTION OF McNINCH STREET**

The scheduled public hearing was held on the subject item.

[ Motion was made by Councilmember Turner, seconded by Councilmember Kinsey, and ]  
[ carried unanimously to adopt a resolution to close Dunbar Street and a portion of McNinch ]  
[ Street. ]

The resolution is recorded in Resolution Book 42 at Pages 721-729.

\* \* \* \* \*

**ITEM NO. 10: TREE ORDINANCE REVISIONS**

Mayor Foxx said this has been the subject of a lot of conversation in the community. We have gotten numerous emails about this, and I imagine we are going to have a pretty lengthy and substantive discussion about this, so I'm going to turn this over to our committee chair of the Environment Committee, Edwin Peacock, and, Mr. Peacock, if you would like to introduce this item.

Councilmember Peacock said I want to first ask that Tom and Jeb and Dave and you all come down – Pat Mumford as well, too. Also, while they are coming down, I want to recognize Vice Chair Carter, Councilmember Dulin, Councilmember Howard, and the late Councilwoman Burgess, who served on this committee very faithfully from its very beginning as well, and on many of the last days of her life, she was on the telephone on several of these committee meetings that we had.

The first thing I wanted to do is these gentlemen are up here to answer Council questions, which just provide for the audience as well as repeat to us here what we have done and where we are right now. On July 26<sup>th</sup>, staff presented the Environment Committee’s recommendations before us at a Council Dinner Meeting. Then on September 13<sup>th</sup> we had the public hearing that was held here, and then tonight in our packet we have a follow-up report, which I know you all have seen, and since then we have obviously had a number of new concerns that have entered into the picture.

The results of the work that we have done for almost now three years has been extensive stakeholder process, and I know many of you all are here. We certainly want to thank the stakeholders that are involved in the side from the Real Estate Industry and Building Coalition as well as those with the Sierra Club as well. The primary purpose of the provisions was to further protect Charlotte’s tree canopy while offering flexibility and options for compliance with the ordinance. The current ordinance includes tree save and tree planting requirements for commercial and single family developments. The proposed revisions focus primarily on commercial development, and there are 22 proposed administrative and technical revisions including two primary changes. First, require a 15% minimum tree save for commercial development with flexible options allowed for the compliance for certain types of developments; and, second, increase the number of trees in parking lots by decreasing the tree space from 60 to 40 feet.

Tonight what I have sensed prior to coming into this meeting is that the healthy discussion that I was hopeful we would have, staff, on July 26<sup>th</sup>, it went by pretty quickly from us. Now, we are beginning to pay an enormous amount of attention to it, and I think really what we are seeing right now is a healthy discussion that we’ll have on this dais tonight, and we’ll need your support to answer any questions or just the competing policies of strictly one of our environmental focus areas as well as now the Housing and Neighborhood Development Committee.

To start things off, Mr. Mayor, what I’m recommending we do here is break our action item up into two parts. First, approve the Environmental Committee revisions to the tree ordinance with an effective date of January 1, 2011; and with the second part, a companion action. Council, I had passed out this to you before, and I have made some revisions with your edits and comments prior to this, so I’m going to read it as I have edited it; not as you have it in front of you here. So, as a companion action for approval, I am asking that the Housing and Neighborhood Development (HAND) Committee study and review and make appropriate recommendations regarding the adverse and positive economic impacts of the tree ordinance on the development and the provision of affordable housing. That’s a two-part motion, again, Part A and Part B, and, again, from our discussion prior to now, I think we should just open it up obviously for questions here. I have asked them to pull up several presentations to be ready if you all want to reference those, particularly the close to 40-page PowerPoint that we have before us as well.

Councilmember Barnes said I will offer a second to that motion.

[ Motion was made by Councilmember Peacock and seconded by Councilmember Barnes to ]  
[ A) approve the Environmental Committee revisions to the tree ordinance with an effective ]  
[ date of January 1, 2011; and, B) request that the Housing and Neighborhood Development ]  
[ Committee study and review and make appropriate recommendations regarding the adverse ]  
[ and the positive economic impacts of the tree ordinance on the development and the provision ]  
[ of affordable housing. ]

Councilmember Carter said, Mr. Phocus, our Environmental director, gave me a copy of *The Economist*, and the interesting thing is it’s called “The World’s Lungs”. These are trees on the front of *The Economist*. It makes good economic sense to look at our greatest asset, our trees.

The one sentence I would like to quote to you here is, "Clearing forests may enrich those who are doing it, but over the long run, it impoverishes the planet as a whole." Charlotte is a microcosm, and I think we have done over the last five years some very creditable work. Thank you, Mr. Chairman, for what you have done and for the rest of the committee. And, Mr. Mayor, you served as our chairman, too, and we were discussion this, and, your mother, Ms. Burgess, really invested herself in this issue.

So I think what we are doing is reflecting what we need to do as they note in this magazine that a trend is reversing itself slowly but surely. I think we can add to our population of trees that will help our environment. It will help the value of our property and the appeal of our community. I do want to note that even in affordable housing if you want to say "even", but in affordable housing, keeping the trees there, replanting, refurbishing adds to the value of the property, to the appeal of the property particularly when we are known as the eighth most vacant apartment in the nation. When we have trees, those apartments will be filled; they will be welcoming. Not only that, those trees enfold the apartments in the neighborhoods that surround them, make them part of the community, and that's one of our greatest goals to make sure that our citizens all feel part of the community that is Charlotte. I am pleased with this tree ordinance. I do welcome the addition of investigation by the HAND Committee, and I hope it is appropriate for them to consider this because I think we can always improve on what we have done, and I do recommend this action to you all.

Councilmember Cannon said let me first thank the committee for all of its hard work, all the stakeholders that have been involved in getting us to where we are today. I think what we have before us is an opportunity to continue to be about making sure that Charlotte maintains what has been from visitors to those of us who are native Charlotteans in being a place that has always been about being green. Hopefully we'll continue to be about that going forward. Let me just say this. As one who actually grew up in affordable housing – I don't know how many around this dais actually grew up in affordable housing – but I happen to grow up in affordable housing from Fairview Homes, now the Park at Oaklawn, to Double Oaks to Pine Valley, and each one of those communities minus maybe Fairview Homes we had trees there. When you grow up with trees around you, typically when you are looking for your own home later, you are going to want that same level of accommodation. It's something viewed as an amenity. That is something I still have around me to this day and probably will continue.

I want to accept by way of this motion everything that Mr. Peacock has said in the wake of his motion; however, what I would like to do is extract a piece with regard to the affordable multifamily housing piece of it to identify what true costs that we don't know that there might be to make us aware of what that true impact might be. I have received and looked at some information that has been presented from staff. I don't believe it's detailed enough to give us the kind of picture and/or the snapshot that we really need to understand in terms of the level of impact this could make on those who wish to afford housing. I wouldn't want us to be remiss if we somehow missed the opportunity to be about one of our top priorities that we have said we have been about for a very long time. So that would be the only change in the substitute motion, Mr. Mayor, if I could get a second.

[ Motion was made by Councilmember Cannon and seconded by Councilmember Mitchell ]  
[ to approve the tree ordinance changes except for the portion that relates to affordable ]  
[ multifamily housing. ]

Mayor Foxx said can you restate it again?

Councilmember Cannon said everything that Mr. Peacock has suggested relative to moving forward with the tree ordinance as it has been laid out coupled with taking this on to the HAND Committee for study, which is where I would imagine my motion would take it also, but that we extract the piece dealing with multifamily on the affordability side – affordable housing as regards to the multifamily component – that we extract that and that be, of course, the piece that we study to determine the real, true impact cost wise that could make or may not make on someone residing in that type of housing.

Mayor Foxx said let me make sure. If Mr. Peacock's motion passes, the ordinance passes, and we take a look at the impact of the policy on affordable housing. If yours passes, you do both of those things, but we don't approve the ordinance with respect to multifamily.

Councilmember Cannon said, no, with respect to affordable multifamily. With that, Mr. Mayor, let me be clear. It's important to make sure that, one, if we do something like this that it's legal to do. That being said because now I have a second to the motion let me just ask from a legal perspective, Mr. McCarley, if that is something indeed that can be done, and, if not, then we can adjust accordingly.

**DeWitt McCarley, City Attorney**, said there are some constitutional issues with discriminating on the basis of the income level of the people who live in the properties you are talking about. There may be some other ways to get there, but as we worked with Mr. Cannon late this afternoon there were none of them we could get to in a two-hour period, but there are some constitutional issues with discriminating on the basis of the income level of the people living in the houses you are talking about.

Councilmember Peacock said I got my question answered by Mr. Cannon on his clarification.

Councilmember Dulin said, Mr. McCarley, will it clear things up if we change a friendly amendment that I am not making yet, Mr. Cannon, but if we change that from with regards to the affordable housing part, but we made it all multifamily and had that go back to the HAND. That doesn't discriminate against any one particular part because of income.

Mr. McCarley said there are no legal issues to that, Mr. Dulin. You may do that.

Councilmember Dulin said may I make a friendly amendment?

Mayor Foxx said it's up to Mr. Cannon.

Councilmember Cannon said I would like to hear it.

Councilmember Dulin said I'm in support of the tree ordinance. I am not in support of adding – we are trying to do something right and good to help people that are less fortunate than we are – less fortunate than everybody on this Council. But at the same time, in a lot of cases, in some cases we are not sure if it's clear or not going to add costs and make it harder for people to come down here to Charlotte, North Carolina, and to put their family in a home or a young teacher getting out of college that has a mountain of school debt to try to get in a home while he or she teaches in one of our elementary schools. There are some unintended consequences here that we are not sure because this thing is complicated, and we have been working on it for years, and I don't think it's where it needs to be yet.

I mean we are going to hurt folks that are trying to build convenience stores. I'm okay with that. We are going to hurt folks that are trying to renovate their businesses. I'm not okay for that, but I'm willing to vote for that tonight. But when it comes to building affordable housing, we have had some speakers come down here and talk to us, and they got some bad press in that they – it's wrong, but the people said they were in the developers' pockets, and that's not true. Some of these men and one in particular, Mr. Paul Leonard, is a fine man. At one point, the international chairman of Habitat for Humanity – not in Charlotte, not in North Carolina, not in American, but for the world – and this man was down here telling us – he has a little bit of knowledge basically about how to build a house that somebody can get into and live there with their family. He was telling us that this adds costs and we need to take another look at it. He is not telling us not to do it, but he is saying take a look at it. I trust Mr. Leonard, and he has – he has made a lifetime of building homes for people that need a little bit of help, and I'm willing to take another look at that.

Now, we had some discussions earlier in the day. Council has put a lot of work into this. We have blood coming out of our ears we have been working on it so much, but we can't break out the affordable multifamily and the multifamily without having some Constitutional problems, and that was something we have been trying to work through today. We are not making it go away. We are just going to send it to the HAND Committee. Chairman Kinsey and her group is

HAND. They can work through that and get to the bottom of this and give us some good input, and I'm willing to support that, but I would like to make that friendly amendment that we break out – if we can't do it Constitutionally – that we break out multifamily for continued study and let us pass the rest of it for industrial, commercial, residential tonight.

Mayor Foxx said that said the discretion of the maker of the motion.

Mr. McCarley said and the discretion of the chair.

Mayor Foxx said, Mr. Cannon, do you have an objection to that?

Councilmember Cannon said what I would say, and, thank you, Mayor, and thank you, Mr. Dulin, for your ask, and I believe it is the unintended consequences that we really have to watch out for with regard to this. The one thing I don't want to do is unravel all of what has been done to bring us to where we are with what I think is a good ordinance, what I believe in in terms of being a good ordinance, and what I think we should stick to. It's with that said that I think opening up the whole can of the idea of trying to address multifamily alone and not targeting the affordable housing piece or the affordable multifamily piece is something I can't support. But then I understand that with the piece that I want to have to take place that legally it can't be done, and, so, if I had to do something in terms of accepting it or not, I would probably say I can't accept it. I would have to at best withdraw it unless someone else wants to come back and restate that substitute and allow what you are asking to replace.

Councilmember Barnes said I wanted to ask for some clarification from either Mr. Cannon or Mr. Peacock. As I read the companion action, it seems to include what you are talking about, and I don't know why an amendment or any other adjustment is necessary because that companion action appears to include affordable housing, multifamily, and otherwise. I think that the companion action itself would allow our committee to explore the issues that at least a couple of our members are interested in exploring. Is that your read of it, Mr. McCarley?

Mr. McCarley said, yes, sir.

Councilmember Cannon said one of the words that happen to be redlined in here happened to be the word "mitigation". It read, "Ask the HAND Committee to study, review, and make appropriate mitigation recommendations regarding the adverse economic impacts of the tree ordinance and other recently adopted and proposed land use regulations on the development and provisions of affordable housing." Inasmuch as this can go back to the HAND Committee and something I do support, by the way, it will not get inside the ordinance we are trying to address this evening. It will be an afterthought. It could come back, but I don't think it's going to have the impact. In fact, I think what we ultimately know is that anything related to affordable housing is going to end up going through our Housing Trust Fund. We could afford grants. We know a lot of the answers already I think to some extent with regard to what you are suggesting, which I think will end up coming out of the HAND Committee back to this Council at some point in terms of what our options are to even deal with affordable housing.

So it's my thought that this – I want to be a little more clear about getting at what we were dealing with inside of this ordinance, and this doesn't do that. Mr. Peacock's motion basically is to approve what is currently before us in the way of the ordinance and then thereafter send this to the committee. I was trying to do a reversal – not quite the reversal – approve what he was talking about but have the affordable housing component to be addressed now.

Councilmember Barnes said if I might respond. I would not though, Mr. Cannon, that Mr. Peacock's companion action did not include the word "mitigation". It also did not include the phrase "and other recently adopted and proposed land use regulations".

Councilmember Cannon said I said mitigation was stricken. It was realigned.

Councilmember Barnes said he did not read that, and he also did not read the last phrase that I read, and what I was suggesting is that the remainder of that companion action ending with on the development and provision of affordable housing it be inclusive of the multifamily issue as well as single family affordable housing issues, although I think I appreciate where you are

coming from. My experience has been since I have been here that when we refer parts of actions to one of our committees that we have an opportunity to explore issues brought by individual Council members, and my sense is that we will be able to explore that issue of affordability within the confines of the law, I hope, and get to some of the concerns that you and I and other folks have. But what I don't want to do is begin to wordsmith it to death because I'm becoming uncomfortable with these proposed substitutions and proposed amendments because I think his motion and the companion action sufficiently cover that perfectly but sufficiently cover what we are trying to do.

Councilmember Cannon said, Mr. Mayor, I would lastly just say about that points well taken. Under the leadership of Councilmember Mitchell and now under the leadership of Councilmember Kinsey, the HAND Committee continues to move forward in a direction to address the issues of affordable housing and will continue that tradition is my hope and my thought. So I'm wondering what we are going to be looking for in this per se that the committee is not already looking at as it relates to affordable housing. With that said, I will just ask Mr. Mumford, who is here, what might be anything different that we on the HAND Committee could be looking at in the future to address what is before us right now.

**Pat Mumford, Neighborhood and Business Services**, said the difference just might be the specificity regarding this particular ordinance, so the way I understand Mr. Peacock's language is it states looking at the impacts of the tree ordinance on affordable housing whereas the broader issue of affordable housing is being discussed in front of the committee. I think again it gets more into the details of this exact language.

Councilmember Peacock said, Mr. Mumford, while we have you up there, staff provided us an answer to some of the things that Council is trying to address right now, and, Council, if you want to refer to the document I'm looking at, it's under Tab No. 3 – very, very back of the tab. This was the third question: How does the tree ordinance apply to multifamily housing development particularly those multifamily developments created for low income? I will point Council's attention to the last line, which says, "Council could establish different requirements, for example, single family and multifamily projects." I don't know who prepared that answer – if it was collective – but if you all want to comment additionally about the flexibility that this Council has it might add some clarity to what we are potentially referring to the committee.

Mr. Mumford said this is Question 3?

Councilmember Peacock said, yes, Question 3. Dave and Tom are the ones who prepared that.

**Tom Johnson, Engineering and Property Management**, said the 15% commercial tree save requirement would apply to multifamily housing as it does other commercial developments, and it would play out based on where it is geographically within the City of Charlotte be it in the corridors or the wedges approach that we have talked to you about, so it would have a 15% tree save requirement.

Councilmember Peacock said, Mr. Mumford, can you comment about what the HAND Committee can take up under my amendment – what type of specificity that you all can provide to this?

Mr. Mumford said I want to avoid that word from now on. What can come in front of the committee is a discussion about affordable housing, defining affordable housing. As you all know, we define that in Charlotte as 60% of the area median income and below. So when you get into the lower income strata, the rent rates are fixed based on income, so project cost increases really affect that gap or that subsidy that is required for this type of housing. So the discussion at the committee can be not just Housing Trust Fund projects but other subsidized projects be they tax credits or other federal programs. How could the City through various sources of funding support increasing that subsidy gap in support of affordable housing projects that might have negative impacts associated financially regarding this particular ordinance. So it is more of a discussion about opportunities for sources of funding to bridge the subsidy gap to continue to support the policy objective of affordable housing.

Councilmember Carter said we, I hope, have divided this motion as recommended by the chairman so there will be a separate vote on both the recommended action by the committee and then this action submitting something to the HAND Committee. Affordable multifamily housing to me is a very appropriate phrase to use in this instance. It is study. It is not passing a motion or an action, and we study many different types of issues, and I don't see any Constitutional challenges to a simple study of another more specified part of what we do as a city.

Mayor Foxx said correct.

Thank you. To get that out – I was really concerned about that statement. That I think is a very good distinction because we are also engaged with Section 8 housing, we are engaged with Habitat housing, which is single family, and it puts it into a commercial status of the larger communities that we are looking at, which is a very important issue when you look at parking. The parking part of this ordinance decreases the size from 60 feet to 40 feet separation, cools down a large lot of asphalt and concrete, which is a very important principle in this whole tree ordinance. The other point Mr. Peacock did include is adverse and positive impacts of this ordinance because I think that Council needs to have set before us both the positive and the negative of this particular issue. Those are two things that I really wanted us to consider very closely.

Councilmember Kinsey said as chairman of the HAND Committee I'm happy for this to be referred, if that is the wishes of Council, and we will certainly study this as quickly and as thoroughly as we can and get it back to you. I just want to make sure I understand the motion before we vote. I do appreciate Mr. Peacock presenting this to us, and if it's the wish of the Council, we will study it very carefully and get back to you on it.

Councilmember Cooksey said we'll still on Mr. Cannon's substitute?

Mayor Foxx said yes.

Councilmember Cooksey said my question for, first, Mr. Cannon, and, I guess, Mr. Peacock, it would be relevant as well given you motion. I would like some clarity on what we mean by affordable housing because we have multiple definitions. The definition that we told the public forum on locational policy –

Councilmember Howard said percent 60% AMI.

Councilmember Cooksey said, okay, so it's not affordable to paying no more than 30% of their annual income, which is how we generally define affordable. It's the 60% of AMI lower income housing that we are concerned with. Looking for that clarity in the motion. Thanks. Because all housing is affordable to somebody.

Councilmember Cannon said I just want to conclude by saying that based upon all the information that has been talked about and gathered I don't think there is anybody here in the audience, anyone at home, anyone on this dais that does not want to see that affordable housing needs are met throughout this community where it can, nor is there anyone here, I don't believe, that may not be for making sure we have a proper tree canopy in this community. That would include me on both those items. It's with that said that I am going to trust that the needs of what we are trying to do to create housing for those that need it will be met accordingly by way of this referral to the HAND Committee, and it is with that understanding from the city attorney that the motion that has been made is one that doesn't have legal grounds. I would like to withdraw that motion largely in part because, of course, it can't stand – not in this current form of the ask – at least I don't believe that it can.

Mr. McCarley said that's my opinion, Mr. Cannon.

Councilmember Cannon said I will conclude with that opinion. That will be it, Mr. Mayor.

Mayor Foxx said, so, Mr. Cannon is withdrawing his substitute, which takes us back to the original motion that Mr. Peacock has made.



Councilmember Barnes said I simply want to say, Mayor, because the feedback I received from Mr. McCarley and the way I read the companion action we can explore any number of issues on HAND including the affordable multifamily, affordable single family, any of those issues we can explore.

Mr. McCarley said, yes, sir.

Councilmember Barnes said so I'm comfortable, and thank you, sir, for your reconsideration in having that companion action referred to HAND because I think we can resolve it and explore it there.

Councilmember Howard said a question for the Manager. Mr. Manager, back in March, I believe we had a presentation from some concerned folks in the community about affordable housing, and if I remember right, we referred the staff to come back with some more information about all the ordinances, and I just wanted to know where that was in the staff's work flow?

City Manager Walton said we sent a report July or August, Mr. Howard, so we will send that again.

Councilmember Howard said that will be good information.

Mayor Foxx said I'm not going to get to my questions.

Councilmember Cooksey said I had a couple, too, Mayor. One of them might lead to another amendment, so we'll see. The first one, Tom or Jeb, there's been much discussion, much confusion around, at least in the conversations I have had, around the payment in lieu provision. Could you talk me through the language from the proposed Section 21-94 on how the percentage of payment is calculated because the definition of payment in lieu says it's a percentage, and the calculation occurs somehow in the language of 21-94?

Mr. Johnson said let me just read the definition. You can find that definition if you have the ordinance attached to your packet. The definition for payment in lieu is on the second page of the tree ordinance, and it reads, "Payment in lieu is a contribution by the developer and the property owner to a City-administered tree preservation fund a dollar amount equal to a percentage of the tax value of the land being developed."

Councilmember Cooksey said what percentage is it?

Mr. Johnson said it would be that percentage that we are talking about there is 15% or a portion of that 15%.

Councilmember Cooksey said I have been having the darnedest time finding that in 21-94 searching on percentage and searching on payment.

Mr. Johnson said if you refer to Section 21-94.

Councilmember Cooksey said where in 21-94 is that?

Mr. Johnson said the paragraph begins, "A minimum of 15% of the overall commercial site must be preserved as a tree save area." That's the percentage we are talking about.

Councilmember Cooksey said so there's no stronger connection between – because as I understand payment in lieu 15 is the top, but it could be smaller.

Mr. Johnson said it could. The 15% would be the minimum requirement, so if a property owner or developer wished to pay in lieu for the 5% then they could do the 5%, and that is how we really envisioned this option working.

Councilmember Cooksey said that's why I have been having trouble figuring out from the language of the draft ordinance is where the sliding scale gets applied to the payment in lieu option. I was kind of hoping for a little more –

**Jeb Blackwell, Engineering and Property Management**, said 15% is the land mass, and if they have 7% they can save then they don't have to pay anything in lieu. They could save seven and pay eight. The most they would pay in lieu for all their trees --

Councilmember Cooksey said but if all of us died today and all that was left was the language of the ordinance how would someone see that in the ordinance?

Mr. Johnson said I think you have to continue to refer to the subsequent sections of that ordinance, and it tells you how you meet that 15% requirement based on where you are geographically.

Councilmember Cooksey said I'm sorry. I'm still not seeing it, but I'll reserve that. My next question was on the trigger of the façade improvement how does the proposed tree ordinance treat a building that comprises basically the entire property site? We have buildings in the Central Avenue business district and NoDa and a variety of other places in the city where the building is the property, and the building is to the property line. If the owner of that building does a façade improvement greater than 10% of the area, how does the tree ordinance apply?

Mr. Johnson said in the scenario you described that would be one of our three triggers on existing sites, so they would be required to install their perimeter trees along their street as well as any internal trees, but there would not be a tree save requirement for that.

Councilmember Cooksey said in terms of triggering planting I'm talking about a building where the building boundaries are the property lines, so there is no property to plant a tree in. How would that apply?

Mr. Johnson said that's a unique situation. I guess we would have to --

Councilmember Cooksey said John's Country Kitchen and a variety of other places.

Councilmember Kinsey said there is no planting strip there.

Mr. Johnson said I guess it would have to be the street trees, but I don't know the answer to your question exactly.

Councilmember Cooksey said I would like to move that we take out the façade improvement trigger in this tree ordinance.

Mayor Foxx said that is an amendment?

Councilmember Cooksey said as an amendment to the motion.

[ Motion was made by Councilmember Cooksey and seconded by Councilmember Dulin to ]  
[ remove the façade improvement trigger language in the tree ordinance. ]

Mayor Foxx said further discussion on that amendment to remove the façade trigger.

Councilmember Cooksey said bottom line, Mayor, is I just don't see the connection between making the front of one's property look better for the neighborhood and planting trees. Expanding -- absolutely. We have the expansion trigger in there. Construction -- certainly, but if it's greater than 10% façade improvement, which is generally trying to make the place look better, why does that also on the business owner trigger the additional burden of planting trees particularly when if there is no property to plant them on the property we presume that is going to trigger the mitigation that costs even more.

Councilmember Peacock said, Mr. Cooksey, I believe I know your answer to this, but you realize that the stakeholder process and what it had brought together on both ends of that issue took this up, and that is what they brought before our committee, and that is what this committee has approved to bring to you. So you are essentially saying that you don't agree with what the stakeholders brought to you, and you are saying I want to strike this from even what the

stakeholders were considering. Furthermore, and maybe staff might want to comment on this because obviously Tom and Dave spent an enormous amount of time with these stakeholders over three-plus years, so if there was any type of debate that you could summarize for us about what Mr. Cooksey's point is because he brings up an excellent one, and we talked about this in committee briefly, but it wasn't a point of contention as far as what we voted on to bring before you. And, by the way, Council, as well, our committee voted 4-0 to bring this before you today as we have it, which included existing sites that trigger and the language that they agreed upon, so I respect Mr. Cooksey's points here to be able to extract that from it, but I would like to know why wasn't that a point of contention in the stakeholders committee? Why weren't they up in arms about that at this revision?

Mr. Johnson said I would like to point out also that those triggers as proposed do not require tree save requirements. There wouldn't be any mitigation that would be required as a part of that.

Councilmember Cooksey said could you explain that further because that façade improvement is one of the three items that triggers this ordinance, so what does the façade improvement trigger?

Mr. Johnson said the façade improvements would trigger essentially all the planting requirements, but as proposed there is not a 15% tree save requirement when one of those triggers happen on an existing site.

Councilmember Cooksey said but it still requires a planting requirement.

Mr. Johnson said, yes, sir.

Councilmember Cooksey said I appreciate your point about the work that has been done. I appreciate the work the stakeholders put into it, the work the committee put into it, but if our job is simply to rubber stamp what a stakeholder group and a committee did then my vote doesn't mean anything. I contend that each of our votes is supposed to be ascent or dissent with the matter before us that we stand or fall on; otherwise, again, there is no point in our having a vote at all. We just accept what was given to us by a committee. So, that's the reason for my attempt to remove this is to come closer to an ordinance I can vote for. Thank you.

Mayor Foxx said there is an amendment and a second that is pending to remove the façade trigger, as Mr. Cooksey has explained. Any further discussion on that?

Councilmember Dulin said I will give you one good example: John's Restaurant on Central Avenue. John goes and starts to put a new front door on that building or a new set of windows on that building. He triggers a tree ordinance or a planting ordinance, and he is in a row of historic, beautiful Central Avenue busy business section. It's fabulous over there, but if he changes the front side of his diner then it triggers this. Business owners will think twice.

Mayor Foxx said I'm sensing a readiness to vote.

Mr. Johnson said just one additional answer to Councilmember Peacock's question about the stakeholder discussion over this issue. There was most discussion to favor requiring all parking lots to come into compliance with the tree planting requirements with this ordinance. As you know, there are many parking lots out there that were developed prior to the commercial portion of the tree ordinance being passed that don't have trees in their parking lots. In addition to that, the façade trigger is an existing trigger today. It's just that it's in the guidelines, so the decision of these three triggers has been by the stakeholder committee to move them from the guidelines to the ordinance itself to clarify what the requirements are so there wouldn't be any ambiguity. But the other issue is whether or not we bring all parking into compliance with one swooping motion or we do it in a stepped process, and the façade requirement helps to do that in a more phased process in getting the parking lots into compliance with our tree ordinance today by having that additional trigger. I just wanted to clarify that, but that was discussion that was had among the stakeholders in coming to this decision and this recommendation.

Mayor Foxx said I think we have had good airing of these issues, so all in favor of the amendment please raise your hand.

**AYES:** Councilmembers Cooksey, Dulin

**NAYS:** Councilmembers Barnes, Burgess, Cannon, Carter, Howard, Kinsey, Mitchell, Peacock, Turner

Mayor Foxx said that's two. Opposed? That does not pass. We are back to Mr. Peacock's original motion. Unless there are other questions at the dais, I have a couple I want to ask, and they have to do with the affordable housing issue. This ordinance as proposed has been in the works for about five years. At any point in that five-year period of time, has there been some discussion about the impact on affordable housing?

Mr. Mumford said the most recent came probably three months ago from the Affordable Charlotte Cabinet. That's the most intense discussion on the affordable housing issue.

Mayor Foxx said have there been any estimates of the cost impact on a particular project by the staff?

Mr. Mumford said there have been cost estimate provided by insuring property management on the development costs of the impact of this ordinance, yes.

Mayor Foxx said I guess sort of backup. This discussion comes in a framework or context that I'm very familiar with. When I was in Mr. Peacock's shoes as the chair of the Environment Committee, we had an ordinance that came through called the Post-Construction Controls Ordinance. As Mr. Mumford was rotating off the Council and I was rotating into the chair of the Transportation Committee, we were dealing with the Urban Street Design Guidelines. There has been a lot of discussion in our community about the post-construction controls, the Urban Street Design Guidelines, and this tree ordinance as it relates to cost. There is a generic concern that I have heard out in the community among the development community in particular as relates to all of those ordinances, and then there is a specific concern that has been noted by groups like Habitat for Humanity and others as it relates to affordable housing in particular.

I have looked at those analyses pretty carefully. I have had ad infinitum conversations with developers about those ordinances. One of the conclusions I have come to on this is that, number one, we all have to go through a cost benefit analysis on each of these issues. Is it worth trying to mitigate the loss of trees that we have seen over the last 25 years in this community to in effect raise the cost of development to keep our tree canopy or make our tree canopy better or less bad over time or is it worth it to not have those regulations and to not have those costs and to avoid the costs that are inherent there.

But the thing that has troubled me about that conversation is that as I have looked at a lot of the analysis that has been done externally a lot of it has focused on kind of worst case scenarios – an application of each of those requirements to the greatest extreme, and I have gone back to our staff, and I have said, staff, tell me are we applying these rules to the most extreme extent. Invariably the answers have come back no. Now, there have been some situations where the staff would probably admit they went a little far. I mean there have been a couple of developments when I have gone back to staff afterwards and I have talked to them about it, and I have gotten the sense that they did feel like maybe they should have reigned it in a little bit on some of these other regulations. But my basic point is that this conversation is a conversation that has been happening in a lot of different context, and it has been happening for a long time, and we are now having to try to figure out our way through it in this context.

I don't have a problem with the HAND Committee taking a look at this, but I think one of the things we have got to figure out is exactly what is the point. I mean what is the product we are seeking to gain from this study? Is it revisions to the ordinance? Is it measuring how affordable housing gets treated over a period of time? What are we, in effect, trying to do by the second part of the motion because I think if we treat an open-ended study process we may come back with an open-ended answer that doesn't give us anything to go on on the back end. I think that is something maybe Mr. Peacock, if you have got a second to respond to on that one, I would appreciate something that gives us some real clarity about what we are trying to accomplish.

Finally, because a lot of what I have seen in these analyses suggests worst case scenarios that may or may not be actually applied in practice I do think there would be some benefit to having within existing resources have someone on our staff who deals with these development proposals as they are coming in very early in the process to kind of be an advocate for the affordable housing projects that come through; someone who would be present to try to help push for the kind of flexibility that is needed to get these projects done. It doesn't mean eviscerating these rules, but it does mean having someone who can be counted on to help guide nonprofits that may not be as well versed in City ordinances. It may also be useful to have someone who can be a resource to those organizations. I actually think that may be a better solution than looking at some kind of holistic changes to the ordinances because I think at the end of the day a lot of where the rubber hits the road is in the decision making process that is really invisible to us, and if we have real advocacy on the staff side on the front end and someone who is actually suppose to be an advocate for projects that have affordable housing components that may be a better solution. So, Mr. Peacock, can you respond to my question on the second piece of that? I'm not trying to put you on the spot, but I do want to make sure this committee that when they study this they have some idea of what their product is supposed to be.

Mr. Peacock said the one thing I know about this process in the three years we have studied this and for all the stakeholders that are in the audience and the subcommittee that have been involved and the people that have covered this is that this entire Council and the entire staff is trying to strike a balance between protecting the environment and putting together a sound fiscal policy. We have competing and clashing focus areas that are colliding here – housing and neighborhood development and the environment. And, that is what a Council is here to do is to struggle through these tough issues, so I think you raise a good point. I think what we are doing in this Council's action here is trying to get it right once again.

My preference would have been that the Affordable Housing Cabinet would have participated a lot more actively throughout the time period, which was from arguably March through May, where the subcommittee was working very diligently on trying to cover every single type of project, and my assignment to you all as the chairman of the committee at the time was let's bring this ordinance right up to the line and see what it tastes like, see what it feels like, how much is it going to cost, and then we asked for both the subcommittee and the stakeholders to comment in our committee about what were they learning from each other, how was this working, what were the things you didn't know before you started this. We asked a lot of questions, a lot of pointed questions, so I think, Mr. Mayor, what we are trying to do here is we are trying to put one more element that has been introduced to us amidst this public hearing that occurred a couple of weeks ago to try to address multifamily because we don't want to see the unintended consequences of an ordinance. So my hope is that if we do refer this to Councilmember Kinsey and her committee is that they do take a close look at it and that we can, as the staff had responded to us here, I hope, Mr. Mayor, that from the staff's answer, and I guess this is from Dave or Tom that prepared this document, but they are saying that clearly we have the ability to be able to create that kind of flexibility for something like that, and that's been my understanding.

I hope the outcome will be that, but my amplified point here is we are trying to get it right here. Everybody on this dais is trying to get it right, and what people don't understand is that this ordinance has teeth; this ordinance is working. We have stopped canopy loss in this city. Although the report shows that we are losing and have lost a significant amount, it's staff's admission and it's also the American Forest's report that admits we have a canopy that is within the range of what a city east of the Mississippi should have. Our ordinance has been successful since 2002 to 2008 to slow that growth, and what we are trying to do as a community, who values trees, who values the positive attributes that Vice Chairman Carter has mentioned, is that we are trying to get that right.

The committee is simply another tool for this Council to try to get it right, try to get it right for everybody out there who cares a lot about trees but also at the same time cares about trying to put a roof over somebody's head, which includes all area median income. It's not 60, 30; it's everyone. We want to provide people that come to this city an enormous opportunity to live here, to work here, to play here under a roof and have trees as well, too. It's not an either/or. We had reflection from the debate last time that somehow indicated that if you are in an affordable housing community that somehow you don't deserve trees, and that's just simply not

right. We deserve both, and that's what we are trying to do to strike the balance, Mr. Mayor, and you make a good point, and I'm appreciative of you as the former chair. We have Mr. Mumford, who also served on the committee. There may be somebody else out there that served on the committee. We have had a lot of people on this dais working on this issue, so, Mr. Mayor, I want to reamplify and I will be happy to reread my motion here, if you would like, for the Council to get clarity. If you have questions back, certainly let's continue the dialogue and I welcome any other comments, too.

Mayor Foxx said let me ask Mr. Mumford or Jeb. Are we applying this ordinance today to projects?

Mr. Blackwell said, no, sir, the new ordinance is not in effect. In the proposed data, it would be active in January.

Mayor Foxx said if I came to your office tomorrow and I said let's study this ordinance, what would you study?

Mr. Blackwell said I'm sorry. I don't think I understand the question. What would we study? We could continue the things we have been looking at, I guess, for the last five years. I'm not sure. We have looked at a lot of aspects of this already.

Mayor Foxx said I'm just trying to make the point that you have to have some projects cycle through the system in order to understand what the impact is on affordable housing. I'm just saying that we might want to go forward with the action but maybe allow some time to pass so the study can be meaningful.

Councilmember Howard said I think several of my colleagues understand that this is probably one of those issues that I kind of have conflicting dealings on from a number of directions. Actually I have been struggling with it not to even talk on it, so I'm going to talk brief and try to be as careful as I can. Of course, you know I work in the affordable housing industry. Having been on the Planning Commission and chaired it, I have a real appreciation for good planning, and now sitting here at this dais being the chair of the Transportation Planning Committee, I understand all these issues extremely, extremely well, and I have said so to a lot of our friends in the industry for profit and nonprofit over the last several months.

But I would like to say to my friends in the affordable housing industry that I'm not exactly sure it's clear, but the concerns have been heard. I want to give you a couple of examples where the Mayor stepping out a couple of months ago, and we got beat up on it a little bit talking about flexibility and needing flexibility in our ordinances. Actually stood up and said we needed some of it, and we kind of stood on that. I think some of the evidence that has been heard is in the Urban Street Guidelines ordinance where now, at least the way it's being discussed right now, there is an Option 3 where you have some flexibility to actually continue to discuss different impacts. That's a win, and we are going in the right direction.

Also several months ago when this conversation came up, the Manager informed us that when it comes to projects and if there are conflicts between all these ordinances we are talking about we have now one point of contact to help make decisions on that. That's a move in the right direction. Also, tonight even having Council consider and to move this to a committee to seriously talk about how you can talk about this, yet move forward with a tree ordinance that actually has been in discussion for five years is a win. So, I just wanted to make sure that we know we are moving in the direction we are talking about to get the flexibility. It's not happening all at one time, but it is happening, and I just wanted to make sure we got credit for that tonight.

Councilmember Dulin said one example before we got into this where I think I was the only one on Council four or five years – four years ago that brought it up, but when the City redeveloped Piedmont Courts, we blazed it down. I mean they didn't even leave a bush over there. This would drastically change that kind of stripping. I don't know what's the term I'm trying to look for – clear cutting. I was the one saying how come you didn't leave any of the trees? I forget what the answer was then, but there were some big, beautiful oaks over there. This would

change that. It might help that. But, is it possible, Mr. Mayor and Mr. Attorney, that we break this out because I'm dying to be for something. I'm for most of this.

Mayor Foxx said I'm dying for you to be for something.

Councilmember Dulin said let's give me a chance to be for something here.

Mayor Foxx said we'll break it up, but let's just be very clear. Tonight is the culmination of five years of work on building a stronger tree ordinance, and I want to thank all the stakeholders, I want to thank the Environment Committee, Mr. Peacock, and the staff for laboring through all of this. Why don't we go ahead and vote on it. So we are going to break the motion up into the first vote being on approving the ordinance and the second vote being on referring to HAND this study issue, and, again, I would commend to you maybe studying it but also having some time and experience with some of the projects that hopefully come to us in one form or another and trying to work through how the actual costs play out and how the actual work through the system goes.

Councilmember Turner said I want to go back and revisit a couple of things, but Mr. Dulin kind of made me want to speak up on that now since he used that as an example – Piedmont Courts – and that has really been one of my concerns in regards to this whole proposal here and the ordinance change with the tree canopy. We seem to – I'm not satisfied that we addressed the issue on a couple of things here, and I'm still concerned that we are going to be facing some overlap and some policies in other areas such as our planning and development. I think you are going to run into some code issues here when you start talking about cost run-ins, but more importantly when we start talking about spreading affordable housing.

I find it very difficult when you are doing a private/nonprofit partnership, public/private partnership to factor in the cost when you buy land or expect someone to purchase land in an area where the land is much more valuable and you pay a greater cost for it, and we ask them to put affordable housing on it. Oftentimes we will run into building standards. We don't want it five stories, we don't want it six stories, we don't want it ten stories. As we know, they go up and lowering costs, but if they clear cut where they have had to clear the area in order to make the numbers work based on the units that they are trying to accomplish helps their costs. I don't know how we are going to ever find ourselves as a successful city trying to close that gap in affordable housing with the demand in which we know we face every day putting these kinds of ordinances in place. I think you defeat the purpose, and I think you are limited where you can do it at, and until someone can really make me understand how you are going to spread affordable housing throughout the City of Charlotte in areas where the cost of land will change and be greatly higher or less.

Piedmont Courts was an example where clear cutting there – and, Andy, you are right. Those trees have been there for a very long time. Some of them were not doing very well based on the arborist, and some were doing great; but, the reality was for them it was cheaper for them to start at ground and do a project that allowed them to put the amount of units in that was affordable for them, and it saved the costs. When at the end of the day when we tell someone we want 80 units versus 60 units, that is what you are going to be dealing with. You are looking at the cost effect. How do you get to the 80 units if the cost is going to be greater and we are limited on how much we, as a city, is going to be willing to put into those projects.

I think we have to really consider the costs at the end of the day to accomplish what we are doing, and I don't know if we are really there tonight. You are right. We have been on this for a long time. We all understand that, but I think we still have to go into this matter with caution, and I don't think we are making the right decisions if we believe that we are going to get to our goals of affordable housing when you are going to be willing to put in additional costs on the developers to accomplish that, and I think you are doing the opposite thing. That's been their argument and will continue to be the argument in the future.

Mayor Foxx said let's go ahead and call the question and have a vote on the first vote being of passage of the tree ordinance as recommended by the Environment Committee with an effective date of January 1, 2011.

**The vote was taken on the motion to pass the tree ordinance as recommended by the Environment Committee and recorded as follows:**

**AYES:** Councilmembers Barnes, Burgess, Cannon, Carter, Dulin, Howard, Kinsey, Mitchell, Peacock

**NAYS:** Councilmembers Cooksey, Turner

Mayor Foxx said that passes. Three opposed.

Councilmember Dulin said with a broken heart I put that oppose in there.

Mayor Foxx said I'm sorry.

Councilmember Dulin said that was a tough vote.

Mayor Foxx said the second one is the referral to the HAND Committee of this study idea that Mr. Peacock has read into the record.

**The vote was taken on the referral of the study to the HAND Committee and recorded as unanimous.**

Mayor Foxx said I want to thank again all the folks that have labored in the fields on this. Thank you.

Ordinance No. 4521 is recorded in Ordinance Book 56 at Pages 774-800.

\* \* \* \* \*

**ITEM NO. 11: FEDERAL LEGISLATIVE SERVICES AGREEMENT**

[ Motion was made by Councilmember Barnes, seconded by Councilmember Cannon, and ]  
[ carried unanimously to approve the Government Affairs committee recommendation to ]  
[ approve a one-year agreement with Holland and Knight LLC for federal legislative services ]  
[ at an annual fee not to exceed \$198,000, and approve the Government Affairs Committee ]  
[ recommendation to extend the agreement for an additional year contingent upon performance. ]

\* \* \* \* \*

**ITEM NO. 12: JOHNSON AND MECKLENBURG MILLS DISPOSITION PROCESS**

[ Motion was made by Councilmember Barnes and seconded by Councilmember Mitchell to ]  
[ approve the Housing and Neighborhood Development Committee recommendation to solicit ]  
[ the highest purchase offer for the Johnston and Mecklenburg Mills properties, and stipulate ]  
[ that the sale contract will require the purchaser to provide 20% of residential units as afford- ]  
[ able to households earning 60% of area median income and preserve the mill buildings for ]  
[ a minimum of ten years. ]

Councilmember Mitchell said, first of all, I would like to thank our Chair Patsy Kinsey. This is one of her first items on the agenda. But the more important thing, though, citizens in District 1 is time and time we have had to fight with neighborhoods not wanting affordable housing, and they had the neighborhood association president to come to the HAND Committee and say they really want historic, they want affordable housing, so the residents of District 1, you have a great representative, but more importantly thank you for letting us know that there are certain parts of Charlotte that still embrace affordable housing.

Councilmember Cooksey said my position on this in the committee was to just sell it, get rid of it as quickly and easily as possible without any conditions, but in the spirit of benevolence and comedy, I will go along without asking for a split or anything like that.



**The vote was taken on the motion and recorded as unanimous.**

\* \* \* \* \*

**ITEM NO. 14: LEVINE CENTER FOR THE ARTS**

[ Motion was made by Councilmember Howard and seconded by Councilmember Kinsey to ]  
[ accept an offer from the Arts and Science Council for specialty items to be placed in the ]  
[ right-of-way as part of the Wells Fargo Cultural Campus (to be renamed Levine Center for ]  
[ the Arts) and accept maintenance responsibility for the items, and approve the renaming of ]  
[ a segment of West 1<sup>st</sup> Street to Levine Avenue for the Arts. ]

Councilmember Dulin said these are important issues, as we all know, and this is the appropriate time for us to have these conversations. This is renaming one block of First Street, and I would like to make a friendly amendment to the motion that we name both blocks of First Street Levine Avenue for the Arts. I can get along just fine without a First Street, and the Levine's have done everything in their power to make our community a better place and support the arts, support the community, and I would like to make that motion that we expand the road.

Councilmember Burgess said I think there is more of a First Street. It takes a little break as you were showing me; is that correct?

Councilmember Cooksey said I believe Mr. Dulin's motion, which if it doesn't have a second, I will provide it, is to essentially do the two uptown blocks of West First Street.

Councilmember Dulin said I will accept that.

Councilmember Cooksey said there is a block from College to like Mint, and there is one from Mint to South Graham or Stonewall from there. But that is all there is of West First uptown. Once you hop over 77 –

Councilmember Dulin said it makes no sense for us to have a one-block street and then another one-block street in a two-block area.

Mayor Foxx said let me remind the Council to be recognized, if that would be all right.

[ Motion was made by Councilmember Dulin and seconded by Councilmember Cooksey to ]  
[ rename the two uptown blocks of West First Street to Levine Avenue for the Arts. ]

Mayor Foxx said there is a motion and second to rename two uptown blocks Levine Avenue of the Arts that will replace the two uptown blocks of First Street.

Councilmember Carter said could we ask our director of CDOT to speak to us on that issue?

Mayor Foxx said I think that would be wise. Thank you.

**Danny Pleasant, Charlotte Department of Transportation (CDOT)**, said your question is?

Councilmember Carter said it's to discuss both blocks being renamed rather than –

Mr. Pleasant said there are two blocks that are West First Street between South Tryon Street and Mint Street, and then there is an East First Street I believe more in the Cherry area, if I recall. So we are talking about West First Street, the two blocks. There currently are no addresses on either of those two blocks, so it would have no effect whatsoever. One side of the street in the second block is the Catalyst apartments and condos, and the other side are pretty much Duke Energy buildings, and they are all addressed on different streets.

Mayor Foxx said is there any planning or transportation reason why we wouldn't do what Mr. Dulin is suggesting?

bvj

Mr. Pleasant said none whatsoever that I can bring to the table.

Mayor Foxx said there is a motion to rename two blocks of West First Street in uptown Levine Avenue of the Arts. That's a friendly – not a friendly amendment but it's an amendment.

Councilmember Howard said does staff have any reaction to that since that is what you asked for? None?

Mr. Pleasant said the desires of Council on this one. We don't have a preference one way or the other.

Councilmember Barnes said I want to ask the folks that brought this to us how they feel about it because essentially the confines of what they talked about was within the cultural campus itself. This action goes a block beyond the cultural campus and includes none of your projects. Can you come down and tell us how you feel about it?

**Scott Provencher** said I think the ideal situation was the naming of the – speaking on behalf of the cultural institutions as part of the project, I would say the one block renaming got us to the spirit of what we were trying to do, which was to encapsulate the center and to name that in recognition of the Levine's and their gift. I would defer to you all as to whether it's appropriate to name the two blocks. I don't think it's going to have an adverse effect on the spirit of what we are trying to do.

Councilmember Barnes said since the dinner meeting have you had a conversation with Michael Smith or anyone else at Center City Partners about picking up the tab for the annual maintenance costs?

**Ron Kimble, Deputy City Manager**, said we have not done that at this point. I would simply say in response to the question –

Councilmember Barnes said why not?

Mr. Kimble said didn't know that we were wanting to go that route, but if the Council wants us to go that route, that's the route we will pursue. I would simply give a response to your good question, Mr. Barnes, at the dinner meeting that the reason why it's being suggested that the Tryon Street account be the account from which we take the funds is that all other street treatments and all other features on Tryon Street come from this same fund and that the spirit of cooperation that has come from this project from day one five or six years ago was a partnership with the ASC, the City of Charlotte, Wachovia-Wells Fargo, and the private sector putting together the endowment, so what we are envisioning is that \$10,000 has a rationale continuing the partnership and there is an account existing to handle that \$10,000.

Councilmember Kinsey said very briefly, Mayor. I really think it takes away from the importance of the street if we go that second block, and I would feel more comfortable just keeping it within the confines of the campus itself, and for that reason, I would suggest that we just stay the course that has been recommended.

Mayor Foxx said let's go ahead and vote. Mr. Dulin has made a motion. If you support the motion to extend it two blocks, you will vote yes. If you don't, you can vote no.

**The vote was taken on the motion to extend the name for two blocks and recorded as follows:**

**AYES:** Councilmembers Cooksey, Dulin

Mayor Foxx said that does not pass.

**The vote was taken on the main two-part motion and recorded as follows:**

**AYES:** Councilmembers Barnes, Burgess, Cannon, Carter, Cooksey, Howard, Kinsey, Mitchell, Peacock, Turner

**NAYS:** Councilmember Dulin

Mayor Foxx said that carries 10-1. Thank you all for all the good, hard work that you have done.

\* \* \* \* \*

**ITEM NO. 15: DAVIDSON STREET BUS FACILITY TECHNOLOGY AND SECURITY EQUIPMENT**

[ Motion was made by Councilmember Cannon and seconded by Councilmember Barnes to ]  
[ approve a contract with Simplex Grinnell for the purchase and installation of security and ]  
[ technology equipment in an amount not to exceed \$775,000. ]

Councilmember Barnes said I have a question. Under the Disadvantaged Business Enterprise Opportunity, it indicates there was no goal set for this contract because there are no participation opportunities, and I assume that is only with respect to the \$775,000 part of the contract, the action itself; not the other \$20.7 million.

**Curt Walton, City Manager**, said that's correct, just the technology piece.

**The vote was taken on the motion and recorded as follows:**

**AYES:** Councilmembers Barnes, Burgess, Cannon, Carter, Howard, Kinsey, Mitchell, Peacock, Turner

**NAYS:** Councilmembers Cooksey, Dulin

\* \* \* \* \*

**ITEM NO. 16: PAW CREEK FORCE MAIN REPLACEMENT**

[ Motion was made by Councilmember Mitchell and seconded by Councilmember Barnes to ]  
[ award the low bid contract of \$6,431,874.23 to BRS, Inc. for construction of the Paw Creek ]  
[ Force Main, and award a contract to Hazen and Sawyer in the amount of \$208,050 for con- ]  
[ struction-phase services for the Paw Creek Force Main project. ]

Councilmember Mitchell said let me first thank the City Council for two weeks ago we asked to defer this item, and I need to thank both Barry for working very hard with BRS. You had at your dais earlier today that the first goal was 2.45 BRS. With the help of City staff, went back and showed their commitment to SBE, and now the goal is 6.1, so thank you staff, but thank you, Council, for showing that we really want our SBE to participate.

Councilmember Cannon said I'm going to yield to Manager Walton. We had a conversation about this. I want to be certain for the record because the write-up says one thing in the way of the percentage, and obviously what is in writing before us has another percentage, so I want to be clear.

**Curt Walton, City Manager**, said just to reiterate what Councilmember Mitchell said the company has amended their bid submittal and revised its utilization to 6.1% so that is the goal now.

Councilmember Cannon said so we are approving this with the committed SBE goal to 6.1% for the record.

City Manager Walton said, yes, sir.

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

**Summary of Bids**

BRS, Inc.	\$6,431,874.23
State Utility Contractors	\$6,681,634.58
Monroe Roadways	\$6,861,891.15
Sanders Utility Construction	\$6,989,512.53
Hall Contracting Corp.	\$7,035,999.60
Buckeye Construction	\$7,154,489.90
SJ Louis Construction	\$7,310,991.98
Reynolds, Inc.	\$7,364,343.50
RH Price, Inc.	\$7,419,024.90
DS Utilities/McClam Assoc.	\$7,653,293.85
Metra Industries	\$7,700,473.20
Oscar Renda Contracting	\$7,781,764.20
Dellinger, Inc.	\$8,126,834.00

\* \* \* \* \*

**ITEM NO. 17: MAYOR AND COUNCIL TOPICS**

Councilmember Carter said three dates, Mr. Mayor. On September 28<sup>th</sup> from 6:00 to 8:00 at Memorial United Methodist Church, there will be a discussion about the streetcar and the design and engineering phase to wrap it up. On September 30<sup>th</sup> from 6:30 to 8:30 at the Hal Marshall County Services Center, they will be looking at the draft flood plain maps for Little Sugar and Briar Creek Watersheds, and that's an important issue for the east side. Then celebration on October 1<sup>st</sup>, 9:30 a.m., Providence Division Station groundbreaking ceremony at the corner of Ellington Street and Wendover Road. Come on out and celebrate the east side, y'all.

Councilmember Howard said this is a personal point. I'm sorry, Council, but I know my daughter sits up and watches this, and she started her volleyball season, and she made the team, and I could not make the game today because I'm here, and I'm not going to be able to make many of them because I'm going to be here on Monday, so congratulations.

Councilmember Peacock said, Mr. Mayor, we received an email earlier last week from School Board member Trent Merchant regarding the subject of school resource officers, and I was seeking your thoughts on our recommendation to the Budget Committee chaired by Mr. Barnes. I realize that at the time we passed our budget we had an enormous and sad situation occurring with former Mayor Pro Tem Burgess, and I think it loomed very heavily on all of us. I don't think we gave it thorough debate. The only Council member that I know that spoke to this matter was Councilmember Dulin, if I recall from record, and I just felt as though we needed to take another look at this. I know the Manager and I know Ruffin Hall have given their answers to us as well, so I didn't know if there was support to send that to the Budget Committee.

Mayor Foxx said thank you for raising that, Mr. Peacock. I actually have gone back and looked at those Minutes, and I spoke to it, Ms. Burgess spoke to it. There were a number of us that spoke to it, but there were only three people who were willing to raise their hands not to take the action the Council took. I actually think – I would appreciate it if the Council would take another look at it, but it's obviously up to you all.

Councilmember Barnes said I'm disinclined to review that matter again. I had extensive conversations with Manager Walton and Mr. Hall, our budget director, this past budget season and in prior budget seasons. I think what might be enlightening would be to get a copy of some of the information you all provided to us which explained why we could not continue to fund those operations and the fact we were giving CMS what we at least believed to be a considerable amount of time to prepare for the adjustment. So for that reason, I would be disinclined to accept that as a referral.

Councilmember Peacock said I will withdraw my suggestion to refer it to the Budget Committee. If anything, I wanted to shine light to the fact that it is an important community issue that I don't

recall – and I thank you, Mr. Mayor, for reminding me of that because things move pretty quickly during all of our budget deliberations on it. I do think we need to amplify the answer from the City Manager and Mr. Hall and make those known and let the timeline be reflected of what occurred here because I think that is what has been misunderstood, I think, from many of the School Board members, and we certainly didn't have that intention. I don't think anybody did on this Council.

Councilmember Barnes said there was a very thorough response, I think, Mr. Walton, that would help enlighten everybody.

Mayor Foxx said, in fact, I have the vote here. It was Councilmembers Mitchell, Burgess, and Howard supported not closing off that program and at least having more conversation.

Councilmember Dulin said two things, if I could, Mr. Mayor. I wanted to make one comment about that. Also with the school resource officer debate and issue is the fact that Chief Monroe wants those 49 officers back. We have 49 sworn police officers that drive a fully stocked police car to a location every morning at 6:00 or 7:00 and park, and it stays there. This is a three-year step-down, and in three years, we are going to have 49 more police officers in the neighborhoods all over Charlotte – my neighborhood, your neighborhood, east, west, north, and south. I'm looking forward to having those officers back on there because we told people we were going to keep them safe. That's our number one deal, and this is going to help do that.

Secondly, to change subjects, this is a big pivot, but I want to make sure that I make another announcement about my shredding event, Mr. Barnes, on October 9<sup>th</sup> at Symphony Park at SouthPark Mall. Free to the public. Please bring your documents that need to be shredded so you can protect your identity. From 9:00 to noon at Symphony Park at SouthPark Mall, October 9<sup>th</sup>, Saturday morning.

Councilmember Mitchell said I have three quick announcements, and then I do have something I would like for staff to kind of work on, City Manager, if you don't mind. The first announcement is Historic West End Business Association. The meeting is the 29<sup>th</sup> from 6:00 to 7:30 at the Excelsior Club. This is our start-up membership drive for those businesses along the West Trade Street/Beatties Ford Road corridor. Then on Thursday, I'm following the lead of my colleague, Nancy Carter. We are having a streetcar project update at Johnson C. Smith from 6:00 to 8:00 p.m. at the Jane M. Smith Church, September 30<sup>th</sup>. Lastly, Alliance for Digital Equality Conference will be held Friday, October 1<sup>st</sup>, at Johnson C. Smith. Mayor Foxx, Cynthia Marshall, president of AT&T, Congressman G.K. Butterfield, and the cost is free, and it's to talk about the digital divide in our community. To register, please call 404-815-9484. Lastly, our President Obama just passed the \$42 million small business bill today, and I would like the staff to look and see how we can partner what type of things we can leverage to make sure our small business receives some of that funding. I think the Bill was signed today. Mayor, anything you would like to add? I think you represented us very well.

Mayor Foxx said, yes, let me come back to that in a second. I want to get Mr. Cooksey, and I'll come back to that.

Councilmember Cooksey said one last bit real quick on the school resource officer, and I think it's important to remember from that conversation, if memory serves me correctly, the only way Council can truly consider getting out of that business, if we want to, is by giving the schools about a year notice. So it will be up to us in our next budget cycle – that is my recollection of what the direction was that we can't even talk about it until we do that because of the way the contracts are signed.

Mayor Foxx said actually you are right, but there is also a subtlety there, which is the discussion we were having was whether to have a conversation about gravitating away from that line of business, keeping our option open to stay in it, or making a hard stop and taking a year of transition and basically making a decision to get out of it, and that was actually the conversation Ms. Burgess – she took the former position, as did I and as did two other people, but actually I think when you go back and look at the action what the Council actually did was it said get out of the business. I think that's – again, I don't agree with the decision, but that is what was said.

Councilmember Cooksey said my point, Mayor, is simply is that if the Council has second thoughts about it in the FY11 budget process it can still get back in that business.

Mayor Foxx said I appreciate that point. I have shared that point with the Superintendent and with other members of the School Board notwithstanding, but you have to understand that your staff has a direction from the Council to do something different than that, and that's the problem is that they are communicating one thing where we might reconsider it all day long, but they have to go on with what Council has said.

Councilmember Cooksey said understood, but it's still our decision – not theirs.

Councilmember Howard said just a point of clarification. What you are saying then is we would have to do it in the add/delete because you were directed not to put it in your budget.

City Manager Walton said, right, at this point, it will begin to decrease. Either they will pay for us on an increasing basis or we get out over time, so we gave them a one-year notice and then three years of phase-out, and keep in mind that was to pay for the stimulus officers that we lose funding for in four years.

Mayor Foxx said at this point the staff doesn't even have the direction to go negotiate renewing it, so even if we put it in the add/deletes, you would still have to go back and negotiate it based on the direction we have now. If we really want to reconsider, maybe during the week have some conversation, and I'll be happy to join in with it, but if we want to reconsider it, we need to tell the staff that.

Councilmember Turner when we proposed out budget and that was in there and they knew it did anyone contact you or did we have any discussion with CMS, the Superintendent or anybody, with regards to that project?

City Manager Walton said, Mr. Turner, the cases are a little bit different on crossing guards. We have been in discussion with them for over a year, so when we came out with the list in March, they had known for at least six months at that point. School resource officers were new in March, but it was a very public process and there had been discussions, so the list – if you remember the 54 cuts – came out in mid-March, so they had been around for awhile even before you approved them as part of the budget.

Councilmember Burgess said I wanted to say that I would be interested in bringing it back up for discussion. I just wanted to voice my opinion.

[ Motion was made by Councilmember Burgess and seconded by Councilmember Howard to ]  
[ refer the item on the school resource officers to the Budget Committee. ]

Mayor Foxx said the motion is to have the Council have further discussion on the school resource issue.

Councilmember Howard said refer it to the budget committee.

Mayor Foxx said refer it to the budget committee. So, a motion and a second has been made. We have talked about it.

**The vote was taken on the motion and recorded as follows:**

**AYES:** Councilmembers Burgess, Carter, Howard, Mitchell

**NAYS:** Councilmembers Barnes, Cannon, Cooksey, Dulin, Kinsey, Peacock, Turner

Mayor Foxx said that fails. I still think that's unfortunate. I just want to mention – Mr. Mitchell has mentioned the Small Business Bill signed today. I was in Washington today at the signing, and I wanted just for purposes of information share this with the public tonight. This Small Business Bill that was signed into law today provides eight new small business tax cuts all that are effective as of about 1:45 today that apply to small businesses. We will try to find ways to

get the word out to small businesses. I have had a conversation with Bob Morgan at the Chamber, and I appreciate, Mr. Mitchell, you raising the question of how the City can be involved in it. I think over the next ten days or so we should probably work with the SBA Office to do an event that provides information to small businesses.

Basically here's what happened: zero taxes on capital gains from key small business investments. Currently the Recovery Act provides 75% of capital gains on small business investments this year to be excluded from taxes. This new bill takes that to 100%. The extension and expansion of small businesses ability to immediately expense capital investments. They will be able to write off immediately \$500,000 while raising the level of investments at which the write-off phases out to \$2 million. The extension of the 50% bonus depreciation, a new deduction of health care insurance costs for self-employed people, tax relief and simplification for cell phone deductions, an increase in the deduction for entrepreneur start-up expenses. If an individual seeks to start a business this year, that is 2010, there is a deduction of \$5,000 to \$10,000 on the first \$5,000 to \$10,000 of investment; a five-year carry-back of general business credits, limitations on penalties for errors in tax reporting that disproportionately affects small business.

In addition to that, when we went to the White House in March, one of the things we asked the President to consider was extending the 90% guarantee in the SBA-7A loan program, and, in fact, this bill does that, so that program will see a 90% guarantee be extended. It has the capacity to support \$14 billion in lending to small businesses. In addition to that, there are going to be more announcements forthcoming by the SBA on expanding loan pools. 7A and 504 loan sizes will increase from \$2 million to \$5 million, and a maximum 504 manufacturing loan will go up from \$4 million to \$5.5 million.

In addition, there has been a lot of conversation about the small business lending fund – the \$30 billion that will go to small and community banks. There is going to be more information coming on that, but I'm also hoping through the U.S. Conference of Mayors to have a group of mayors come here to meet with banking leaders to talk about how we can try to push capital into our small businesses. This is really important because 90% of our jobs in this area are small business jobs, so if we can get our small businesses feeling better and having more working capital, we can get people back to work a little faster. This was important stuff today, and we'll get more information out to the community, but for those millions of you who are watching, I thought I would share that.

Councilmember Howard said along that line I'm not sure it's been said, but I wanted to congratulate you publicly on your new role with the Conference of Mayors on this very subject as well as point out the great work that our public/private relationships continue to have with Envision Charlotte, and I was hoping, Mayor, that you could spend just a few minutes. I know we are ready to go, but if you would spend a few minutes talking about that. I got a chance to capture the announcement on the Internet, which was very exciting to see you standing with the former president.

Mayor Foxx said last week there was a significant announcement that really was the seed of Michael Smith over at Center City Partners. He had an idea of trying to take a step to be the leader in the country and retrofitting our commercial structures in our Center City. Duke Energy took him up on it, and they are working with Cisco. They are going to invest about \$5.3 million into our infrastructure in our Center City, and by 2016, we will have at least 12 million and probably 15 million square feet of commercial space in our Center City that will be 20% more efficient than it is today. That is a really major announcement. We are the first city in the country to do that, and that was the subject of an announcement at the Clinton Global Initiative this past week, so I was there and proud to be there, but it's really just like a lot of things in the city the product of a lot of people putting their shoulders to the wheel and figuring out a solution. So, kudos to Duke Energy and Cisco and the Center City Partners and to our staff here at the City of Charlotte, who was also involved in that. Good news all around. We keep telling the story about how great the city is. Eventually people are going to believe us.

\* \* \* \* \*

September 27, 2010  
Business Meeting  
Minute Book 131, Page 76

**ADJOURNMENT**

The meeting was adjourned at 9:38 p.m.

---

Stephanie C. Kelly, CMC, City Clerk

Length of Meeting: 4 Hours, 5 Minutes  
Minutes Completed: October 22, 2010