

The City Council of the City of Charlotte, NC, convened for a Dinner Briefing on Monday, February 28, 2011, at 5:03 p.m. in Room 267 of the Charlotte-Mecklenburg Government Center with Mayor Anthony Foxx presiding. Council members present were: Michael Barnes, Jason Burgess, Nancy Carter, Andy Dulin, Patsy Kinsey, Edwin Peacock III, Warren Turner

**ABSENT UNTIL NOTED:** Councilmembers Patrick Cannon, Warren Cooksey, David Howard, James Mitchell

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

Councilmember Dulin said I'd like to bring up to stay consistent. That's a creek remediation, dam remediation deal that I voted against – I plan to vote no on 22, so I would like to have it pulled to have that opportunity. No. 23 has been pulled by the Manager, Eastburn, so I don't need to pull 23. No. 32, Mr. Mayor, is new boilers for Discovery Place. I need to remind Council that City Council and the City of Charlotte just spent \$32 million renovating Discovery Place, opened it up last June, and now the boilers are out. Now, we are replacing two boilers at a total of \$62,975 for the two boilers and a little bit under \$50,000 for installation, and in our write-up here, it says, "These boilers are well past their useful life and need replacing," and I'm very curious as to why we didn't know that when we did our due diligence before we did a \$32 million renovation on the building. Then lastly, No. 37, is the Wilora Lake rehab Change Order No. 1. I will be a no for that one, too, sir. We now have \$800,000 in the renovation of a private citizen's dam at his private pond.

Mayor Foxx said this is a time for questions, so if you have got a question.

Councilmember Dulin said I need 37 pulled as well, so I could vote no. So my only question would be 32 about the boilers at Discovery Place.

Councilmember Carter said I pulled 24 and have gotten my answer. The uniforms will be similar to what we have now and at a better price, so I'm absolutely delighted and thrilled. No. 30, I'm asking if there is priority to annex streets to bring them up to our standards, and I have not heard a response on that. Then 33, 34, 35, and 36, I would just like to speak about that emphasizing conservation.

**Councilmember Cooksey arrived at 5:06 p.m.**

**Councilmember Howard arrived at 5:07 p.m.**

**Curt Walton, City Manager**, said 33, 34, 35, and 36, were there specific questions on those or did you want to make a statement?

Councilmember Carter said to emphasize the tree save.

City Manager Walton said you just wanted to speak.

Councilmember Carter said yes.

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## **ITEM NO. 2: HOUSING LOCATIONAL POLICY**

Councilmember Kinsey said I will be very, very quick because I know you have all read the information and memorized it, so I know I don't have to say anything there, but I do want to recognize and thank Vice Chair Mr. Mitchell, when he gets here, and Committee members Barnes, Cannon, and Cooksey. I also want to thank staff, particularly Pam Wideman and Pat Mumford, but also the many citizens who have spent hours on this particular policy and helped

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to craft the ordinance. I don't know if any of them are here tonight or not, but if they are, stand up. Nancy Pierce back there – she worked very hard on this proposed ordinance. With that having been said, shall I turn it over to Ms. Campbell or Ms. Wideman?

**Councilmember Cannon arrived at 5:09 p.m.**

**Pamela Wideman, Neighborhood and Business Services**, said the purpose of the presentation tonight is to update you on the revised Housing Locational Policy. Before I get into the policy, I would also like to remind you that as next steps in terms of our review and development of affordable housing policies the Housing and Neighborhood Development (HAND) Committee will kick off discussions about the assisted multifamily housing at transit station areas and inclusionary zoning and density bonus at their April meeting. She began a PowerPoint presentation entitled, "Housing Locational Policy," which is on file in the City Clerk's Office.

Mayor Foxx said how many subsidized housing units are built on an annual basis roughly?

Ms. Wideman said I would say in good economic times we funded approximately two developments through the Housing Trust fund annually. So if you think about an average size of a development, that's about 120 units per development.

Mayor Foxx said or approximately 240 units.

Ms. Wideman said, yes, sir.

Mayor Foxx said how many overall units, would you say, are built by the private sector on an annual basis?

Ms. Wideman said, Mayor, I don't know the answer to that question. Right now because of where we are in terms of the economic situation, there are very few multifamily developments being built.

Mayor Foxx said I get that. I'm trying to figure out if there is an historical average that gives us some – I mean is it more than 240?

Ms. Wideman said I could get that answer for you.

Mayor Foxx said maybe Mr. Howard can help me.

Councilmember Howard said I can tell you this. Most market developments are normally 250 to 300 units each. Even if you did three of them, you kind of get the feeling. When economic times were better, I don't even want to try to grab a number, but I bet you it would be at least ten times what this number would be just because that was where becoming more dense was where the market was going. Lately it hasn't been that many, but that market is picking up right now.

Ms. Wideman continued with the PowerPoint presentation with the bottom slide on page 6.

Councilmember Carter said I appreciate what you are saying. I am wondering if you are looking at the trends that are suggested in the NSA that it is trending downward. I would suggest caution. Also, if it's on the cusp of another neighborhood association or NSA if you would be aware of that proximity, please. That would be to me intent not expressed in this document, but intent.

Ms. Wideman said, yes, ma'am. She continued with the last slides. To the extent that you are comfortable with what we have presented to you tonight, the next step would be we would place this on your March 28<sup>th</sup> agenda for your consideration.

Councilmember Peacock said the public hearing that we had would you provide us, and perhaps I am misreading some of the follow-up. I know we heard from Pat Garrett. I know we have heard from several people in the faith community, several people that are involved actively with homelessness issues, and it didn't seem like they were very clear on which direction we are

going. Did you all have another meeting with them? Can you brief us on that, and I guess maybe the committee looked at it or talked about it – I don't know.

Ms. Wideman said after the November 22<sup>nd</sup> public hearing, again, the three reoccurring concerns were around the percentage cap, the half-mile radius restrictions, and conversions and rehabilitations. One of the concerns was people needed to understand really what we meant by conversions and rehabilitation, so we worked through that. We did reconvene that public speakers group on December 16<sup>th</sup> to work through those issues. From that December 16<sup>th</sup> meeting, we went back to the HAND Committee, shared their concerns, and developed what we are presenting to you tonight.

Councilmember Turner said can you tell this Council and citizens in here what is the primary difference between what you are proposing – your proposed policy and our current policy, please?

Ms. Wideman said in the current policy there are several nuances in terms of when a project would need a waiver. It looks at the current homeownership rate in an NSA. It looks at the number of housing – the percentage of housing, so what we hope to do with this new policy is to make it less complicated and really spell out when a waiver would be requested. There are some similarities. Rehabilitation is mentioned in the current policy. There is mention of conversions in the current policy, so I guess if I had to sum it up to say we tried to make it less complicated.

Councilmember Turner said by doing that what did you do to accomplish that? You did touch on one that I'm going to talk about is your conversion of the current housing – the most family housing that would go under rehabilitation.

Ms. Wideman said if I could maybe walk through with you. The old policy there was a cap of no more than 100 units. This policy we tried to make it simpler and said it applied to units that were greater than 24.

Councilmember Kinsey said may I refer everybody to the chart because that's what you are working off of. It's behind Tab No. 1, and it's a chart that shows the existing policy and the proposed policy.

Councilmember Turner said I'm there.

Councilmember Kinsey said I noticed some people weren't. Maybe it would help as you follow along.

Ms. Wideman said one of the major differences also, Mr. Turner, was you may recall there were three different categories. There were permissible areas, priority areas, and non-permissible areas. In this new policy in terms of simplifying, we simply said an area is permissible or it's non-permissible.

Councilmember Cannon said anything else on that, Mr. Turner?

Councilmember Turner said under the current circumstances if we were to change this policy and adopt the new policy that you are proposing with the last case we had before us was dealing with the Ayrley property. Would that, in fact, now qualify that property to be used for affordable housing?

Ms. Wideman said that property would not. That property as presented to you originally would not be permissible under the new policy because it is within a half mile of a transitioning NSA.

Councilmember Turner said is that the only thing that would make it ineligible?

Ms. Wideman said, yes, sir.

Councilmember Peacock said a question for colleagues here. I saw Mr. Cooksey had voted in dissent in the committee, and I wondered if he could summarize his reasons, and then last time

we had this dialogue in the Workshop, Mr. Howard, David I can't remember what your concerns were, but have they been addressed or are there any other thoughts you may have?

Mayor Foxx said do you want to do that now, or do you want to wait until the presentation is through.

Councilmember Peacock said she's finished.

Mayor Foxx said you are done?

Ms. Wideman said, yes, sir.

Mayor Foxx said I'm sorry. Go ahead, gentlemen.

Councilmember Cooksey said actually what I was going to say at the end of the presentation was in response to that. My position on this subject is that we shouldn't have a location policy at all. If we are in the business of providing affordable housing through the Housing Trust Fund, we shouldn't put barriers to that sort of construction. I view the location policy as a barrier. I think it is also philosophically based on an old style of looking at public housing that no longer applies. We are now to market standards with on-site management and a mix of incomes in the development itself, so what gets produced now as a committee once said during one of our meetings, and it wasn't me, I assure you – what we produce now are developments that look great and belong anywhere in Charlotte, so I think to have a location policy that restricts where we help people get housing does not serve to help as many people as possible. Absent a location policy, we can get more roofs built, more shelter for more people, and thus get a bigger bang for the Housing Trust Fund buck – the folks who voted for it. I will be offering a substitute motion when this finally comes up for a Council vote to eliminate a location policy altogether.

Councilmember Howard said, Mr. Peacock, I was actually right behind you. I told the Mayor I wanted to talk, so I'm going to address those issues, and these issues I have shared with Ms. Wideman and Mr. Mumford because my contention is that while I think the intent was very well done and executed we do have someone at least from a development side more restricted policy because now we have the NSA, which Ms. Wideman explained. We have the percentages. The half mile is still there, and when you hear what we heard during the retreat about the need for units, I'm not sure, Mayor, if that's what you were talking about when you asked your question.

**Councilmember Mitchell arrives at 5:27 p.m.**

In the environment where we have this deficit, where we have this need for affordable units, I thought the goal when it started was to help figure out how to make that happen. If not, then maybe the policy was fine the way it was because the goal needs to be how do we help more people, and I'm not exactly sure that we are getting there. I think you saw some evidence of that over the last couple of years. You can say it was the economy, but it was also just the fact that you didn't see a lot of units come on.

Where I have issues, especially when you think about reduction, is I'll take on the half mile one directly. I mean I think the whole concept from the industry was adding the percentages, and that's where – Ms. Wideman, help me if I say this wrong. If it is a stable NSA, no more than 50% -- can you help me with those percents again?

Ms. Wideman said what we are looking at in the new policy is the NSA should have no more than 15% subsidized housing units, and the NSA should have no more than 5% of subsidized housing units serving zero to 30% of area median.

Councilmember Howard said what that is saying is not too much of one and definitely not too much of the 30%, which is really what poverty is. In this situation, you made it more restrictive. In any environment where you want to do more, that is not going to be very easily done. Let me address my colleagues who have the districts where I have heard you guys say over and over again we definitely have more than our share. When you deal with the NSAs and you only allow it in a stable NSA, you have taken care of your transitional and fragile NSAs. Those have been addressed. Some of you have already said we don't want more there, so where your concerns are

that part has been addressed. In those areas of your districts where it's still stable and would make some sense to do and a lot of times that's in the outlying areas, what I'm saying is we need to make it so it can happen, and when you do things like add the NSA requirement and the percentages and you still have the half mile, it just makes it hard. The half mile to me is one of those things that is somewhat antiquated when you think about a community where you want to have more urban living.

One of the things we have asked for is more density to make sure we can absorb the growth we are talking about having come to the city. I would argue that a half mile is not across the street, which is what I heard come out of some community we talked about. You want to make sure it's not across the street. A half mile puts you in another neighborhood. Maybe a quarter mile, you know, or maybe you just draw a ring around the ones where you have 30% in a project, but just to be fair even what Councilmember Cooksey talked about in this new model that all of you guys have seen, this new model of mixed income where it's managed right and designed right, I think we are kind of going overkill with the half mile. In an area where we want to encourage development and encourage units on the ground, that's not helpful.

The last two things are a little more technical, and this comes from my knowledge of the industry is the issue where it kind of is a blanket statement that it should be for any development that gets any subsidy whether it be state, local, or federal. To me, it seems to be a little bit unfair, and this is where I get extremely conflicted inside, that you would impose if we are not putting anything into it that we would impose the same restrictions on anybody even though we heard from the city attorney it's not enforceable, but I mean we would put it in a policy anyway, which just kind of muddies the water when you are trying to develop affordable housing. Of course, the last thing is – well, I'll stop. That's plenty, but as you see, yes, I have some misgivings about it, and I do plan to talk to you guys one on one as we go into making a decision just so you will know more clearly because there is no way you could get it all right here.

Councilmember Peacock said my question was actually for the Mayor, and I have just shared with him this memo that Bob Hagemann had responded to us on December 1<sup>st</sup>. I read it and I re-read it, and my question to the Mayor was I just couldn't remember why you asked for this, and that was what I wanted to know. Do you have any comments, I guess, as well, too?

Mayor Foxx said I want to first of all say I think this is an enormously complex issue, and it's always complex when you talk about locational policy. It's particularly complex when you talk about it in a down residential market, but I think for purposes of the policy development we have to assume the market comes back at some point, and we are sort of back into either a normal, new normal, or whatever you want to call it. So we have got to think about this as setting a policy for the ages and not just for right now.

Having said that, and I will get to your question, I have had some concerns about whether this policy will actually have the reverse effect than what has been intended by it by compounding the clustering of poverty in areas through the conversion, rehabilitation strategies that it contemplates, and I would like to know the extent to which that has been considered and maybe you can convince me that is not a concern. The second thing is that because this policy is linked into a lot of other things that are going on in our community, for example, the schools; for example, parks, libraries, and other things, it strikes me that it would be wise for us as we move towards considering this for a Council vote to at least share this policy with our counterparts in the School System and in the County Commission and to solicit whatever feedback they would like to give us.

The third point, getting to Mr. Peacock's question, is that I think an unanswered question through this, and this may be the right direction for us to go, but I think an unanswered question is what the private sector is to do because most of the housing that has been built in better times has been private sector housing, not subsidized housing. I feel pretty strongly that as we answer the question of housing locational policy that has been subsidized by the public we ought to be answering the question about how we deal with the private markets, and I know that conversation is tied up in our committee, but I actually think that it belongs right here right now because if I'm right that there is a risk that we can compound the clustering challenge through subsidized housing on this policy I have got a challenge explaining to the public why we haven't answered that other question.

So, to me, I think they belong together, and I have said that a lot, and that's one of the reasons I have asked for the staff to take the Housing Charlotte 2007 recommendations, look at what is allowable under the law, and to translate that into some action language that we can consider as we move this policy towards adoption, so that's why.

Councilmember Peacock said a couple of short follow-ups. In one of your question/answers, you answered back what other cities are doing regarding housing locational policy, and the answer was Chapel Hill doesn't have one, Durham does, Greensboro doesn't, Raleigh does not. Can you tell us again about Durham and why they have one and how is it working?

Ms. Wideman said let me just say that Durham's is very complex, Mr. Peacock, and I don't remember all the nuances of Durham's. Raleigh has a scattered site, which is a little bit different than kind of what we are talking about tonight. So, I don't want to guess or try to memorize the nuances of Durham's, but I can certainly put that again in a follow-up report if it is helpful to you.

Councilmember Peacock said the last short question, and I asked this last time, is about how we came up with a 5% cap, and you answered it's the number of existing subsidized units divided by the total housing units equal in the city. Explain again why that was how staff arrived at that, and then I would like to understand the correlation between that and what Mr. Howard had mentioned, which is always solving the problem, which is getting I guess to Mr. Cooksey's point a little bit – getting more shelter out there and solving the problem on a broader scale.

Ms. Wideman said thank you for asking that, Mr. Peacock, and that's a nice segue into how I was going to begin to respond to the Mayor's questions. First of all, we can certainly have the conversation about this with the School System, with Mecklenburg County. In terms of the 15%, what we are recommending in the new policy, let me share with you how we came up to that, which is very similar to how we came up with the 5% before. Within the 15%, so the formula is – and I'll try to make this as simple as possible. There are currently 15,707 subsidized units on the ground now, so what we attempted to do with the new policy and raising the 5% to the 15% is we have added to that what we know is the existing need for new subsidized housing units, so we are trying to allow for growth. So when you add the 15,707, you all may recall that CHA presented a study to you several months back that said there was a need for 24,000 more, so you add those two numbers together and you divide that by the total number of housing units that are on the ground now. You actually get 13%, so we have allowed for growth by coming up with the 15% cap in the new policy.

What we also recognize is the concentration of poverty, and when you think about poverty, that is those individuals earning 30% or below the area median incomes, so that's why we also did a second tier and said that no NSA should have more than 5% subsidized housing. So we do consider and understand the whole concentration of poverty. IN terms of what is already on the ground, we have attempted to address that through the rehabilitation, so a rehabilitation is a currently subsidized unit that would receive a physical improvement, so we are attempting to improve what is already there. The conversion – it is a privately owned, as I said earlier, but 50% of that would be converted for individuals earning 60% and below, and they would receive a public subsidy. So we have tried to address some of the concerns that you all have knowing that this is not a perfect policy, but it takes into account what is on the ground now and allow some room for growth. I don't know if that directly answers your question, Mr. Peacock.

In terms of the private sector, Mr. Mayor, I think we are looking at, as I said earlier, the committee is going to kick off those discussions around inclusionary zoning density bonus and transit station locations to get more.

Mayor Foxx said I get that. We have talked enough, and you know where my mind is on this, so that's why I'm asking for the translated version of how Housing Charlotte 2007 in advance of this, and I assume that will be produced before the vote on this.

Ms. Wideman said, I'm sorry, say that one more time.

Mayor Foxx said you all will translate Housing Charlotte 2007's recommendations in advance of the vote on this; correct?

Ms. Wideman said I want to be clear. When you say translate, exactly what are you –

Mayor Foxx said the housing locational policy recommendations there that were pertinent to incentive based inclusionary zoning and other pieces. I know we have got some legal issues with some components of it, but I was asking for as many of those as we feel are legally permissible now to have in hand in advance of our consideration of this ordinance.

Ms. Wideman said we will be asking for your consideration as it stands now on March 28<sup>th</sup>. Our next HAND Committee where we are going to start to look at those would be March 2<sup>nd</sup>. I don't want to promise something we can't deliver. We will certainly begin to look at those at that meeting.

Mayor Foxx said what I'm asking for is actually for that to be done in advance of March 28<sup>th</sup>. The committee can continue looking at it, but I want to have a discussion about it in the context of this ordinance.

Ms. Wideman said okay.

Councilmember Carter said my concern is that, yes, we need to desperately talk to the School and to the County because of the services that they offer that need to be co-located in these areas. I'm really concerned that we don't have the support service sometimes in these areas are indicated, and I'm talking also about CATS, that we need to have preliminary conversations with each of these to enable the folks who earn under a certain level to move around and be supported. I'm concerned.

Councilmember Kinsey said, Mayor, you and I have talked about this, and I understand where you are coming from, but inclusionary housing opportunities, whatever, that is going to take an awful long time, and I don't see how in this world we can do that before the March 28<sup>th</sup>, and I personally was hoping to get something done sooner rather than later on the locational policy, but that's just my opinion. I'm not speaking for the committee because I have sort of been wrestling with this, and I know we need to address those issues. I'm thinking it's going to take a lot longer than to March 28<sup>th</sup> if we are going to do it right.

Mayor Foxx said it may, but let me say it this way. Housing Charlotte 2007 was a group that we convened. We asked the community to sit down and help us figure out this issue of how we deal with locational policy, and they took more than a year and a half to look at those recommendations. They had more than 150 people engaged in that conversation. They represented the private sector, communities, everybody, and I'm not asking you to agree or necessarily even approve of their recommendations in the context, but they are sitting on a shelf right now, and I would like to see them translated into something the Council can act on, and I want to have the discussion as this comes forward about where we are, and we may decide let's hold off – let's kind of have more discussion and figure it out in a more detailed way, but it just strikes me there has been an awful lot of work on those recommendations, and I think they need to see the light of day and have some discussion about it. I have asked for it, and as far as I know, the staff is preparing that before we get to March 28<sup>th</sup>, and I will be happy as soon as I have got it and the staff can just send it out to everybody, but I think that is really key.

City Manager Walton said I'm not sure I know what to do. I don't remember the Housing 2007 report well enough. I don't know whether we postpone the presentation or the vote, we don't bring it forward March 28<sup>th</sup>. It is not something that staff would do on its own and bring back a recommendation. It's something that would ordinarily work through committee.

Mayor Foxx said I'm not asking for a recommendation. I'm asking for the recommendations of Housing Charlotte 2007 in a form that Council can consider for action. Y'all don't have to recommend anything, but that's been sitting around for two years. If we need to have a vote to ask the Council to ask the staff to do that, that's fine. If that kind of gives you direction –

City Manager Walton said there hasn't been one before.

Mayor Foxx said let's consider that.

Councilmember Turner said a couple of things. I'll come back to I think where you are with regards to the vote. My question would be, first of all, what do we do, and I don't recall exactly myself about the 2007 when we dealt with this matter, and how did it end up on the shelf and what actually did we take then is going to be one of my questions regarding that. I want to go back. You indicated on the NSA that permissible we increased it to 15% based – and we went from ten to 15. Did we consider what is the tipping point for areas that may very well be stable but that additional 5% clearly pushes it into another direction? In other words, what was 10% now has a margin of 15%, and did we consider what was the tipping point from ten to 15.

What I'm concerned with this entire policy is that you are going to do some good things, but I think we can also do some bad things if we don't manage it properly. I'm really concerned about the refurbishing standpoint of it where you take older apartment complex that is at market rate and sell it and it becomes affordable housing, and then it goes from 10% to 15%, which could be devastating to an area that we define as stable but could easily go back to being unstable just because of that type of environment where we have multifamily housing in blocks that are older multifamily housing. My next question was the Police Department a stakeholder involved in this at all?

Ms. Wideman said to answer your first question, Mr. Turner, the new policy proposes that new multifamily developments only be located in stable NSAs. We looked again. The stable NSAs should have no more than 15% and then no more than 5% serving zero to 30%. In the old policy, it does not speak directly to just the stable, so in terms of what tips a neighborhood, if you will, the quality of life has a number of variables that it looks at. Housing is just one of those variables, so number of variables would cause a neighborhood to go from one ranking to the other. The Police Department, we didn't do a stakeholders group. We went to the forums. We had five public forums throughout the summer. I don't recall if a police officer was there. I don't recall if a police officer came. I don't think so, but we didn't do a full stakeholder's process.

Councilmember Turner said I bring that up because I heard mention that obviously there are some Council members that believe that we should have this conversation with the School System as well, so we didn't have a conversation with the Police Department and their opinion of our new aim here of how that will affect from their perspective. Are we really going to accomplish what we set out here to do at the end of the day? I'm not for sure we will, but I caution us on several matters, and I understand your percentage and I looked at this and I have been looking at it. I'm just not comfortable with where we are right now.

Mayor Foxx said we have got sort of a decision point right here because it's 5:45, and if we are going to go across the street, we kind of need to do that now. I would like to get some closure to this conversation, and I guess the one thing I would like the Council to do is to weigh in on whether we want to have the staff do this work on the Housing Charlotte 2007. I mentioned it last week at the Zoning Committee, and my sense then was we had no objection to having the staff do that, but I understand now that staff has a different opinion of that, so let's have a decision and tell the staff one way or the other.

Councilmember Peacock said I would agree with that decision, and perhaps this might give Manager Walton some direction, and maybe this is what you are thinking – I'm not certain. On the comparison chart of existing versus proposed policy, could we add a column that would describe what the 2007 – somehow we can condense because I think what the Mayor is pointing out is one that I have had a concern about. We have an enormous process that we are going through, and how much of that has stayed on the shelf and how much of that has been acted upon and sort of what is left over that has to do with what we are dealing with right here. In many respects, I draw an analogy to the citizens' taskforce that worked on the budget. That can very quickly turn into 24 months, 36 months, and I know we have got a lot of studies here in the hall.

Mayor Foxx said if I might suggest some components of it have been adopted in different ways already and some components haven't. Maybe there is other stuff about subsidized housing that is in there that we might be able to do a side-by-side there, but also on the private market side to



the extent we are permitted by law, let's look at what that would look like in a – I don't know whether it's ordinance language or whether it's just an action by Council that would actually adopt those pieces. I'm not asking for a staff recommendation. I'm just asking to translate it into a form that we can consider. Is there a motion on that?

[ Motion was made by Councilmember Peacock and seconded by Councilmember Carter to ]  
[ have staff take the Housing Charlotte 2007 recommendations, look at what is allowable under ]  
[ the law, and then translate those Housing Charlotte 2007 recommendations into some action ]  
[ language that Council can consider as the Housing Locational Policy moves towards adoption.]

Councilmember Barnes said I don't really have any objections necessarily. I just want to make sure I understand, and I think I do understand what you are trying to accomplish. The issue is, and I want to be clear about this, Mayor. Are you asking that the committee would take some action prior to the full Council taking action on March 28<sup>th</sup> or just simply ask staff to bring back information to the full Council and not take it back to HAND?

Mayor Foxx said I think HAND is looking at this in April, and if there is a comfort level of Council in taking action before then, great. If we want to fold it into April, great, but I think we ought to hold our options open right now.

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

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

**NAYS:** Councilmember Turner

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Mayor Foxx said why don't we move the second item to either downstairs or next week. Let's go across the street.

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The meeting was recessed at 5:50 p.m. for the Council to go into Closed Session.

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**BUSINESS MEETING**

The Council reconvened for the regularly scheduled Business Meeting at 6:32 p.m. in the Council Meeting Chamber of the Charlotte-Mecklenburg Government Center with Mayor Anthony Foxx presiding.

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Mayor Foxx said we apologize for being a little late, but City Council just went across the street to do visitation with the family of Officer Fred Thornton, who we lost tragically on Friday, and our hearts go out to the family. I want to thank the Council and Councilmember Dulin for suggesting that we go over there to do that.

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**INVOCATION AND PLEDGE**

Mayor Foxx gave the Invocation and Scout Troop #9 from St. Patrick's Church led the Council in the Pledge of Allegiance to the Flag.

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## CITIZENS' FORUM

### WASTE COLLECTION PICK-UP FOR APARTMENTS

**Richard Vinroot, 325 Cherokee Pl.**, said I'm a lawyer here in Charlotte. I represent the O'Leary Company, if I can see where they are sitting. Ken, with the Charlotte Apartment Association. I wrote you men and women a letter about three or four weeks ago. I hope you had a chance to read it. It's not that complicated, I don't think, and I wrote concerning the fact that we believe there is an unfair situation that is prejudicial both to companies like O'Leary, who pick up waste, and more importantly to people who live in apartments represented by Ken and the Charlotte Apartment Association. The problem is the following: You have back several months ago put out an RFP for the first pick-up, which you, the City, provide to people who live in apartments. A bid was won at \$4 per container, and you said in the agreement that was entered that with respect to any supplemental pickup that those apartment complexes might wish to have they could privately negotiate with whomever they pleased for that service. However, you provided in your contract that unless they agreed to contract with Allied, the company who won the first bid, you would not let your subsidy, which pays for the disposal of the garbage, to be applied to anybody they chose other than Allied. In summary, Allied won the first pickup, but by default you have created a virtual monopoly with respect to supplemental pickup by basically saying whomever Ken and the apartments contract with other than Allied will have to go it alone with the apartment complex; they will have to pay their way, and unless you contract with our initial provider, we will not let our essentially subsidy for disposing of garbage follow that truck. In other words, the name on the truck will determine where City money goes. Now, let me tell you what is so important about this. The first pickup under your contract is for \$4 a container. The second pickup, supplemental pickup, that these apartment complexes that Ken represents are having to pay to Allied, with whom they have no relationship except if they choose to contract with them, is for a little over four times that -- \$17 a pickup. In fact, if they had chosen O'Leary or virtually anybody else in this community, they would pay a lot less, several dollars less, for that pickup except for the fact that you have provided in your contract that your subsidy will only be honored if they select Allied.

Councilmember Cannon said I would like to get some level of a staff response to what has been suggested. Number two, Mr. Mayor, Mayor Vinroot, I understand that you made reference that O'Leary could not have bid on this. They did not participate in the RFP process; did they not?

Mr. Vinroot said correct. Several other companies did not as well.

Councilmember Cannon said any particular reason why they didn't participate?

Mr. Vinroot said I think because they just didn't have the capacity to deal with the original pickup, to be truthful. They are a relatively young company, new in the community, and they don't have all the resources to handle the initial pickup, but they have full capacity to handle the supplemental pickup and they are willing to enter contracts as are other companies with lots of people. I won't go beyond -- I know I have got my three minutes, but the problem is this. I discovered this and negotiated and talked with your folks several months ago, who agreed with me that this was a problem and said they would work on a solution, and I believe that, and I appreciate that. There is a solution. Your contract permits you to terminate that contract upon 30 days notice without cause. I'm not suggesting you do that. I'm suggesting that what is being done under this contract is illegal. It is unlawful. We ask that you attempt to resolve it. The staff has committed to us they are working on it. If that is not done within the next 60 to 90 days, I think we will have no choice but to ask a court to resolve it as we think they should.

Councilmember Cannon said, Mr. Mayor, I want to be respectful of my direct question, which simply was why didn't O'Leary participate, but I still have a question with regard to any staff opinion we can get, please, at this particular time.

Mayor Foxx said anybody on staff want to respond?

bvj

**Curt Walton, City Manager**, said I can't speak to the contractual issues, Mayor Pro Tem.

Councilmember Cannon said who can?

**Bob Hagemann, Senior Deputy City Attorney**, said, Mr. Mayor, let me take a shot. Our office has been in dialogue with Mr. Vinroot, as he indicated. They have presented their legal arguments to us, and at this time, we are not persuaded, but we continue to have dialogue as recently as this afternoon. We will continue to do our analysis and communicate with them and would be happy to provide a written report to the Mayor and Council.

Councilmember Cannon said of what you can determine the City is not out of lock-step in any way whatsoever relative to this RFP.

Mr. Hagemann said I will have to defer to either Victoria or Mujeeb Shah-Kahn to talk about the contract.

**Mujeeb Shah-Kahn, Assistant City Attorney**, said the contract does discuss the fact that supplemental pickups if handled by Allied the City does pay the disposal charge. That was made very clear to all the bidders at a pre-proposal conference and was something they were all aware of early on in the process. Of course, we respectfully disagree with Mr. Vinroot's position, and as Senior Deputy City Attorney Bob Hagemann noted, we have been in discussions and continue to be in discussions as of even today.

Councilmember Cannon said, Mr. Mayor, I will yield there as to not open this up because there seems to be some legal piece. I will conclude with my comments on that.

Mayor Foxx said I think that report that you are talking about would be very helpful to all of us, and, Mayor, we will be monitoring this conversation as we hear back from the city attorney.

## **GOVERNMENT/PRIVATE SECTOR MATTER**

**Darryl Greenberg, 1501 Carmel Rd.**, said my remarks are directed not only to the Council but Mr. Cannon in particular. Assembly of free speech and demonstrations against dictators have dominated local and international news in recent weeks. In Charlotte, the Democratic National Committee selected our city to assemble, freedom to assemble, provide the NAACP the right to protest, the School Board's closing decisions, the Egyptian people assembled to overthrow Hosni Mubarak, a dictator for 30 years, and won the opportunity to establish a democracy; Libya is following. In our state history, four North Carolina A&T students in 1960 affirmed their right to assemble in order to be served lunch, which brought a positive change and due process and equality. In 1978, a Neo-Nazi group was permitted to march near Chicago, home to many Holocaust survivors. The American Communist Party was permitted to organize, meet, and march. All those assemblies were protected by the Constitutions First and Fourteenth Amendments. After all the assemblies, marches, demonstrations, meetings, and civil disturbances, the United States functions because of the U.S. Constitution. In addition to the U.S. Constitution, the North Carolina Constitution in Sections 12 and 14 protect the right to assemble and freedom of speech. Why then would Charlotte Council man serving as an elected official effectively deny the scheduled assembly of one small political fringe group of U.S. citizens to assemble at a local hotel? Under what authority does Councilman Cannon, who has been a Council man half as long as Mubarak was Egypt's dictator, have the right to use his elected position and authority to initiate an email campaign to prevent the group, American Renaissance, from meeting in Charlotte to express their form of political expression no matter how objectionable their views, and, I, too, find their views distasteful. Mr. Cannon permitted the Democratic Party, the National Rifle Association, the JC's, the Humane Society, and other benign groups to meet in Charlotte, while those groups that are politically toxic or competitively offensive to Patrick Cannon are prohibited from meeting. It is bizarre why Patrick Cannon, a lifelong member of the NAACP and alumnus of North Carolina A&T would not recall Supreme Court cases that supported the NAACP's right of association and assembly. It appears Mr. Cannon, as a government official, permitted his own political agenda to deny the Constitutional rights provided American Renaissance and a right that has repeatedly been upheld by the

Supreme Court, the right to assemble, to furnish political and social views as protected against unreasonable burdening such as cutting off their meeting place. There is no doubt that freedom to associate with others for the common advancement of political events and ideas is a forum of orderly group activity protected by the U.S. and North Carolina Constitution. The Supreme Court has ruled that peaceful assembly and freedom of press is equally fundamental and is one that cannot be denied. In closing, my concerns regard the right to assemble and not the American Renaissance as an organization. The City Manager, as directed by Mayor Foxx working for the citizens of Charlotte, should investigate Mr. Cannon's actions for unconstitutional activities while serving in an elected position and unlawful use of City email to prevent this group from lawful assemble of speech. Thank you for your time.

### **TRASH ON THE STREET**

**Marshall Griffin, 742 Oakdale Rd.**, said I know you ladies and gentlemen are very busy. I am very busy, too. I know you have got a lot on your mind, but I don't live in SouthPark and I don't live in Ballantyne. I have some pictures here I would like you to look at of our Water Department on Brookshire, the road I live on. I called and made a complaint. The City turned it over to the garbage people. Most of the garbage on the roads today are not coming from people; it's coming from our garbage trucks. If you lived on this road that I live on, you would hang your head in shame and cry. I called, and the only thing they can tell me is you need to tie up your garbage bags, but if you follow the garbage trucks, you will see where all the garbage comes from. Airport, Little Rock Road area, Brookshire, Oakdale, if you lived in these places, you would be ashamed of it. That's all I have got to say.

Mayor Foxx said thank you, sir. We will take a look. Appreciate you coming.

### **OLD SCHOOL GRANNIES**

**Phyllis Pritchett, 1407 Elkin Ln., Apt. 6**, said I'm an old school granny to the rescue. I have been in Charlotte for 11 years and was in the school system here, Mecklenburg school system, and I was an ISS teacher. There I learned to know most of the kids, and I learned how to listen to their wants and their problems they had, and I have a dream, and it's called old school grannies to the rescue. If you want to reduce the crime, let's go back in time with old school grannies. I am soliciting grandmas to come together, and we are going to pray for our grandkids. We have got all kinds of programs but no prayer programs. We believe that it works. We have seen it work down through the years, so we are going to come together – praying grandmas. We are going to pray for these young people, have prayer breakfasts and bond the grandkids with their grandmothers. I taught life skills when I was in the school system. We renew their minds on the positive things, and children just look up to grandparents. They trust them. We are like angels on this earth to them. They love their grandparents. Most of you who grew up with their grandparents know what grandmothers and grandparents do for their grandkids. They teach them right things – wisdom tidbits we gave them. Parents cannot always be with the children. That's where we come in. We want to take up the slack, so to speak, and that's why I recruited this. I am incorporated in the state of North Carolina. I have this passion for young kids in trouble. I have six grandkids of my own, and I talk to the kids, and they just love me. They see me on the street, and they want to talk. Granny, tell me something. Give us some good advice. They are disturbed, they are troubled, they don't know the answer to every problem, and like I said, parents don't have time. They work hard for their kids. We are their guardian angels on earth, and the City of Charlotte needs guardian angels even to pray for the city. We pray daily. We teach the kids good from evil, and we are not afraid. We are here to gain back the lives of our children. We see them die on the streets, and it's bothering us, so somebody had to step in, and I asked God give me something. I cry at night when I see so many of our kids, smart, intelligent kids, that need direction in life. One more thing, I am incorporated in the state of North Carolina. Also I am the official grandma up at Stonewall Jackson Correctional Center, and I go up there and teach the kids how to get back into society again. I need your prayers. I need your support.

Mayor Foxx said thank you for what you are doing. We really need the army you are assembling, so thank you very much for what you are doing and keep us posted. You see the passion people have for this community, and it's heartening to see that.

### **POSSIBLE ACQUISITION OF LAND ON SEACROFT ROAD**

**Peter Donald, 5608 Seacroft Rd.**, said I would also like to echo your sentiments regarding Officer Thornton. I know it's a tragic loss for his family, and it's got to be difficult for the City as well. I'm here tonight to discuss an issue with the condemnation or attempted condemnation of a piece of land that I purchased actually from the City of Charlotte back in 2002. I have been working with Representative Dulin, who has encouraged me to come speak tonight, and I appreciate that. I purchased a lot next to my home, an empty lot, in 2002 from the City of Charlotte. The City had previously owned it for seven years. There were no easements on record when I purchased the property in 2002. The contract I signed with the City did not mention any easements or utilities. Even the deed stated that any easements, restrictions, right-of-way would appear in the public record, so seven years later in March 2009 started planning an addition to my home that would have sat – part of it would have sat on the empty lot. It was at that time the extent of these utilities was discovered. That's when we started learning about this. In May 2009, I was informed by the City Attorney's Office they ordered a survey and would be requiring easements on that property. Then May, after much correspondence back and forth, I finally asked the City Attorney's Office what their intention was with the property – did they intend to condemn it as their offer of \$1,200 for the property wasn't acceptable to myself or my family. I have given most of you handouts with a summary of what I believe to be the issue, and, Mr. Dulin, I gave you the large version, so I appreciate it, and in there are the survey of what they plan on taking – about 95% of the property they plan on marking off as an easement and unbuildable. I never received a response to that letter that I sent on May 22, 2009. Finally in February of this year, almost two years later, I sent a courtesy email to the engineer stating that I was going to continue with my project since I had not heard anything in two years. I received a letter about two weeks ago stating that I would be required to accept the \$1,200 payment or they would seek condemnation of the property. I find it really difficult to understand how they would require these easements, how they would be so critical for the City since I was ignored for almost 21 months. I spent quite a lot of money over the past ten years enhancing and protecting the value of that property, and also during that time the City has avoided all maintenance costs by selling it to me. There were monthly, weekly maintenance costs for maintaining that property that the City has avoided for the past ten years.

Councilmember Howard said I'm not sure I'm clear on what the easement is for. Did you say what that was?

Mr. Donald said the easement is for I believe a storm water system and a sewer, both residing on that lot.

Councilmember Howard said any staff?

**Curt Walton, City Manager**, said, Mr. Howard, we are still working through it. It's not on your agenda tonight, so it's something that would be coming at another time either as an acquisition or a condemnation for the easement as Mr. Donald points out, but we are not through negotiating yet.

Councilmember Cannon said it sounded like no one has been in contact with him. Did I understand you to say that you hadn't heard anything back yet?

Mr. Donald said there was a period of two years no one contacted me until I sent a follow-up email about a month ago, and then they responded.

Councilmember Cannon said so you are engaged then with staff on this.

Mr. Donald said, yes, correct.

Mayor Foxx said thank you for coming before us, and we will kind of follow this as it moves through the process.

Councilmember Dulin said I met Mr. Donald and his wife on site today. I had been over there the other day. This is a very interesting – we bought a house, tore the house down, put our system in, sold this man the land, and now we are trying to take it back, so we have got to figure out how we can help him, so I'm working with him. He has got our legal on it, and it will come back to Council, but it's one of those tricky things. We don't see them like this very often, so we'll get through it. Thank you, Mayor. Mr. Donald, thanks for coming down.

## **BAN ON OUTDOOR MUSIC**

**Laurence Maher, 3005 Whiting Ave.**, said with all due respect I speak my piece. Clearly there are two sides to this coin, this issue of the noise ordinance ban proposal. All things considered, no one can represent what they do not understand. How can spontaneity fill out a permit for creativity? How can inspiration be confined to an acoustic whisper? How can motivation persevere through unreasonable limitations? The chemistry of our community finds solidarity in our streets. Many professional artists in Charlotte are flourishing due to the outdoor music scene which allows for so much networking and collaboration. The only thing I want to say about myself is that I was the first musician to plug into the wall at Salvador Deli in NoDa and jam outside. Five years later we have reinspired a whole movement of live outdoor musical performances incorporating painters, dancers, singers, poets, and more. Ask Will Puckett, ask David French, ask Blues. We artists go from house jam to street corner concerts to theatre performances. We have long been a vital contribution to Charlotte's economic growth whether some realize that or not. We have honed in our crafts and evolved immensely because we have been free to respectfully create art and music outside on our streets. On Cue Productions two-year resident at Blumenthal Theatre, Cue started in NoDa. Slam Charlotte two time national slam champions repping the QC for five years got started in NoDa. Four members of Conquer Generation have placed in the top ten poets in world. Neighborhood Theatre almost closed but didn't. Salvador Deli will be reopening. Gallery crawls are flooding the streets with customers as new businesses continue to recognize the growing demographic. While some frustrated and frustrating neighbors operate under the false pretence of apathy, we choose to operate under the principles of effective communication. How can this proposal be accepted as a solution proportionate to the problem if it isn't respectful of specific demographic? Does anyone here truly believe that all neighborhoods should suffer for a lack of better solutions? There are over 500 restaurants/bars within 400 feet of a residence. Who really expects an entire city to S-h-h-h, keep it down, on a Friday night. Live outdoor music sustains our livelihood. We come out to play, to inspire, to commune, to create, and we inadvertently become an unofficial subcommittee of the neighborhood watch. Oh, we watch right along with the NoDa firemen, local families, their children dancing, young people, old people. The community loves what we do. I'm simply saying as a voice in the city for the city that better changes will be made if we meet eye-to-eye, but we, artists of the neighborhoods, we represent. We come out to play, dance, and sing. We are, in turn, watching, protecting, and changing and bettering our streets. In the context of unemployment and the context of a city in debt, we increase revenue year after year. More and more small businesses are opening and staying open – Neighborhood Theatre, Cabo Fish Taco, the Sanctuary. The owner of the recently opened Jack Beagles has bought Salvadore Deli, and we have every intention of bringing the spring in with live outdoor music. We create jobs in our communities. We create jobs in our communities based on the relationships we have with one another. Ask Megan Crenshaw, Paul Size, Ruth Lyon, Stewart Sloan, and your friends, if you got them.

Mayor Foxx said thank you, appreciate you. As I understand, that ordinance is in Public Safety, and it has not gotten to the full Council yet, so thank you. I think we got your position.

## **OWNER OF HOME SCHEDULED FOR DEMOLITION WITH OCCUPANT STILL THERE**

**Glenn Robison, 1335 Thriftwood Dr.**, said I appeared in September before you, and I was granted 60 days notice to fix up a house, but yet when I got this property I bought it in

September, and I don't know whether it's code or the courts continues to let the man live in the house, pays no rent whatsoever. I talked to Mr. Mitchell about it and explained to him, and he thought I already had started working on it, but I can't work on the house with somebody living in it, and he has already had 120 days to get out, but he keeps getting 30 more days, 90 days. I done spent my money. I would like to know when I am going to get my property back, if I'm going to get any.

Councilmember Mitchell said, if I can, have Walter Abernethy and our attorney to come forward. Walter and I had a conversation earlier today, and I did get some information that I would like for him to share with the Council as relates to this issue.

**Walter Abernethy, Housing and Neighborhood Development**, said give you a quick background. This was a house that came before back in the summer in June for a demolition approval. Mr. Robinson presented a quitclaim deed. We sent out a series of Council-Manager memos about some concerns we had with the quitclaim deed, but ultimately Council did award him 60 days to repair the house. In the meantime, Code Enforcement had issues with the safety of the tenant, so we then through a relocation – I'm sorry. The tenant was not eligible for relocation because of some criminal history. We did go through an eviction process with the tenant. That eviction process just recently was heard by the court, and we did prevail, however, it's in an appeal process right now.

**Anna Schleunes, Assistant City Attorney**, said just wanted to clarify the ownership issue for the Council. Back in September, Mr. Robinson did present a copy of a quitclaim deed, which basically entitles him to whatever property interest that the grantor has to give him. We understand from the administrator of the estate that the tenant, also the son of the deceased owner, does not have the authority to transfer the property, and, therefore, Mr. Robinson has no legal interest in the property.

Mr. Robinson said I get your pardon, ma'am. Here's the deed to the property.

Mayor Foxx said I'm sorry, sir. At this point, you have to respond to questions that are put to you by Council.

Councilmember Mitchell said, Mr. Robinson, do you have something you would like to share with Council?

Mr. Robinson said this was filed at the Courthouse at 700 East Trade, and it shows that I filed it and the property is in my name. The attorney here had his client declare incompetent to him, and how he done that, I don't know, but his client that is supposed to be representing her and get her declared incompetent, and that same way with the other person, the same thing, tried to get him incompetent, but he wasn't incompetent, and I don't understand that from the attorney. All I can understand is the attorney has worked against his client the whole time.

Councilmember Mitchell said, if I can, because there are two crucial issues here, and I think for Council we need to get our arms around the ownership, and we did grant him some extension to fix up the property. So let's deal with the ownership question, if we can, first. He has a copy of the deed. We have done the research to show he has no ownership, so help me staff. Is that something we can prove that he has no ownership to the property?

Ms. Schleunes said we had hoped to have an email or letter from the administrator of the estate. We did not get that before this evening's meeting, however, a quitclaim deed is simply a deed that transfers whatever property interest that the grantor has to the grantee, which can be full, fee simple title or it could be nothing. The administrator of the estate, who is also the tenant's – Mr. Robinson's reference to a tenant – is also Mr. Work's attorney – is the administrator of this estate, so he is the only one with any authority to transfer title to this property to someone else. He has not transferred that title to Mr. Robinson, therefore, from a legal perspective, the property is still owned or controlled by the administrator of the estate. Does that answer your question, Mr. Mitchell?

Councilmember Mitchell said, yes, it does, but let me take another question so we can kind of move on. For the demolition, Walter, were we proceeding to demolish this now?

Mr. Abernethy said, yes, sir, the timeframe had exhausted as far as the time, but we had to get the tenant out, and as was mentioned, the administrator of the estate is actually also the tenant --. his name is Walter Work -- is the tenant's attorney also. We prevailed in court I guess two weeks ago, and we are waiting to see if they are going to appeal. He was not eligible for relocation because of what I mentioned before, and the attorney is also working to try to find him some housing.

Councilmember Mitchell said just to wrap it up, if we can, Council, Walter, can staff get with Mr. Robinson, if you don't mind, after this meeting and kind of explain to him from a legal standpoint because it looks like in two weeks the court is going to settle this matter before the Council. I think Mr. Robinson is kind of left in left field. There is a decision made. He thinks he has ownership, and none of us around here can control that, so can you two get together right after this?

Mr. Robinson said, Mr. Mitchell, I had three attorneys --

Mayor Foxx said I'm really sorry, sir.

Mr. Robinson said they can fight with him.

Mayor Foxx said unless you are asked a question I can't have you --

Mr. Robinson said I'm giving a question. Why would --

Mayor Foxx said, sir, I'm sorry. I really can't allow you to do that. It really is a breach of our rules to do that. If someone asks you a question, you are perfectly able to answer, but you have not been asked a question at this point.

Councilmember Mitchell said I would like the two parties to talk to make sure we are on the same page legally, and I think the Court is going to make a ruling for us.

Mayor Foxx said we are going to have some conversation with staff on this matter, and I apologize. That's just the way our rules work.

## **UNION LABOR FOR 2012 CONVENTION AND TAXI CAB DRIVERS**

**Randy Conrad, 5000 N. Tryon St.**, said just want to let you know Ted Russell wasn't able to be here tonight, so I'm stepping in. Teamsters 71 wants to thank the City Council for doing the right thing with the Airport RFP issue a few weeks ago, putting it back in, I guess, another committee. Don't really know where it's at right now, but however we are surprised with all the reports in the newspaper and the TV that you have not called for an investigation and called the FBI or the SBI to investigate the greater Charlotte Hospitality and Tourism Alliance or the City management with some of the stuff that was coming out in the newspapers and so forth. I'm sure there is going to be more that is going to be uncovered. One of the issues greatly affects the security and the lives of not only the citizens of Charlotte but the citizens of the world. Local 71 tried to tell some of the City Council people a year ago some of these things, and you chose not to listen. The other issues that we are hearing in the newspapers if these owners are actually being shook down as the newspapers reported, that's extortion. The FBI or the SBI or some kind of internal investigation they need to be investigating these accusations and so forth. Just today, for example, Yellow Cab fired about six or seven people. I don't know why they fired these people, but we are asking for you or the PVH board to interview and find out why they fired these people at the Airport. They just called them in and told them you are no longer working for us, and that was that. I mean they do a lot of hard work. We have been here before. You know they are getting pounded daily, and everybody is taking their money. Our general president, James P. Huff, is aware of the situation, and he knows what is going on. Tomorrow he is going to be aware of the Yellow Cab situation. Nobody has called and talked to us, so we have got no other resource, but we are reaching out to our international union. They are reaching out to people, and I hope I can tell them that the City Council or the PVH board is going to intervene and tell them that somebody is taking care of our 144 union taxi drivers at the



Charlotte Airport. I hope that's what I can tell them. Either we are going to tell the Democratic National Committee that we are going to have teamster taxi drivers or we are going to tell the Democratic National Committee that we don't have any teamster taxi drivers. I would like to know an answer with that and if we are going to help these taxi drivers. If we are not, I can assure you that when the Democratic National Committee comes and Ted Russell wanted me to make sure that everybody knew this, we will let the public know that we had an option, and we chose not to again instead of the later. Our motto is me as a political coordinator, coordinated all over the great state of North Carolina. I have been an organizer all over this state. In November, we will remember. That's my motto, and I want to thank you again for letting me speak.

Mayor Foxx said that concludes our Citizens' Forum, and I want to thank all the speakers. There are a number of items that have been raised and will be dealt with in due course.

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## **AWARDS AND RECOGNITIONS**

### **FIREFIGHTER RECOGNITIONS**

Mayor Foxx recognized fire companies who have successfully saved the lives of patients using the new focused CPR protocol and to recognize the firefighters for their heroic actions to save the lives of two children from a burning building, and Councilmembers Peacock and Councilmember Turner introduced the honorees.

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### **BARBARA JORDAN U.S. POSTAL STAMP**

Mayor Foxx recognized Acting District Manager Angela H. Curtis of the U.S. Postal Service who presented the postage stamp honoring Barbara Jordan, former Texas Congresswoman.

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Mayor Foxx said I want to acknowledge Scout Troop 119 from South Mecklenburg Presbyterian Church, which is present tonight. Welcome, gentlemen. We also have in attendance, I think, a journalism class from Central Piedmont Community College to talk about Jim Morrill of *The Charlotte Observer*.

Councilmember Cooksey said two other recognitions. One I don't think we are ready for yet because they are not here, but I understand there are also students from ITT-South Charlotte, state and local government classes that may be with us. Yeah, there you go, up in the back. So, we also have those students watching us. Stand up. I understand Civics 101 is in the building but may not be with us just yet.

Mayor Foxx said I also want to acknowledge Tim Morgan, our current school board member, who is also here with Scout Troop 119.

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## **CONSENT AGENDA**

[ Motion was made by Councilmember Barnes, seconded by Councilmember Howard, and ]  
[ carried unanimously to approve the Consent Agenda as presented with the exception of ]  
[ Item Nos. 22, 30, 32, 33, 34, 35, 36, and 37, which were pulled for discussion, Item No. 22, ]  
[ which was pulled by staff, and Item Nos. 44-B, 44-C, 44-D, and 44-F, which were pulled for ]  
[ speakers. ]

The following items were approved:

20. Contract to the lowest bidder, Blythe Construction, Inc., in the amount of \$5,142,303.80 for Resurfacing FY2011-A, and contract to the lowest bidder, Ferebee Corporation, in the amount of \$4,978,435.40 for Resurfacing FY2011-B.

**Summary of Bids**

**For FY2011-A**

|                           |                |
|---------------------------|----------------|
| Blythe Construction, Inc. | \$5,142,303.80 |
| Ferebee Corporation       | \$5,214,733.00 |
| Blythe Brothers Asphalt   | \$5,731,130.86 |
| Rea Contracting           | \$5,936,458.00 |

**For FY2011-B**

|                         |                |
|-------------------------|----------------|
| Ferebee Corporation     | \$4,978,435.40 |
| Blythe Construction     | \$5,026,310.50 |
| Blythe Brothers Asphalt | \$5,512,880.86 |
| Rea Contracting         | \$5,624,898.70 |

21. Contract to the lowest bidder, G.W. Liles Construction Co., Inc., in the amount of \$373,890 for renovation of the Phillips Investment Properties, LLC building located at 4701 Statesville Road.

**Summary of Bids**

|                                       |              |
|---------------------------------------|--------------|
| G.W. Liles Construction Company, Inc. | \$373,890.00 |
| Sorensen Gross, Inc.                  | \$379,500.00 |
| MV Momentum Construction, LLC         | \$390,500.00 |

24. Contract to the lowest unit price bidder, Best Uniforms, Inc., for the purchase of police uniforms, related equipment, and services for the term of three years at the unit prices set forth in the contract with the first year estimated expenditures of \$1,172,777; and authorize the City Manager to extend the contracts for two additional one-year terms with price adjustments as authorized by the contract.
25. Low bid unit price contract to Specialized Fitness Inc. for the purchase of fitness equipment estimated at \$200,000 for the term of one year, and authorize the City Manager to extend the contract for four additional one-year terms with possible price adjustments as authorized by the contract.
26. Two grants in the amount of \$150,000 for FY2010 and approximately \$73,500 for FY2011 from the Office of National Drug Control Policy (ONDCP) to implement a regional high-intensity drug trafficking area (HIDTA) program for Mecklenburg, Gaston, and Union counties; adopt Ordinance No. 4610-X appropriating \$223,500 into the Public Safety Grant Fund; and authorize the City Manager to accept three years of annual HIDTA grants, which are estimated to be \$450,000 in total.

The ordinance is recorded in Ordinance Book 57 at Page 9.

27. Accept the 2010 Assistance to Firefighters Grant award; adopt Budget Ordinance No. 4611-X appropriating \$657,000 including \$518,000 in Assistance to Firefighters Grant funding and \$139,000 in City matching funds; purchase of turnout gear as authorized by the cooperative purchasing exemption of G.S. 143-129(e)(3); and approve a contract with MES for the purchase of turnout gear in an estimated amount of \$657,000.

The ordinance is recorded in Ordinance Book 57 at Page 10.

28. Amendment to increase the annual not-to-exceed amount of the Allied Barton Security Services, Inc. contract from \$2,500,000 to \$2,910,923 in order to consolidate all Charlotte Transit Center (CTC) security and to provide for additional special event security and other security related duties.

29. Amendment to increase the not-to-exceed amount of the Quick Fuel Service LLC contract from \$10,000,000 to \$12,500,000 in order to purchase a higher percentage of CATS fuel through the more stable transit diesel fuel contract rather than from the public spot market.
31. Resolution declaring the total cost to construct an unopened, one-block portion of Wright Avenue extending to the south from Lomax Avenue as \$152,901; directing staff to prepare the preliminary assessment roll; and, setting a public hearing on the preliminary assessment roll for March 28, 2011.

The resolution is recorded in Resolution Book 42 at Pages 863-864.

38. Purchase of laboratory equipment as authorized by the sole source exemption of G.S. 143-129(e)(6), and purchase of an Agilent-brand gas chromatograph mass spectrometer and supporting equipment from Agilent Technologies, Inc. in the not-to-exceed amount of \$240,000.
39. Two contracts for \$200,000 each with The Survey Company, Inc. and Lawrence Associates for surveying services required for the design and construction of water and sewer improvements.
40. Renewal #1 of the contract with Dallas 1 Construction LLC in the amount of \$1,523,283 for replacement of aging water mains throughout Mecklenburg County, and authorize the City Manager to renew the contract for two additional terms with possible price adjustments based on the terms of the contract.
41. Service contracts to the following companies to provide instrumentation development, implementation, and maintenance at all of Utilities' treatment facilities in the combined amount of \$625,000: CITI, LLC (\$100,000); Expert Services International, LLC (\$350,000); MPG Consulting Services (\$175,000); and authorize the City Manager to renew the contracts for three additional terms with possible price adjustments as stated in the contracts.
42. Contract with Vehicle Prep Services for vehicle and equipment commission/decommission services for an initial term of one year in the amount of \$100,000, and authorize the City Manager to approve up to four, one-year renewal options as authorized by the contract and contingent upon the company's satisfactory performance.
43. Resolution declaring specific vehicles, equipment, and other miscellaneous items as surplus, and authorize said items for sale by public auctions on April 9, 2011, and April 16, 2011.

The resolution is recorded in Resolution Book 42 at Pages 865-870.

- 44-A. Ordinance No. 4612-X authorizing the use of In Rem Remedy to demolish and remove the structure at 2529 Booker Avenue (Neighborhood Statistical Area 23 – Washington Heights Neighborhood).

The ordinance is recorded in Ordinance Book 57 at Page 11.

- 44-E. Ordinance No. 4613-X authorizing the use of In Rem Remedy to demolish and remove the structure at 713 Bilmark Avenue (Neighborhood Statistical Area 140 – Hidden Valley Neighborhood).

The ordinance is recorded in Ordinance Book 57 at Page 12.

- 44-F. Ordinance No. 4614-X authorizing the use of In Rem Remedy to demolish and remove the structure at 3218 Capitol Drive (Neighborhood Statistical Area 4 – Capitol Drive Neighborhood).

The ordinance is recorded in Ordinance Book 57 at Page 13.

- 44-G. Ordinance No. 4615-X authorizing the use of In Rem Remedy to demolish and remove the structure at 400 Lakewood Avenue (Neighborhood Statistical Area 21 – Lakewood Neighborhood).

The ordinance is recorded in Ordinance Book 57 at Page 14.

- 44-H. Ordinance No. 4616-X authorizing the use of In Rem Remedy to demolish and remove the structure at 2740 Mayfair Avenue (Neighborhood Statistical Area 9 – Ponderosa/Wingate Neighborhood).

The ordinance is recorded in Ordinance Book 57 at Page 15.

- 44-I. Ordinance No. 4617-X authorizing the use of In Rem Remedy to demolish and remove the structure at 4110-1 Triangle Drive (Neighborhood Statistical Area 18 – Enderly Park Neighborhood).

The ordinance is recorded in Ordinance Book 57 at Page 16.

- 44-J. Ordinance No. 4618-X authorizing the use of In Rem Remedy to demolish and remove the structure at 401 Wellingford Drive (Neighborhood Statistical Area 140 – Hidden Valley Neighborhood).

The ordinance is recorded in Ordinance Book 57 at Page 17.

- 44-K. Ordinance No. 4619-X authorizing the use of In Rem Remedy to demolish and remove the structure at 2633 Wilkinson Boulevard (Neighborhood Statistical Area 8 – West Boulevard Neighborhood).

The ordinance is recorded in Ordinance Book 57 at Page 18.

- 44-L. Ordinance No. 4620-X authorizing the use of In Rem Remedy to demolish and remove the structure at 4620 Willard Street (Neighborhood Statistical Area 19 – Thomasboro/Hoskins Neighborhood).

The ordinance is recorded in Ordinance Book 57 at Page 19.

45. Payment of \$175,000 in full and final settlement of a Workers' Compensation claim for Charlotte Mecklenburg Police Department employee, Ginger Lowe.

46. Additional compensation of \$225,000 in final settlement of the condemnation case captioned City of Charlotte v. Carmel Country Club, Inc., 09-CVS-15851.

- 47-A. Acquisition of 12,268.71 square feet in existing right-of-way plus 12,551.03 square feet in sanitary sewer easement plus 19,548.14 square feet in temporary construction easement at 2465 Mecklenburg Avenue from Charlotte Country Club, Inc. for \$12,025 for Arnold Drive – Proposed 15" Sewer Replacement Serving, Parcel #1.

- 47-B. Acquisition of 854.67 square feet in sanitary sewer easement plus 1,708.92 square feet in temporary construction easement at 2408 Kenmore Avenue from William E. Craig and wife, Wanda B. Craig, for \$16,500 for North Dotger Avenue Proposed 10" Sanitary Sewer Relocation, Parcel #3.

- 47-C. Acquisition of 15,871 square feet in fee simple plus 33,419 square feet in existing right-of-way plus 176 square feet in utility easement plus 14,338 square feet in temporary construction easement at 14200 Mallard Creek Road from Mallard Creek Polymers, Inc. for \$11,500 for Salome Church at Mallard, Parcel #6.

47-D. Acquisition of 97,716 square feet in sanitary sewer easement plus 1,628 square feet in temporary construction easement at 14523 Carowinds Boulevard from Cedar Fair Southwest, Inc. for \$44,600 for Steele Creek Pump Station Replacement, Parcel #5.

47-E. Acquisition of 19,054 square feet in sanitary sewer easement plus 3,971 square feet in permanent sanitary sewer easement overlapping railroad right-of-way on Cranford Drive from Mecklenburg Development Group, Inc. for \$29,000 for Steele Creek Pump Station Replacement, Parcel #22.

47-F. Resolution of condemnation of 12,623 square feet in permanent easement plus 3,579 square feet in temporary construction easement at 5108 Witham Passage from Brantley Oaks Homeowners Association and any other parties of interest for \$3,100 for 2009 Annex. Hood Road North Water Main, Parcel #99.

The resolution is recorded in Resolution Book 42 at Page 871.

47-G. Resolution of condemnation of 895 square feet in storm drainage easement plus 8,138 square feet in sidewalk and utility easement plus 4,621 square feet in temporary construction easement at Brookshire Boulevard from Fred D. Godley and wife, Kathryn B. Godley, and any other parties of interest for \$7,900 for Rozzelles Ferry Road Sidewalk, Parcel #3.

The resolution is recorded in Resolution Book 42 at Page 872.

47-H. Resolution of condemnation of 1,874 square feet in fee simple plus 18,338 square feet in existing right-of-way plus 16,030 square feet in temporary construction easement at Mallard Creek Road from WC&C, Inc. and any other parties of interest for \$1,675 for Salome Church at Mallard Creek Road, Parcel #2 and #7.

The resolution is recorded in Resolution Book 42 at Page 873.

47-I. Resolution of condemnation of 13,940 square feet in fee simple plus 17,247 square feet in existing right-of-way plus 10,683 square feet in utility easement plus 8,131 square feet in temporary construction easement at Mallard Creek Road from Craft Holdings, LLC and any other parties of interest for \$37,950 for Salome Church at Mallard Creek Road, Parcel #3.

The resolution is recorded in Resolution Book 42 at Page 874.

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**ITEM NO. 22: STONEBRIDGE POND AND DAM ENHANCEMENT**

Councilmember Dulin said this is a pond and dam enhancement that I have been consistent in saying this ought to be at least some involvement by the property owners, and to stay consistent I'm going to vote no on this.

Councilmember Barnes said, Mayor, I would like to ask staff – Mr. Manager, you don't have to do it now, but if you could have a brief report provided to us regarding the benefits of these restorations because as I understood it part of the goal was to filter storm water in these dams and ponds to improve water quality, decrease downstream flooding and so forth, and I would like to understand that those things are true because I think Mr. Dulin has raised some very valid questions. He and I have shared some concerns on these, but I think there is an overall value to doing this work and want to more fully understand it, so if you could provide that, I would appreciate it.

**Curt Walton, City Manager**, said, yes, sir.

[ Motion was made by Councilmember Barnes and seconded by Councilmember Kinsey to ]  
[ award a low bid contract of \$373,890 to G.W. Liles Construction Co., Inc. for renovation ]  
[ of the Phillips Investment Properties, LLC building located at 4701 Statesville Road. ]

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

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

**NAYS:** Councilmember Dulin

**Summary of Bids**

|                             |              |
|-----------------------------|--------------|
| Horsepower Site Services    | \$331,573.00 |
| United Construction Company | \$534,710.00 |
| Blythe Construction, Inc.   | \$558,536.00 |
| Blythe Development Company  | \$869,473.00 |

\* \* \* \* \*

**ITEM NO. 30: ANNEXATION STREET MAINTENANCE RESOLUTION**

Councilmember Carter said I am wondering if the priority is given to our annexed streets being brought up to our City standard; is that the intent?

**Eric Campbell, Assistant City Manager**, said in regards to your question, Councilmember Carter, CDOT does work to bring the streets up to standard, however they work with Utilities and Storm Water first so the main facilities can be put in before they begin to work on the streets, and that whole process with upgrading streets and putting in the proper facilities is probably like a two-year process before it's totally complete.

Councilmember Carter said but it will be completed in the two-year process that we promise those whose property we annex.

Mr. Campbell said, yes, ma'am, and in the interim, they do minor repairs in that process.

[ Motion was made by Councilmember Carter, seconded by Councilmember Kinsey, and ]  
[ carried unanimously to adopt a resolution to transfer maintenance for 37 street, totaling ]  
[ 12.31 miles from the North Carolina Department of Transportation (NCDOT) to the City ]  
[ of Charlotte. ]

The resolution is recorded in Resolution Book 42 at Page 862.

\* \* \* \* \*

**ITEM NO. 32: DISCOVERY PLACE BOILER REPLACEMENT**

Councilmember Dulin said this is replacing the well past their useful life boilers at Discovery Place. This came up in a committee meeting this afternoon of the Environment Committee chaired by Councilmember Peacock. It just raised questions and eyebrows because the City just spent \$32 million renovating Discovery Place, reopened in June, and now we are having to spend \$62,000 on new boilers and a little bit under \$50,000 to install these boilers, and that just sort of rubbed me a little bit wrong, and I would like to get somebody to explain that to me.

**Eric Campbell, Assistant City Manager**, said in looking at the Item 32, which is on page 33, the funding source, Government Facilities CIP, is actually an incorrect funding source. The funding for the boilers is coming from the \$32 million. Staff waited to upgrade those boilers, but it's coming from the renovation fund.

Councilmember Dulin said I got another problem with that if I can follow up. Why weren't they replaced a year ago when we did the \$32 million renovation? The building is up and functioning and running now, and, by the way, fabulous. If you haven't been to the new Discovery Place, please go, but this should have been caught before we sent the thing out to bid. I mean it should have been caught two years ago or three years ago, and why weren't we on it?

**William Haas, Engineering**, said just like any other project we have to make decisions all the time, and in this particular case, we made the decision to put more of the money in aesthetics up front and deferred the decision on purchasing the boilers until later in the project when we knew we had funding still left in the account.

Councilmember Dulin said, well, sir, I mean – may I continue, please?

Mayor Foxx said absolutely. You have the floor until you yield it.

Councilmember Dulin said we knew they were coming to the end of their life expectancy anyway. Were you going to spend all the money and then go back and get us to fund more money? I would like – sir, if this is coming out of the \$32 million, then it's time for us to have an audit about where the \$32 million is and how much we have spent of it and how much is left and who is making these decisions. This should have never come to this point where we are now having to replace boilers in a building that just had the grand reopening five months ago.

We are going to end up voting for this thing. We are going to get our new boilers, and it's a lot of money to people. It's not a whole lot of money in this project, but this kind of stuff we have got to be more professional than this, and we have to know what is coming up, and I wouldn't having – Mr. Manager, I wouldn't mind having a little audit of how much money is left and where it is and who is writing the checks.

**Curt Walton, City Manager**, said we would be very happy to do that, Mr. Dulin, because we are very good project engineers and very good construction engineers, so we will be glad to do that on any project that you ask us to.

Councilmember Dulin said thank you. Discovery Place, please.

City Manager Walton said you got it.

Councilmember Cannon said I'm just trying to understand what the real issue is here. It sounds to me like the \$32 million was already an established fund. This was coming from the renovation fund; correct?

Mr. Haas said correct.

Councilmember Cannon said that was already established; right?

Mr. Haas said correct.

Councilmember Cannon said all you are doing basically is to be allowed – we saw the life was running out on the boiler. You didn't take it out because there was still life there, and, of course, when you saw it was dying its death you have now come back before the Council to get approval to replace the boiler.

Mr. Haas said correct.

Councilmember Cannon said so what's the issue here? Move approval.

[ Motion was made by Councilmember Cannon and seconded by Councilmember Barnes to ]  
[ approve the purchase of Harsco PK boilers authorized by the sole source exemption of G.S. ]  
[ 143-129(e)(6), and approve a contract with Thermal Resource Sales, Inc. in the amount of ]  
[ \$62,975 for the purchase of two Harsco PK boilers and associated flue piping. ]

Councilmember Carter said I sat in on the same meeting as Mr. Dulin. I respect our City engineers and Building Maintenance Service that we have. The prioritization was outstanding. The management of our buildings saves us one-half of the cost for energy that the state expends. It is a very respectable process. The replacement of these boilers entered into the prioritization process. It is an energy saving. Helps our environment by having more efficient boilers, and I am very supportive of both the process, the personnel, and the effect of this proposal.

Councilmember Dulin said I have to respond to that, Mr. Mayor. I haven't said anything – I didn't say anything about that building; in fact, I said it was a great building. I didn't say anything about – all I wanted to know is if we are doing a \$32 million renovation on a building we own, and we got a report today that it uses half the energy most other buildings do – that's great. That's one of the reasons why we renovated it, but I'm sure we probably redid the chillers. When you are fixing a building and it's torn up is the time to fix it, and we should have known these things were at the end of their life expectancy and gone with it at that time rather than it rolling around here.

Mayor Foxx said the question has been called. There is a motion and a second.

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

\* \* \* \* \*

Councilmember Cooksey said the 2011 Civics 101 class is here with us now. I think they are overlooking my shoulder as we speak. As a former teacher of that group, I want to make sure I get the chance to welcome them.

Mayor Foxx said thank you for that, Mr. Cooksey.

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- ITEM NO. 33: VARIOUS STREAM RESTORATION PROJECTS**
- ITEM NO. 34: STORM DRAINAGE PROJECTS – W.K. DICKSON RENEWAL #1**
- ITEM NO. 35: VARIOUS WATER QUALITY ENHANCEMENT PROJECTS**
- ITEM NO. 36: MYRTLE/MOREHEAD STORM DRAINAGE IMPROVEMENTS**

Councilmember Carter said if I might propose these as a group. It's 33, 34, 35, and 36. Looking at stream restoration, storm drainage, water quality enhancement. These are issues that are very important to our community. They are important for water quality. They are important to control flooding. These are issues that have been brought to us. I want to emphasize to our staff, and they have responded on certain issues, that we assure ourselves and our citizens of the least impact possible on the environment in which these projects find themselves to be sure that we use smaller off-road vehicles to try to save trees as much as possible. I think this is an important emphasis where we need to look at all goals that we have as a city including the conservation of the environment.

[ Motion was made by Councilmember Carter, seconded by Councilmember Barnes, and ]  
[ carried unanimously to approve: Item No. 33 – Contract with IDC Architects, PC d/b/a ]  
[ a CH2M HILL E&C North Carolina in the amount of \$500,000 for stream restoration ]  
[ engineering services, contract with Kimley-Horn and Associates, Inc. in the amount of ]  
[ \$750,000 for stream restoration engineering services, and authorize the City Manager to ]  
[ renew each contract twice for engineering services up to \$500,000 and \$750,000 respec- ]  
[ tively each renewal; Item No. 34 – Renewal #1 with W.K. Dickson & Co., Inc. in the ]  
[ amount of \$650,000 for engineering services for storm drainage improvement projects; ]  
[ Item No. 35 – Contract with US Infrastructure of Carolina, Inc. in the amount of \$500,000 ]  
[ for various water quality enhancement projects, and authorize the City Manager to renew ]  
[ the contract twice for engineering services on the projects assigned to the consulting firm ]  
[ up to \$500,000 each renewal; and Item No. 36 – Contract with Woolpert North Carolina, ]  
[ PLLC for \$1,477,981 for engineering services. ]



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**ITEM NO. 37: WILORA LAKE REHABILITATION CHANGE ORDER #1**

Councilmember Dulin said back to the citizens of Charlotte paying to fix private ponds and private dams. This is one of the first ones. We have been working on this one for years now – at least three years, and the citizens of Charlotte, I would like everybody to know, we are now into this thing for \$807,000, and this is a \$196,000 change order for the project, and I will be voting no.

[ Motion was made by Councilmember Cannon and seconded by Councilmember Carter ]  
[ to award Change Order #1 to United Construction of Charlotte, NC, in the amount of ]  
[ \$196,318.53 for the Wilora Lake Rehabilitation project. ]

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

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

**NAYS:** Councilmember Dulin

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**ITEM NO. 44-B: IN REM REMEDY AT 832-1 SEIGLE AVENUE**

**ITEM NO. 44-C: IN REM REMEDY AT 832-2 SEIGLE AVENUE**

**ITEM NO. 44-D: IN REM REMEDY AT 832-3 SEIGLE AVENUE**

Mayor Foxx said really 44-B, C, and D are kind of all related, so if we want to have them just address all three of those cases that would be fine.

**Rodney Faulkner (Legacy Real Estate)**, said, first of all, I would like to say thank you to the City Council for allowing us the 30-day extension to explore getting a viable solution for 832 Seigle Avenue. We actually have good news to present to you. We have a viable solution. Brandon Brown with Green City Development is going to purchase the property from us on March 8<sup>th</sup>. Through a series of emails, I think you guys saw that we found out that I wasn't going to have a buyer and then I ended up getting a buyer, and Brandon is going to basically explain to you who he is and what his plans are for the property.

**Brandon Brown, Green City Development**, said I'm the president of Green City Development. Currently as a little bit of background on myself, I'm a licensed general contractor, certified commercial real estate appraiser, and real estate broker in the State of North Carolina. Like you said, a week ago, Seigle Avenue Presbyterian Church accepted my offer to purchase their property. It's a cash offer with no contingencies. As a sign of my commitment to the project, I deposited an earnest money check for \$20,000 with the closing attorney on the date of acceptance. It is my understanding that you guys have been dealing with this for a long time. I'm definitely here to offer a good solution. There are three buildings on the property right now. Once the ownership is transferred, my plan is to immediately tear down one of the buildings in the rear. It is in the worst shape, and I would estimate that would get rid of maybe 60% of the code infractions on the site as it sits. The other two buildings, the church sanctuary, we would like to turn into a restaurant. Hopefully we could have gotten that live music crowd over there, but I think they have already left me, but within 60 days of the purchase of the property, we hope to have all code violations remediated. Within another 60 days, we plan to have the property in a warm shell condition ready for occupancy. Also in the fellowship hall we are thinking of putting in a coffee shop or my own office. So, anyway, in doing so, we will provide jobs, increase property tax base, and save an important part of Charlotte's history. As another sign of my commitment, I put in an offer to purchase with Bob Drayton the City-owned adjacent two-acre parcel so we could have more parking and expansion in the future. Today I would like to ask you all for 150-day stay from demolition to start taking possession of the property. We will meet with code enforcement officers. I have already spoken with Mr. Abernethy on the phone, but we

would speak with him every 30 days or as often as they would like to meet with us. The City has invested so much time, money, and resources in the Seigle Point project across the street. Our project would be an extension of the City's revitalization effort in the area, and we look forward to continuing the redevelopment of the area.

Mayor Foxx said can we kind of – I mean it sounds like Walter Abernethy has been in conversation with this. Do you have a recommendation on this, Walter?

**Walter Abernethy, Neighborhood and Business Development**, said I have spoken with Mr. Brown. I think we submitted a Council-Manager memo on Friday about it. A couple of concerns we still have is the security of the building. It's a heavy vagrant area. Mr. Faulkner and some volunteers did a good faith effort to try to secure it, but we checked it last week, and vagrants are back inside the buildings, so we are concerned about the overall safety of the area. This came to us as a police referral almost a year ago, so we have been trying to work with the owner. I do have one concern. We have not engaged with the owner at all on this particular issue. We can certainly sit down with the new owner, if indeed that property transfer is taking place and work out a plan to bring the property up to code and save the buildings and develop it. Our concern is we would want those to be up to the standard of the nonresidential building code.

Councilmember Barnes said, Mr. Abernethy, could you describe for me, if you would, how difficult it is to secure those buildings?

Mr. Abernethy said board up is simply – board up is a practical way to try to secure any building. The larger the building gets the more difficult it is to keep it secure. There are some HUD board up, Fire Department board up recommendations that we use when I board one up, which make it really very difficult, but even on those when we look at some of the larger buildings, some of the larger apartment units, churches, other buildings that are owned privately and owned by the City, we have found it is very difficult to secure buildings permanently. There is no such thing as permanently boarding it up. If it's a high vagrant activity area, which this is, the vagrant is going to get back in. They tried hard. We went out and looked at it like we said we would. They tried hard to get it secure, but it lasted about a week, and they were able to access the building again.

Councilmember Barnes said the challenge I have before is I wouldn't want to live next to property in this condition, and I wouldn't want to have anyone else to as well. I appreciate your efforts, sir, to rehab the property and make it a revenue generator for government. How quickly can you re-secure the property?

Mr. Brown said I don't think that's a huge issue.

Councilmember Barnes said it is a huge issue. He just said it's a huge issue. That's the problem.

Mr. Brown said I'm just saying for us to be able to secure it. I would think ten days from our date of purchase. We'll be out there the first day, if we tear down one of the buildings, which I think a lot of the vagrant activity is occurring on. That would eliminate a large portion of the problem, and the remaining egress and ingress into the property can be dealt with fairly easily.

Councilmember Barnes said do you have any reason to doubt that?

Mr. Abernethy said, no, sir. I think it's worth trying to preserve the building if that's possible. His analysis – one of those buildings is completely gone. There's no way you can save it. One of them is in really, really bad shape. They are all three in bad shape. The sanctuary is the best of the three. Mr. Drayton with Real Estate talked to me about the longevity of that arrangement, how long it takes to actually make that transition, and I honestly am not sure either about – I think last time we talked about the purchase of the City land behind it for parking. I'm not certain if that's part of the arrangement or not, and Mr. Drayton is here to talk to that, if you need for him to.

Councilmember Turner said a couple of things as you were speaking, Mr. Abernethy. I want to make a suggestion if at all possible. During this process, if we are giving this gentleman time to secure this facility as well as to try to rehab it, I'm going to make a suggestion, sir, that you authorize the Charlotte Police Department to come on those premises and enforce trespassing. In

the meantime, I think you need to move expeditiously to move any building on that property that you know you are not going to save that is contributing to these problems. As you indicated, Mr. Abernethy, you can secure this building all day long, but there is no enforcement there, so they are going to keep going in. So I'm going to ask that you at least consider that.

I think that would help you because I'm looking at it from a public safety issue here. I don't want this kind of environment around citizens in the community where someone could get hurt, but more importantly, it invites an element into our community that we oftentimes spend many hours trying to deal with. I think if you would consider those things, give the Police Department – there are forms you can fill out that allow them to come on your premises and enforce trespassers and vagrants on your property. I think that would assist you and help you to enable you to accomplish what you are setting out to do.

Councilmember Kinsey said Mr. Abernethy touched on this, but the last time we discussed the sale prior to this one hinged on the purchase of the City property behind the building. I guess my question is does this sale hinge on the sale of the City property, and I guess it does – or it may not hinge on it, but I know you have made an offer. I would like to know if that is a valid offer and sort of where that stands.

**Jeff Reid, Real Estate**, said we did, in fact, receive a written offer from the prospective buyers of a portion of the City real estate. We looked at it and evaluated it, and it is roughly 50 cents per square foot for I-2 land in a pretty fair location within the city. That's less than one-half of the tax value, so we don't really consider it a serious offer, however, we did ask for an offer, and they provided us with an offer. So our next step will be to have the property appraised, and once we receive an appraisal, we would go back to them and ask them if they are still interested in pursuing this because the offer we received is not really worth considering.

Councilmember Kinsey said how long does it take to get an appraisal? How does that play into the timing that the owner is requesting? If we don't come to an agreement with the purchase of the City property, does that mean that you are out, that you are not going to purchase the church?

Mr. Brown said, no, ma'am. It's not contingent on us obtaining the other parcel, but I would certainly like to.

Mr. Reid said in answer to your question, the appraisal you can look probably to receive in 45 to 60 days. The property that they have asked to purchase would have to be declared surplus through the departmental polling process and mandatory referral, which would run concurrently with that 30 to 45 days. Then you would have to go to an upset bid process, which could take – we would advertise the existing bid that they brought forth. It would be advertised and anybody would have ten days to step in and upset it by at least 5%, and that process would continue to repeat itself until we were able to get the highest bid for the property that we could, that the property would bring.

One other element of this that we should consider is the portion of the property that they have identified for purchase is not the part of the property we thought they were asking for. The portion they are asking for is directly behind the church they are seeking to buy, and it chops up the property in a manner that it is going to diminish significantly the value of the City's property if we sell this two acres. If we cut this two acres out of the 11 that exist, it is going to diminish the value of our remainder, and it's not a sale that City Real Estate would recommend.

Councilmember Barnes said I had a question for the attorney, Mr. Hagemann, regarding the application of the nonresidential code. Under the proposed use, would the nonresidential code apply, and does the nonresidential – does the current nonresidential code apply to the property as we speak?

**Bob Hagemann, Senior Deputy City Attorney**, said Assistant City Attorney Anna Schleunes will answer that question.

**Anna Schleunes, Assistant City Attorney**, said actually I have a question for Walter before I answer the question from you. I believe we used the nonresidential building code to do these

inspections, therefore, that is the code that is being applied, and that would be standard to which the property would be held if it were repaired.

Councilmember Barnes said the nonresidential building code would apply. It applies now, and it would apply going forward.

Ms. Schleunes said correct.

Councilmember Barnes said regarding this issue of the real estate value what was the price they offered, sir? You said 50 cents a square foot, but what does that total for two acres?

Mr. Reid said they offered \$38,850, and the tax value – that equates to like I said 50 cents, and tax value – I don't know if this is the old tax value or the new values have come out yet, but the values that are listed in Polaris show the land alone being worth \$1.05 per square foot. For that reason, we didn't feel like it was an offer worthy of serious consideration.

Mayor Foxx said we need to get to an action step on this.

Councilmember Peacock said I was going to ask you just that. What is the action on this? Are we voting to give him 150 days?

Mayor Foxx said that is their request.

Mr. Abernethy said in the past on a few cases Council has directed me to take a 90-day period to establish – first of all, we would work with Legal and the new owner to work out some thresholds of repair over a 90-day period. In some of those cases, we have also asked the owner to provide us a bond for the demolition amount so that if those thresholds are not met we can move forward with the demolition. That's some action that the Council has taken before on other properties like this.

That gives him an opportunity to make repairs. That gives us an opportunity to evaluate those repairs as we go forward and to see if they can get back into compliance with the ordinance. Certainly the demolition of the one building is a good step forward in terms of abating some of the issues, but the 90-day period should allow them to get those properties within compliance with the nonresidential building code, and then if he chooses to move forward with his project in terms of the restaurant or the café that would be something new. But that is just a suggestion based on some action you have taken before on similar properties.

Councilmember Peacock said, Mr. Mayor, I would recommend that we grant the 90-day extension as recommended by Mr. Abernethy but first get a reaction from Mr. Brown and Mr. Faulkner. Is that achievable to get, A, the buildings secure, and, B, get you on the right path to purchase this property and restore it?

Mr. Brown said, yes, sir, I just ask the 90 days start from our date that we actually obtain ownership because until then we can't get in the property and change it. But that's occurring here in the next week or two.

Councilmember Peacock said one quick comment. This is very positive. We were here 30 days ago, and Ms. Bergmann from the community came to us and tried to pull together a plan. We need to celebrate this. You all have put together something that looks like we are going to be able to save a part of Charlotte's history, and we are appreciative of it.

[ Motion was made by Councilmember Peacock and seconded by Councilmember Cannon to ]  
[ grant a 90-day extension and require a bond for the demolition amount. ]

Councilmember Barnes said was that motion, Mr. Peacock, inclusive of Mr. Abernethy's suggestion regarding a bond for demolition?

Councilmember Peacock said, yes, sir, it sure is. Thank you.

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

bvj

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**ITEM NO. 44-F: IN REM REMEDY AT 3218 CAPITOL DRIVE**

Moses Vasquez, 2300 Carmine St., Apt. 5, said I'm a real estate broker and also a member of a committee, Crime Prevention and Justice for Our Communities. I'm delighted and honored to be here and humbled to be here in front of you guys, great people, Charlotte. The reason what I'm here for is I'm requesting for time to be granted on the property, 3218 Capitol Drive. That property I have been working on obtaining of that property, and I am ready to do so. The representative of that property is here. We couldn't persuade the owner to be here. He is out of state, but we have agreed on a purchase agreement, and we can produce that within 24 hours. It's a shame for this property to be demolished when it can be restored, and I'm here asking for 30 days for I to rebuild this property and bring it up to code. It will not be for rental purpose. It will be actually for me and my family to live there. This property is in a nice neighborhood. It would be a shame to have more vacant land. It's close to the Airport, and I'm asking the City Council to give me the opportunity to be the owner of this property and 30 days to rebuild it.

Walter Abernethy, Neighborhood and Business Services, said I talked to the gentleman about the offer, and I really did take a close look at the inspection filed and the analysis. We are really showing here, and it's even reflected in the photographs that you see in your package, pretty extreme conditions as far as the house goes. Our repair costs are more than the house is valued. Also, all of the plumbing, heating systems are gone. There are structural issues. There is no heating equipment in the house. I have not – this started seven, almost eight months ago, and the property is owned by one Thomas F. Kerr and Company, which we are pretty familiar with in terms of situations like this over a period of time. That company is an out-of-state owner of the property, so we are supporting the demolition. We feel like the house is too far gone to salvage it.

[ Motion was made by Councilmember Dulin, seconded by Councilmember Barnes, and ]  
[ carried unanimously to adopt Ordinance No. 4614-X authorizing the use of In Rem Remedy ]  
[ to demolish and remove the structure at 3218 Capitol Drive (Neighborhood Statistical Area ]  
[ 4 – Capitol Drive Neighborhood. ]

Mayor Foxx said sorry about that, Mr. Vasquez, but that's the action of the Council.

The ordinance is recorded in Ordinance Book 57 at Page 13.

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**ITEM NO. 8: PUBLIC HEARING ON RESOLUTION TO CLOSE AN EIGHT-FOOT ALLEYWAY LOCATED OFF N. BREVARD STREET**

[ Motion was made by Councilmember Cannon, seconded by Councilmember Carter, and ]  
[ carried unanimously to adopt a resolution to close an eight-foot alleyway located off N. ]  
[ Brevard Street. ]

The resolution is recorded in Resolution Book 42 at Pages 856-858.

\* \* \* \* \*

**ITEM NO. 9: PUBLIC HEARING ON RESOLUTION TO CLOSE A TEN-FOOT ALLEYWAY LOCATED OFF W. PARK AVENUE**

[ Motion was made by Councilmember Cannon, seconded by Councilmember Cannon, and ]  
[ carried unanimously to adopt a resolution to close a ten-foot alleyway located off W. ]  
[ Park Avenue. ]

The resolution is recorded in Resolution Book 42 at Pages 859-861.

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#### **ITEM NO. 10: CITY MANAGER'S REPORT**

**Curt Walton, City Manager**, said tonight we would like to update you on the results of the investigation completed by the Charlotte-Mecklenburg Police Department regarding the circumstances of the death of Delvonte Tisdale last November. Chief Rodney Monroe and I will each be making a portion of tonight's report. Let me first address the status of this report. This report has been classified or sealed by the United States government. Specifically the federal regulation reads as follows: "This record contains sensitive security information that is controlled under 49 CFR," which stands for Code of Federal Regulations, Parts 15 and 15-20. "No part of this record may be disclosed to persons without a need to know as defined in 49 CFR Parts 15 and 15-20 except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. The Administrator of the Transportation Security Administration," which is the TSA, "and the Secretary of Transportation have declined to allow release of the report. The definition of 'need to know' is included as an attachment to this statement, and no part of the definition includes release of the report to the general public," therefore, my comments tonight as well as Chief Monroe's comments will serve as the City's response to this investigation.

Now, to the specific incident that was investigated. On November 15, 2010, the body of 16-year-old Delvonte Tisdale was discovered in Milton, Massachusetts. A Massachusetts investigation later determined that Mr. Tisdale had apparently fallen from an aircraft that was passing over the Milton area on approach to Boston's Logan Airport. Facts reviewed in the joint investigation led to the determination that Mr. Tisdale had apparently fallen from an aircraft that departed from Charlotte to Boston. Here in Charlotte, Jerry Orr, Chief Monroe, and I agreed that the Chief would lead a multijurisdictional taskforce to conduct an investigation at Charlotte-Douglas. Chief Monroe will now share with you what he is able to under the federal regulations.

**Chief Rodney Monroe, Charlotte-Mecklenburg Police Department**, said, first of all, let me take the opportunity to thank each and every one of you for taking the time out of your very busy schedule to go and meet and express your condolences to the Thornton family. It's greatly appreciated. CMPD initiated its investigation on the case December 13, 2010. Major Glen Nedermeier took the lead of the investigation and had the authority to utilize all necessary CMPD resources. Major Andy Leonard and detectives from the Criminal Investigations Bureau were assigned the missing person portion of the investigation to attempt to determine how Mr. Tisdale got to Charlotte-Douglas International Airport. Major Nedermeier and his staff focused on the security breach at the Airport to try to determine how and when Mr. Tisdale accessed the airplane. This portion of the investigation included search for latent prints, DNA samples, as well as development of high resolution graphics. Throughout the investigation, our efforts included coordination with the representatives of TSA, the FAA, FAMS, which is the Federal Air Marshalls, and the Charlotte-Douglas International Airport.

Major Leonard and members of his staff conducted additional interviews in Charlotte, Baltimore, Boston, Milton, Massachusetts, in addition to meeting with Massachusetts state investigators. They used a variety of investigative tools to determine how Mr. Tisdale got to the Airport, however, our efforts, which included countless interviews and reviews of highway cameras, media releases, cab and bus manifests and video did not produce any evidence of his mode of transportation. Investigators also could not determine what motivated Mr. Tisdale to travel to the airport and stow away on an airplane.

Major Nedermeier and his staff conducted an extensive examination of the Airport property in an effort to determine the specific breach point that Mr. Tisdale utilized to gain access to the airplane. This included a review of video surveillance of the public sectors into the Airport, an examination of the perimeter fencing, gates, and public access areas to the Airport, interviews with Airport security personnel and other investigative measures. Major Nedermeier and his detectives identified various locations where Mr. Tisdale may have breached the Airport security

and gained access to the aircraft. Our investigation, however, concentrated on a particular area of the Airport in combination with that identified aircraft.

Based on our investigation and review of various security measures, we have identified a series of enhanced security recommendations. They include enhancement to the Airport's electronic security system, structural improvement to Airport property, increase in staffing levels to Airport police, and implementation of new patrol strategies. CMPD is committed to continue working with the Charlotte-Douglas International Airport and all of its federal partners to address any other issues regarding Airport security.

City Manager Walton said as I stated at the beginning this report has been classified and very little, if anything, can be shared from the report beyond what has been stated tonight. The recommendations you heard will be implemented in an expedient timeframe. When possible, contractual arrangements will be pursued while permanent staffing or other solutions are being sought. Some systems will require design and procurement processes to comply with state law. It is important to understand that not all of the recommendations deal with the specific event that led to this investigation, however, this investigation did give us an opportunity to evaluate all aspects of Airport security and to make improvements that we believe will enhance Airport security and better ensure the safety of its customers.

Finally, I want to thank Jerry Orr for the assistance he provided to the Charlotte-Mecklenburg Police Department in the completion of this investigation and of the overall security assessment of the Airport. I also want to thank Chief Monroe and the CMPD staff and other agencies that served on this taskforce for their very thorough investigation in demonstrating the highest level of professionalism in which it was conducted and completed. Thank you for your time and for your attention to this matter. If there are questions that can be addressed, we will be now glad to do so.

Mayor Foxx said thank you very much, and I want to add a thank you to the city manager. I know this is a very tough issue for our entire community to be dealing with, and having been on the other side of federal investigations before, I know when the U.S. government starts an investigation it's a very complicated set of procedures that are involved, and the local government really has to yield to the federal process, so this has involved a lot of different agencies and a lot of different people involved, so I want to extend thanks there. Are there questions from the dais on this? Unless there are other questions from people, I think the only other thing that I will say is that this is an incident that none of us ever wanted to happen, and in our wildest dreams did not anticipate that it would. What matters at this point is making sure that we respond, and I'm confident that the responses that you have indicated will help us going forward. I think the cooperation between our Police Department and our Airport along with our City Manager's Office will get us there, so I feel very sure we are going to be in a better place on this. Unless there are other questions, we'll keep it moving then.

\* \* \* \* \*

#### **ITEM NO. 11: TOWING AND BOOTING BUSINESS ORDINANCE**

Mayor Foxx said we had a hearing on that just a couple of weeks ago. I'm going to yield to Mayor Pro Tem Patrick Cannon, who is the chair of our Public Safety Committee.

Councilmember Cannon said I would simply like to acknowledge the members of the Community Safety Committee and that of Vice Chair Councilmember Kinsey, Councilmembers Dulin, Peacock, and Barnes, and also acknowledge staff resources in that of Eric Campbell out of the City Manager's Office, Mark Newbold of the Police Department, along with Major Eddie Levins, also of the Charlotte-Mecklenburg Police Department. I want to thank each and every one of you for being a part of what was a long process, one where many members of the committee paid close attention and detail to this issue relative to what some have labeled as being predatory towing and also for the members of Council in its entirety for participating in the process as this did go before us at a Dinner Meeting. We had a workshop there, and then, in turn, for us to be able to have a public hearing a couple of weeks ago to allow the general public to express its level of yeas or nays about where we go forward with this. Rather than to continue

to go right back through all of what was discussed two weeks, which I'm sure all of us are familiar with, Mr. Mayor, I would like to recognize, if the Mayor may be okay with it, Councilmember Peacock for an action item.

Councilmember Peacock said I would like to move approval of Item No. 11.

[ Motion was made by Councilmember Peacock, seconded by Councilmember Barnes, and ]  
[ carried unanimously to approve the Community Safety Committee recommendation to adopt ]  
[ Ordinance No. 4608 amending Chapter 6 of the Charlotte City Code entitled "Businesses and ]  
[ Trades" to address issues associated with tows from private property. ]

Councilmember Cannon said, Mr. Mayor, I would just close by simply saying that hopefully this action will assist Charlotteans and visitors from being victims of predatory towing going forward in the future.

The ordinance is recorded in Ordinance Book 57 at Pages 1-6.

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## **ITEM NO. 12: UTILITIES' RATE METHODOLOGY CHANGES**

Mayor Foxx said we have had some discussion of this in the last couple of weeks. My good friend, Warren Cooksey, the chair of the Restructuring Government Committee, has a smile from ear to ear because this is a subject that delights his heart. Mr. Cooksey, would you like to introduce this item?

Councilmember Cooksey said I'm grinning because Councilmember Cannon just set a high bar for passing a major piece of work by this Council. I don't think it's going to come easy for this one. My timer wasn't even on, so I don't know what the standard is supposed to be. I will thank the committee Vice Chairman Cannon, Ms. Kinsey, Mr. Mitchell, Mr. Turner, who have met on a number of occasions and spoken with me about this. Again, we had the public hearing last Business Meeting and a dinner conversation. The vast majority of the work, however, of course has been done by Barry Gullet and his Utilities team as consultants, who have been working on this for months with an incredibly open process in addition to our established Utility Advisory Committee. A specific stakeholder advisory group was chosen to help guide this proposal as well. There were a series of ten public meetings – five prior to coming up with a draft, five afterward. It has just been a tremendous public process, and I applaud everyone for working on that.

This is a tricky subject. There are a lot of moving parts to it. The number one thing we have to do each year, of course, is fund the Utilities Department, which delivers water and treats sewage for hundreds of thousands of people in this county, across all seven municipalities. I think the staff can cite 8,000 miles we get to manage. What I think we should realize is that the existing methodology has a weakness, and that is that when we have tremendous swings in water usage in a drought situation, in a heavy rain situation, we become very vulnerable to the need to do dramatic rate increases.

We have seen this in my term on Council of getting into a drought situation. It goes on for quite a while, and then we are called upon to do 14% across-the-board rate increases to make sure we are funding utility operations. What I think commends this proposal to Council's attention best is the addition of an availability charge that helps take the percentage of revenue from fixed cost, from 6% to about 16%, to help smooth out those potential increases because we are currently, as I recall, in a stage one drought situation now, so the clock is ticking on us. Hopefully tonight's rain will help address that and stick with us.

In addition to that availability charge, which, of course, will add a fixed cost to the bill, the methods for calculating the tiers have changed considerably. We have a four-tier system, and I think the most important element of the four-tier system that we are maintaining is lowering the rate on tier one, the so-called lifeline rate for the first 400 cubic feet of water use in a billing period so that the net effect of this methodology – I'll leave it at this statistic – is that if it were in



place today a consumer of 4 ccf of water in a billing period, which is about half our customer base is four or less, would have a bill for his water component of \$5.75 as opposed to \$5.80 under the current methodology, so that demonstrates how the change in the tier methodology has been adapted to the fixed cost, that lifeline rate, the minimum amount of water needed for a household is accommodated and not additionally charged for.

The next major item is a change in the sewer cap. We currently have a cap at 24. We are moving toward a sewer charge based on actual sewage usage. The 24 ccf cap is far outdated and does not match what our consumers are actually using, so there is a transition of 16 ccf cap for this year, and then by 2013 we should be able to calculate sewage based on the actual cost that a household is incurring rather than just an arbitrary number.

There are a number of other changes to improve irrigation. Again, we have talked about this a lot, but this is such a complex element. The attachment alone ran into dozens of pages that made for captivating reading, and I commend it again to Council's attention. So I would go ahead, Mr. Mayor, and move approval and hope we move forward expeditiously.

[ Motion was made by Councilmember Cooksey and seconded by Councilmember Howard to ]  
[ approve the Restructuring Government Committee recommendation to change the Charlotte- ]  
[ Mecklenburg Utilities' water and sewer rate methodology as set forth in the Water and Sewer ]  
[ Rate Study Report by Red Oak Consulting dated February 22, 2011, and adopt Ordinance No. ]  
[ 4609 amending Chapter 23 of the City Code to incorporate the revised rate methodology. ]

Councilmember Kinsey said I have had concerns about this for a long time, but the only concern that I am hearing now from the public that I would like for Mr. Gullet maybe to answer is that this particular plan could encourage people to use more water at the higher level because that particular rate is going to go down. I understand it, and I don't think I need to explain it. But, Mr. Gullet, that's what I'm hearing from people. Can you ease our minds on that?

**Barry Gullet, Utilities**, said I would point out that the people who use the most water will still pay the highest rate. We believe that conservation is very important, and the rate methodology actually provides incentives for folks to conserve water, so it's taking a little bit different tact. It still charges the people who use the most the highest rate, so that encourages conservation. It actually moves the conservation message down the scale a little bit, and the folks in the Tier 3 rate get a little bit stronger conservation message, and then we provide incentives for people to install irrigation equipment that has been proven to conserve 15 to 30% of water use for irrigation, so we believe that accomplishes the goal.

Mayor Foxx said we have a long row of people now.

Councilmember Barnes said I have been in some fairly lengthy conversations with Mr. Gullet, who just disappeared, about the proposed methodology, and I appreciate the time he has taken with me. I told him early on that I have been reluctant to support the methodology because I believe more of the cost burden should be shifted to the people who use the most water. I understand, Mr. Cooksey, the adjustments that we are considering with respect to sewer rate and the fact that it will actually become a fixed rate once you get beyond 16 ccfs.

What I want to do and what I would like to have Mr. Gullet consider and give me some feedback on, if he could quickly, is talk about a way to adjust the proposed cost increment for the ccfs beyond 16. Most people in the city use less than 9 ccfs, and everybody's bill is going to go up, but for the people who are using the largest amounts of water, their bill essentially goes down once you get up to 16, 17, 18, 19 ccfs, and that is because of the proposed fixed nature of the sewer rate. So, Mr. Gullet, if you could talk to us about this cost increment issue, and I will be more specific. Right now the current increment for folks who use 4 ccfs or less is \$5.76, and under the proposed structure, it would be \$4.88, and it actually goes down to \$4.61 for people who are using more than 16 ccfs. You showed me a graph that detailed the rate structure for water usage and rate structure for the sewer charge, and as I told you earlier, I'm concerned about that 90% of people who use less than 9 ccfs.

Mr. Gullet said when we held our public meetings concerning the rate methodology one of the things that we heard loud and clear from the public is that our rate structure needed to be

equitable and needed to be based on what it actually cost us to provide the service. When our consultants and our staff started looking at how we establish the tiers, we went back and reviewed the costs that were assigned to each tier. In other words, it costs us more to provide service at that higher level than it does at the lower level, and we put a lot of work into figuring out and assigning which costs should go to which tier.

The rate methodology that we are proposing and recommending is based on our best work at assigning those costs in a way that truly represents the cost of providing that level of service to that customer. To go back and adjust any of those tiers would be to go back and adjust how we assign cost to those tiers. We have given that our best shot at this point. Now, I understand that there is some concern that the Tier 4 rate is actually coming down a little bit, and that is again due to the cost of providing that service. Where most of the feedback that has come in the last couple of weeks has been related to the sewer charge, as you mention, and the sewer charge is simply being adjusted again to reflect the cost of providing service, and the rate methodology that we have extends sewer charges all the way up to 2,400 cubic feet, and that's way beyond what most people discharge into the sewer system.

Councilmember Barnes said are you saying that you can't really respond to the sort of adjustment I'm talking about?

Mr. Gullet said I'm saying that to respond to the sort of adjustment you are talking about would be to go back and reassign cost to the tiers based on some other consideration other than the cost of actually providing the service at that level.

Councilmember Peacock said, Mr. Gullet, how much does Charlotte pay for water and sewer compared to our other comparable cities in the southeast? What is the rate in Raleigh, Greensboro, Atlanta, Greenville? I didn't see that in our data, and maybe Mr. Cooksey knows it off the top of his head, which I suspect he does.

Mr. Gullet said we have actually provided that information to the Restructuring Government Committee, and we generally look at that as we go through the rate setting process. I don't have the specific numbers off the top of my head, but I can tell you that we compare very well. Our rates are typically lower than most of our neighbors and lower than most of the utilities in the southeast.

Councilmember Cooksey said I, too, have very little left off the top of my head, but what I do like to cite from the charts that Utilities has provided is that \$50 worth of water in Charlotte will cost you \$150 in Atlanta.

Councilmember Peacock said thank you, Mr. Cooksey.

Councilmember Carter said there were two issues that swung my vote on this. Number one, a fixed cost for everyone providing the service to everyone, for debt, for maintenance, and for extension of services needed; and, number two, the people who use the most will pay the highest rate for water. Mr. Gullet, I thank you very much. You spent a lot of time with me as you did with other members of Council to help us understand. I would request as we go through this first cycle of the new tiers that you come back to us in November, and I'm saying November for a very special reason. I would like to hear the review and the impact of what we are doing and have a chance to review those issues.

Councilmember Turner said, Mr. Gullet, a couple of things, if you don't mind, to kind of help explain to the citizens out there. I want to talk a little in regards to the cost of recovery, the capture of your operation costs, the service that we provide. The Utility Department is basically what drives our revenue, so could you talk to us in regards to if you are able to recover your average daily costs, your water bill cycle, your other 50%. I think we are about half here, so what is driving the other costs that you are not able to recapture? Is it the repairs, the lines, or future build-out of line, more lines, or future pump? What is it that the citizens you say came to your meeting that actually want to see you be able to recover your operation costs. In the past, how well have we done that?

Mr. Gullet said if I understand your question correctly you are asking if we are recovering our operating costs through our rate structure, and the answer to that is, yes, we are. We are now, and the proposed rate methodology is revenue neutral. It should recover the same amount of revenue that our current rate methodology does. You are correct that Utilities operates off of our revenues. We are an enterprise department. We do not receive any tax support from the City or the County or the State and very few, if any, grants in recent history, so we do need to recover our charges.

Our costs are primarily two things, and you hit them on the head. One is our capital cost of building things and paying for that, and the other part is operating the utility. For the last several years, we have absorbed a lot of operating cost increases, and our operating budget has remained flat. Our debt service payment, the payment that we are paying to build things, have gone up every year practically, and that has been driving our revenue needs for the last several years.

Councilmember Turner said how are we doing in reference to our bond – being able to sell our bonds?

Mr. Gullet said we use revenue bonds to fund our capital program, and we haven't had any difficulty selling those, and, in fact, we are AAA rated by all three of the major rating agencies.

Councilmember Turner said so if we did absolutely nothing tonight and left it as it is currently tier structured how would that effect us going forward and your capital improvement projects?

Mr. Gullet said the availability fee that we have proposed will add tremendously to our revenue stability, and I believe that would be an enhancement to our financial standing. It helps target our recovery of debt service. That availability fee is targeted to recover 20% of our annual debt service, so that is a tremendous benefit to our financial stability.

Councilmember Turner said if we did nothing tonight – what if we stay where we are?

Mr. Gullet said if you do nothing tonight and we stay as we are we will still be subject to the swings in revenue stability that are caused by weather or economic downturn. We will still have a rate structure that we have heard from the public in our public meetings that isn't considered to be equitable and in some cases may charge folks for services that they aren't receiving.

Councilmember Turner said in saying that that is one of my concerns, too. I still think there are a couple of things still out there that we think we have done a lot better in getting our arms around this, and I want to commend you for that and your department. One, there is a trust factor still that we are all dealing with in regards to our leakage and the surcharges. The other is there is a perception and there is a reality for those that are barely paying their water bill today. The summer months bring on high volume, not necessarily poor people watering their grass or their flowers but simply trying to keep cool, taking more showers, more baths, and having to wash more clothes that's on a fixed income.

I have gotten a lot of concern from folks, and I have expressed my concern in the meetings that I'm just not there yet. I think that we are going to have to do a better job in being able to explain to the citizens in advance of exactly what it is that we are trying to capture. Why is it important to cover our costs, our future costs and demands, and where those demands are coming from because what we are dealing with in a lot of aspects here is that we built a lot of new subdivisions and future growth that we see has impacted our system, and folks don't want to pay their turn, and someone pay for theirs. But in these tough economic times that we are dealing with in our economy with our seniors being on these fixed incomes, there is a huge cry there that people are really concerned whether or not they will be able to keep their water on when they oftentimes have had to make that phone call, and someone says, well, if you don't pay your bill, we are going to turn you off. Well, that's the obvious. That does not make their problem better nor does it make it go away when we are now discussing raising our fees in order for people to receive that simple service that we provide them, and that is getting good water on a daily basis. So, tonight I am still where I was. I just don't think I can support this.

Mr. Gullet said affordability was one of the major factors that we considered in our public meetings and in the public process and putting forth the rate recommendation. We had an expert

consultant who evaluated the affordability of our rates and found that they are very affordable when compared with other cities of our size and the proposed methodology still left them in that position. We also, if you will notice, lowered the lifeline rate quite a bit to help offset the impacts of the availability fee so the net impact on those lower users was minimized to the extent that we could.

Councilmember Peacock said I want to make a motion to approve Item A and B under Agenda Item 12, Utilities' Rate Methodology Changes.

Mayor Foxx said that's a second because Mr. Cooksey has already done it.

Councilmember Howard said Councilmember Burgess actually just used the computer and went and found Raleigh's rates just for information. It looks like they have a three tier system, and under 4 ccfs they pay \$2.28, and I believe ours is –

Mr. Gullet said eighty-nine cents per ccf.

Councilmember Howard said theirs is \$2.28; is that right? That sounds right to me. Am I saying that right?

Mr. Gullet said I know that Raleigh's rate system is fairly complex in that Raleigh and Wake County have somewhat of a consolidated utility, and they have different rates depending on whether you live inside the city of Raleigh or whether you live outside the city or in other towns.

Councilmember Howard said outside the city is \$4.56.

Mr. Gullet said that's not inconsistent with my understanding, but I don't know the exact numbers.

Councilmember Howard said I don't know if that is water and sewer. My point to the Council is that we are way under.

Councilmember Turner said that's your point to me?

Councilmember Howard said, no, sir, I'm saying I'm sharing that information with the Council.

Councilmember Turner said because my response to that, with all due respect, Mr. Howard, is I don't live in Raleigh, I don't live in Atlanta, and we, as a committee, saw those studies. We actually compared those and looked at them. I just don't think I find that to justify where we are right now.

Councilmember Kinsey said, Mr. Gullet, the set availability fee does that really cover wild swings in weather or does it cover a portion of it? The only reason I'm asking is if we're telling citizens that it's going to cover the weather swings and then we have to come back and ask for a rate increase, we are going to hear about it. I guess I want clarification.

Mr. Gullet said I cannot stand here and tell you that it will cover all of them. It will certainly help. It's set to target 20% of our debt service. We have a large part of our operating costs are fixed costs, probably in the range of 80 to 90% of our costs are fixed costs whether we pump one gallon of water or 100 million gallons of water. So those costs will continue to be there, and when we have to go into water restrictions and people use less water, our revenue and our costs really don't go down very much. Water mains particularly – I have kidded around with people that no one told the water mains that we were in an economic downturn, and they are breaking just as often as they used to even though we have a lot fewer staff to go fix them.

Councilmember Kinsey said I really wanted that for the record because that's what I thought, but I wanted people to understand that we really can't say for sure that those fixed costs would cover everything.

Councilmember Cooksey said I'll reinforce that from a committee chair perspective. No, we can't promise that this takes care of any rate increase. I think the best we can offer is that it helps

bvj

reduce the likely impact, so maybe a high single digit increase instead of a double digit increase. That's unfortunately what we have to deal with. Another good element of the fixed costs from a complication is it's not just about covering the revenue of Utilities; it's about covering the fund balance we need for our bond covenants. Remember, that was another element we had to have. It wasn't just about hitting the target. We have to have enough money, enough cash in hand, to keep that AAA rating to maintain the low interest rate. Having this fixed cost component will assist – looking for a nod of approval here because I remember that from a couple of meetings ago.

Mr. Gullet said that's correct.

Councilmember Cooksey said it will also assist us hitting those bond covenants to maintain that AAA, which is an unusual rating for us to have as a growing utility, and I would like to maintain that for the rate fares for the future.

Councilmember Barnes said I just want to make a couple of points before I vote against this. The situation is, and you guys know it and they know it, is people are paying \$3.40 and \$3.50 for gas, groceries are going up, and the tax level may stay the same, but values have gone up for a lot of people in the county and in the city, and there is this palpable frustration that people have with the rising cost of living while their wages stay the same or go down in many instances. What I was hoping to do would be, Mr. Gullet, to find a small shift that we can make from these high users to help, as I said, the overwhelming majority of people in the county who don't use more than 9 ccfs of water per month.

I very much understand intellectually what you are saying, Mr. Cooksey, but I think that in light of what is happening in the broader economy and in our community my sensitivity is to do what I can to help people who essentially need our help. Running water is a basic necessity, and what I don't think we want to do is reward people who are filling up swimming pools on a daily basis or using those ten-head showers and all that business. So, I'm voting against it because I think we should be shifting more of the cost to the larger users. I hope we won't see a rate increase coming, but I imagine that may be the case.

I understand the frustrations and the difficulties of the Utility Department because of all the expansion. In my opinion, some of it has been quite foolish. The development we have allowed over the last ten years that has created a lot of neighborhoods that as I have told you guys are already in need of rehabilitation, and we have done a lot of that in order to grow our tax base, so we have had to expand the utility services. I get that. Again, Mr. Gullet, I don't know if we could ever come to a point where we could accomplish this, but I had hoped to be able to do a small shift from the folks that are using less than 9 ccfs down to the folks who are using over 16 to balance it out more, but I understand why you are saying philosophically that you can't in terms of charging people the cost of the service. We haven't been doing that for a long time, and I'm not in a position to do it under the current methodology.

Councilmember Cooksey said I appreciate the comments made, but I think part of the dilemma is – and this is a good thing – we don't really have enough high water users to really get that much revenue out of them. We have seen a chart before that said approximately 8% of our customer base provides 24% of our revenue now. The higher you go on those higher tiers you shift from revenue generation to more in the line of conservation. When people conserve, they stop paying at that higher rate, which causes us to have to raise rates in the lower tiers anyway. We have to strike a good balance in how those rates are assessed across the board, and I think the existing methodology doesn't quite do that well. The new methodology does, and it is very explicit about establishing subsidy for those first four ccf, which affects not simply folks who live in a modest home with a modest yard and aren't watering a lot but also the owners of the million dollar condo who have no yard to water and are also probably using only 4 ccf and are getting subsidized, too, so it's not purely across socioeconomic outlines. It's purely about the users.

Mayor Foxx said let me ask a couple of questions before we go to vote on this. Has there been any analysis as to what the impact on consumption will be if we approve this methodology?

Mr. Gullet said I'm sorry. Your question is impact on –

Mayor Foxx said water consumption.

Mr. Gullet said I don't believe this will have an impact on water consumption.

Mayor Foxx said based on what?

Mr. Gullet said based on the fact that we really aren't changing the cost of water very much, and I don't believe – this wasn't designed to have an impact on water consumption any more so than our current rate methodology does.

Mayor Foxx said I think the question about the extent to which we have a conservation rate now. Theoretically we will have a conservation rate if this methodology is approved albeit at the top rate the rate comes down.

Mr. Gullet said actually we will very much have a conservation rate. As I said, the tier 3 rate is going up a little bit, and the tier 4 rate is coming down a little bit, so the conservation message actually kicks in a little earlier than it would and affects more people in the tier 3 rate than it does in the tier 4 rate, so that piece of the conservation rate is still there. The other piece is the incentives for people who do irrigate heavily to install irrigation controllers that have been demonstrated to save 15 to 30% on their water usage for that purpose, so that could reduce water consumption, but it will take a few years for people to install those and for us to see any real benefits. So, again, the purpose of this rate methodology study was not to change necessarily our conservation incentive at all. It's to maintain a conservation incentive but to do so in a fair and equitable way so that people are paying for the services that they are receiving.

Mayor Foxx said what analysis or thought has been given to this issue of the lower rates, the lifeline rates, to the extent to which there would be an affordability problem? I take the point about Raleigh and the fact that relative to competition we are lower than many places that we look at, but if you are the person paying the bill and your rate goes up even slightly at a marginal level of income that can be material. What thought has gone into that?

Mr. Gullet said there has been a lot of thought that went into that actually. The affordability issue – It's not necessarily a valid assumption that the people who are using the least amount of water are having the most difficulty paying for it. There are a lot of lower income families who have children and who use higher amounts of water, so this whole rate methodology is designed to be fair across the board. The analysis that was done on the affordability looked at different size families and the amounts of water they use and compared the percentage of their disposable income they are spending on water and utilities to what comparable families would be spending across the country, and they found that in Charlotte that percentage actually compares very well with other cities.

Mayor Foxx said there is a side conversation that we have all been having over the last year and a half about water meters and so forth. Are we seeing a trend with those meter problems that correlate to any of the particular rates? Are we seeing a higher percentage at the top rate, a higher percentage at the middle rate, or is it kind of spread all across?

Mr. Gullet said we are seeing it spread. We hear more from the people who use more water because it's more pronounced, and they see it more because they are using more water. The issue with the meters has not been a meter accuracy issue. In fact, a lot of the message that we have heard over the last year, year and a half about water bills have really been more about bills and the rate structure than they have been about the meters. When we have gone in and looked at this, we found there wasn't one single item that we could say this is the problem

What we found is that a lot of people did not water their grass during the drought when we were under mandatory restrictions, and when the restrictions were lifted and they began watering again and the rates had gone up, the sewer cap had been extended, and their water bills turned out to be much higher than they had experienced before, so that's where a lot of the equity issue has come in, and that's part of what drove the reason for this study was to look at the equity issue.

Mayor Foxx said but to be very clear this issue would have been brought up anyway even without the meter issue. This is not a fix to the meter issue; is it?

Mr. Gullet said that's correct. This is not really related to meters.

Mayor Foxx said there is a motion and a second. We have had a lot of conversation about this, and I wanted to get some of those questions put out there. I have some misgivings about this because I'm not 100% sure we are not going to see people at the margins not able to pay their bills, but at the same time, I also understand that we have people paying for services they are not really using, and this is an effort to try to correct some of that, and there are other improvements in the system that I think are sequenced after this move, so this is part of a larger effort to generate a system that ties rates and usage together. So, let's see how this goes.

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

**AYES:** Councilmembers Carter, Cooksey, Dulin, Howard, Kinsey, Mitchell, Peacock, Turner

**NAYS:** Councilmembers Barnes, Burgess, Cannon

The ordinance is recorded in Ordinance Book 57 at Pages 7-8.

Mayor Foxx said that passes.

Councilmember Cooksey said it cannot be said enough what a fantastic job Barry Gullet and his team have been doing with this. We are blessed to have him running our Utility Department, and I look forward to him continuing to do so through continued improvements in customer service and in billing.

Councilmember Carter said hear-hear.

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**ITEM NO. 13: POLICE ACTIVITIES LEAGUE CONTRACTS**

[ Motion was made by Councilmember Mitchell and seconded by Councilmember Dulin to ]  
[ approve \$455,000 in grant-funded contracts with the Police Activities League (PAL). ]

Councilmember Carter said if I might be recused, please. I serve as a private citizen on their board because I respect their input on youth in our community.

Councilmember Mitchell said I sit on the same board, so I better follow my colleague. I was maker of the motion.

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

[ Motion was made by Councilmember Barnes and seconded by Councilmember Cannon to ]  
[ approve \$455,000 in grant-funded contracts with the Police Activities League (PAL). ]

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

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

**NAYS:** Councilmember Cooksey

Councilmember Barnes said I want to make a point about what this is. As I understand it, this is funding to allow our Police Activities League to provide after-school enrichment for young people. The reason why, and I understand why some people have voted against these American Relief and Recovery Act projects, but in this case it's almost shameful because at the same time that we have criticized people for their kids getting in trouble here's an opportunity by way of

our PAL program to help keep young people out of trouble, keep them off the streets, help them do things that are productive. Our police do a great job, Jeff Hood does a great job in working with people, but we have a situation where folks vote against things like this – I don't know the reasons. I won't attribute motive as Mr. Peacock has suggested in the past, but I think it's a shame that folks would vote against something like this. Otherwise, thank you.

Mayor Foxx said we have already passed it.

Councilmember Cooksey said, Mr. Mayor, I have stated why I voted against these, so I don't need to take any more time to do so. Thank you.

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**ITEM NO. 14: PRIVATE WATER AND SEWER SYSTEMS PURCHASE**

[ Motion was made by Councilmember Carter, seconded by Councilmember Kinsey, and ]  
[ carried unanimously to approve purchase contracts with Carolina Water Service, Inc. ]  
[ Bradfield Farms Water Company, and Aqua North Carolina, Inc. to buy water and sewer ]  
[ systems in Mecklenburg and Cabarrus Counties for \$30,267,500, and authorize the City ]  
[ Manager to negotiate an agreement for total compensation of no more than \$100,000 with ]  
[ a subsidiary of Carolina Water Service, Inc. to operate the wastewater treatment plant ]  
[ providing wastewater treatment services for the Lamplighter East Village, one of the ]  
[ Carolina Water Service systems. ]

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**ITEM NO. 15: CONSOLIDATED E-911 SYSTEM**

**Richard Vinroot, 325 Cherokee Pl.**, said, first of all, I owe you an apology. I wrote a letter on Friday based on information that I had received that indicated that our client was a low bidder by a million and a half dollars, and I basically said I don't know how you can do that. I now learned today about 3:00 in the afternoon from a memo I got from the folks here at City Hall that the difference is \$43,000, and if that is so, you need not listen to me. You ought to adopt the recommendation of the chiefs and the one that they want best and for the reasons they have given you. I appreciate the fact that this process slowed down to the point that our clients got a fair shake and got the opportunity to present information that was about not to happen. We incidentally won the bid back a year or more ago. We were left out of negotiations for several months and learned three days before you were about to approve the second low bidder as the winner. We complained. I raised a lot of cane about it, and Cindy and others, to their credit gave us a new chance, and we tried and we failed. I will say this. Our client is the biggest and the best 911 provider in the country. Look at the list, and you will agree with me. You all have chosen to go with someone who is good, but I will say respectfully not as good, and there are cities where there have been problems that our client has not had. But I say in the end, I respect our chiefs, I respect the right that they have done. I respect the right that they have done a careful job and have come to a conclusion that does not favor our client, and if I had known what I know from 3:00 this afternoon on, I would not have written the letter that said you are about to make a big mistake, so I apologize, and I hope it works, and I hope they have chosen for the right reasons because I agree with the bottom line. It is about saving lives. Our systems don't fail, and our systems haven't failed, and I, nonetheless, think you all have done your best to come to a proper conclusion. Thank you.

Mayor Foxx said thank you, Mayor Vinroot, and let me say that you continue to demonstrate the high regard that all of us have for you by coming down and letting us know about that correction, so thank you.

[ Motion was made by Councilmember Barnes, seconded by Councilmember Cannon, and ]  
[ carried unanimously to authorize the City Manager to negotiate and execute a contract with ]  
[ Intrado Systems Corp. for a consolidated E-911 system for Mecklenburg EMS Agency ]  
[ (MEDIC), Charlotte-Mecklenburg Police Department (Police), and Charlotte Fire Depart- ]  
[ ment (Fire) in an amount not to exceed \$5,000,000. ]



City Manager Walton said if I could make just one comment that I made at the Retreat that to have Police and Fire and both chiefs recommending the same CAD system is really extraordinary, so it's something that is going to benefit Charlotte-Mecklenburg much more so than it will benefit other places.

Mayor Foxx said I think we owe Chief Monroe and our Fire Chief Jon Hannan a great deal of gratitude, so thank you very much, and to you as well, Mr. City Manager.

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**ITEM NO. 16: SEVERSVILLE APARTMENTS LOAN**

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

[ Motion was made by Councilmember Barnes and seconded by Councilmember Mitchell to ]  
[ forgive the City's existing \$195,000 loan to Charlotte Mecklenburg Housing Partnership ]  
[ as part of the Seversville Apartments renovation project to extend the affordability period ]  
[ for an additional ten years until 2033. ]

Councilmember Cooksey said I don't know if he wants to speak to it, but I do have a substitute motion to offer.

Mayor Foxx said might as well offer it.

Councilmember Cooksey said, Mr. Mayor, I offer as a substitute motion that the Council basically pay off the loan from the Housing Trust Fund transferring \$195,000 for the Trust Fund to the Housing Partnership for them to satisfy the loan.

[ Substitute motion was made by Councilmember Cooksey and seconded by Councilmember ]  
[ Peacock for the Council to pay off the loan from the Housing Trust Fund transferring ]  
[ \$195,000 for the Trust Fund to the Housing Partnership for them to satisfy the loan. ]

Councilmember Dulin said can you describe that to us a little bit, please, because I just can't quite get this thing straightened out.

Councilmember Cooksey said the recommended action is essentially to forgive a loan that did not admittedly cost the previous Council anything. Council gave land to the Housing Partnership for this apartment development in exchange for \$195,000 interest-free note. The partnership, as we have all heard, is seeking a new HUD loan to freshen up the property. It's been, what, 20 years. It's about time for that. Clearing this loan off the books would be very helpful to them if not absolutely necessary to get that done.

There are three ways we can handle that. We can forgive the loan and essentially give the land to the Housing Partnership. We can extend the loan beyond the term of the HUD loan, which complicates matters and as an administrative matter is not really a viable option because carrying \$195,000 loan for three more decades is more annoying in the paperwork, or we can use the Housing Trust Fund for the purpose for which it was established, which is to support affordable housing, and transfer \$195,000 to the Housing Partnership for them to use to basically pay off the loan, which would then give Council \$195,000 of general fund revenue to use for a one-time expense as it wishes in this budget process. It could go sidewalks, potholes, other projects. It changes the nature of the proposal from a grant of land to using the Housing Trust Fund for what it was intended of supporting affordable housing.

Councilmember Turner said I am going to ask the City Manager to speak to that – what has been made here as an option motion by Mr. Mumford. Most definitely want to hear from staff in regard to that motion.

**Curt Walton, City Manager**, said, Mr. Turner, what Mr. Cooksey proposed is – you can do that. Let me just put it that way. You can do that. I think the question is whether that is the intended use of the Housing Trust Fund as it was approved conceptually, and that's the reason we recommended the forgiveness of the loan rather than to take it from the Housing Trust Fund. It's not consistent with the way we have used it, but it could be by policy if that's what you choose to do.

Councilmember Turner said, Mr. Mumford, you have anything to add, sir.

**Pat Mumford, Housing and Neighborhood Development**, said I would agree with the way the Manager explained that. It's at your discretion.

Councilmember Turner said we understand that. We just want to make sure whether that is the best practice.

Councilmember Dulin said where do we stand, Mr. Manager or Pat, with the fund? I mean how much money have we got? Have we got it – we have had debate year after year after year about whether we actually have the ability particularly in this bad environment. We had a report at Dinner tonight that we are not – maybe it was in our committee meeting this afternoon – that we are not building that many units anymore because down economy, locational policies, etc. I mean if we have got the money in that account, why can't we use that money in that account because I have a problem with just writing debt off? There was a question there. What does the fund look like?

Mr. Mumford said with the voter approval in November you have a little over \$21 million. Remember, five of that is allocated to Boulevard Homes Hope VI, so you take the five away, and you have a little over \$16 million for projects right now in the fund.

Councilmember Dulin said, y'all, let's use that money that we have got there and not write this debt off. Let's put it to work.

Councilmember Turner said I'm still going to yield and wait for Mr. Mumford. I kind of wanted to hear your professional opinion with regards to whether or not that is a good business practice at the recommendation of what Mr. Cooksey has indicated tonight that the recommendation or use of what you would think would be the appropriate way to handle this matter.

Mr. Mumford said I would suggest – my assumption is the request is to use the Housing Trust Fund as a grant – not as a loan. The Trust Fund is used both ways. So, if it is a grant, you are essentially granting the same amount of money from one source to receive back from another. The net is no different financially. The difference the money that comes back can be used for other items as Mr. Cooksey alluded to. So it really is a policy discussion from your perspective of how you might want to use that money. There is no net benefit gain financially. Either way it is a grant of \$195,000.

Councilmember Cannon said it was pretty much answered, Mr. Mayor, but I will say this. I just want to caution us again. During the last budget, I asked that we be a little bit careful in terms of setting up slush funds that we start pulling from of revenue source because it exists rather than utilizing the funds for the sheer purpose of what it is supposed to be used for, and it was really with regard to technology when we started taking that technology money and using it towards other things. It is just my hope that we won't continue to mix apples with oranges even though we may have the ability and/or the authority to do that.

Councilmember Cooksey said my concern in this was the loan forgiveness. Mr. Mumford, has any Council forgiven a loan like this before?

Mr. Mumford said we have not forgiven. We have restructured loans to extend the terms but not forgiven like this.

Councilmember Cooksey said, again, Mr. Mayor, my impetus here was we are in new territory whichever way we go. I am not pleased with the notion of setting a precedent forgiving loans. We have a number out there in Neighborhood and Business Services for a variety of purposes.

Each one, I'm sure, can make a case why forgiving this loan is a good thing to help us out. But we have funding set up for purposes, and we also know we have a variety of needs that don't have funds, so what I continually come back to with this is this is an affordable housing renovation project, which is well within what we use Housing Trust Fund dollars for, so it makes far more sense to me to use the Housing Trust Fund as a grant for the renovation project that in this particular case is going to wind up coming back to us to pay off a note from 20 years ago so we do not set a precedent of forgiving a significant loan that was on a taxpayer-owned asset for a variety of purposes.

Councilmember Dulin said there's been a comment on this dais tonight that put this toward a slush fund, and that's not what this is, and this is, I think – Listen, I'm not the organization that needs \$195,000 loan wiped off the books, but I think that Mr. Cooksey has come up with a good way to do this out of monies that we have. We got a report from Mr. Mumford that there is \$17 million sitting there to use to help neighborhood development, and we still will have opportunities to spend some monies on other infrastructure, which is a core function of this City Council. I don't like the term "slush fund", and I needed to say it. That's just not appropriate I don't think. I will continue, if I need to, but I will drop it at that.

Councilmember Kinsey said \$16 million may sound like a lot, but when we have the kind of needs for affordable housing, it will go very quickly. Although \$195,000 isn't an awful lot, it is still – it will do something toward affordable housing. The only way I would support Mr. Cooksey's motion would be if the \$195,000 came from Housing Trust Fund and go back into the Housing Trust Fund. That's the only way I would support it, but I would prefer just forgiving the debt.

Mayor Foxx said, okay, we have a substitute on the table to change the way the money moves on this to do a grant from the Housing Trust Fund.

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

**AYES:** Councilmembers Cooksey, Dulin, Peacock

**NAYS:** Councilmembers Barnes, Burgess, Cannon, Kinsey, Mitchell, Turner

Mayor Foxx said can somebody make the motion again?

[ Motion was made by Councilmember Mitchell and seconded by Councilmember Barnes to ]  
[ forgive the City's existing \$195,000 loan to Charlotte Mecklenburg Housing Partnership ]  
[ as part of the Seversville Apartments renovation project to extend the affordability period ]  
[ for an additional ten years until 2033. ]

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

**AYES:** Councilmembers Barnes, Burgess, Cannon, Kinsey, Mitchell, Turner

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

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**ITEM NO. 17: NOMINATIONS TO BOARDS AND COMMISSIONS**

**Charlotte International Cabinet** – The following nominations were made for two appointments in the open category:

Open Category

1. Cynthia Barnes, nominated by Councilmembers Barnes, Burgess, Carter, Howard, Mitchell
2. Jennifer Collins, nominated by Councilmembers Cooksey, Kinsey, Turner
3. William Martin, nominated by Councilmembers Dulin, Turner

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4. Matt Njoku, nominated by Councilmember Barnes
5. Yolanda Perry, nominated by Councilmembers Carter, Mitchell
6. Jim Peterson, nominated by Councilmember Peacock
7. Charles Prendergast, nominated by Councilmembers Cooksey, Dulin, Peacock
8. Kurt Robinson, nominated by Councilmember Kinsey
9. Ronald Zurinskas, nominated by Councilmembers Burgess, Howard

Mayor Foxx said we'll have an interesting vote on those.

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**ITEM NO. 18: APPOINTMENTS TO BOARDS AND COMMISSIONS**

**Civil Service Board** – The following nominees were considered for one appointment:

1. Ralph Barnes, nominated by Councilmember Kinsey
2. Karen Burke, nominated by Councilmembers Barnes, Burgess, Cannon, Mitchell
3. James Harrell, nominated by Councilmembers Howard, Turner
4. Jason McGrath, nominated by Councilmembers Dulin, Peacock
5. Ed Ross Stutts, nominated by Councilmember Cooksey
6. Brigit Taylor, nominated by Councilmember Carter

Results of the first ballot were recorded as follows:

1. Ralph Barnes, 1 vote - Councilmember Kinsey
2. Karen Burke, 6 votes – Councilmembers Barnes, Burgess, Cannon, Carter, Howard, Mitchell
3. James Harrell, 1 vote - Councilmember Turner
4. Jason McGrath, 2 votes – Councilmembers Cooksey, Dulin
5. Ed Ross Stutts, 1 vote - Councilmember Peacock

Ms. Burke was appointed.

**Community Relations Committee** – The following nominees were considered for two appointments:

1. Patricia Albritton, nominated by Councilmembers Barnes, Burgess, Mitchell
2. Chantay Cooper, nominated by Councilmember Turner
3. Richard Doty, nominated by Councilmember Turner
4. MaNeisha LaFate, nominated by Councilmembers Burgess, Carter, Howard, Kinsey
5. Sharon Merritt, nominated by Councilmembers Burgess, Carter, Howard, Kinsey
6. Kathleen Odom, nominated by Councilmember Cooksey
7. Aaron Orr, Sr., nominated by Councilmember Mitchell
8. Teresa Sandman, nominated by Councilmember Peacock
9. Ben Stevenson II, nominated by Councilmember Howard
10. Marilyn Sutterlin, nominated by Councilmembers Cooksey, Dulin, Peacock
11. Regina Tisdale, nominated by Councilmember Kinsey
12. Johnnie Veal, nominated by Councilmember Carter

Results of the first ballot were recorded as follows:

1. Patricia Albritton, 4 votes – Councilmembers Barnes, Burgess, Howard, Mitchell
2. Chantay Cooper, 1 vote - Councilmember Peacock
3. Richard Doty, 2 votes – Councilmembers Kinsey, Turner
4. MaNeisha LaFate, 1 vote - Councilmember Dulin
5. Sharon Merritt, 4 votes – Councilmembers Barnes, Burgess, Cannon, Carter
5. Kathleen Odom, 2 votes – Councilmembers Cooksey, Kinsey
6. Aaron Orr, Sr., 2 votes – Councilmembers Cannon, Mitchell
7. Marilyn Suttlerin, 2 votes – Councilmembers Cooksey, Dulin

Councilmember Howard said I make a motion that we vote on the two women that have the top votes.

Results of the second ballot were recorded as follows:

1. Patricia Albritton, 8 votes – Councilmembers Barnes, Burgess, Cannon, Cooksey, Dulin, Howard, Mitchell, Peacock
2. Sharon Merritt, 7 votes – Councilmembers Barnes, Burgess, Cannon, Carter, Cooksey, Dulin, Kinsey

Ms. Albritton and Ms. Merritt were appointed.

**Historic District Commission** – The following nominees were considered for one appointment:

1. Helen Butler, nominated by Councilmembers Burgess, Turner
2. Belinda Corbus, nominated by Councilmember Dulin
3. Vincent Pfahl, nominated by Councilmember Kinsey
4. Thomas Polito, nominated by Councilmember Mitchell
5. Karen Rush, nominated by Councilmembers Barnes, Carter, Cooksey, Howard, Peacock

Results of the first ballot were recorded as follows:

1. Helen Butler, 2 votes – Councilmembers Cannon, Turner
2. Thomas Polito, 1 vote - Councilmember Mitchell
3. Karen Rush, 8 votes – Councilmembers Barnes, Burgess, Carter, Cooksey, Dulin, Howard, Kinsey, Peacock

Ms. Rush was appointed.

**Neighborhood Matching Grants Fund Review Team** – The following nominees were considered for one appointment:

**Neighborhood Leader Category**

1. Tami Burris, nominated by Councilmembers Barnes, Mitchell
2. Hilary Greenberg, nominated by Councilmembers Burgess, Cooksey, Dulin, Peacock
3. Rosemary Martin, nominated by Councilmembers Howard, Kinsey
4. David Molinar, nominated by Councilmember Carter
5. J.M. Bryan Taylor, nominated by Councilmember Turner

Results of the first ballot were recorded as follows:

1. Tami Burris, 4 votes – Councilmembers Barnes, Cannon, Howard, Mitchell
2. Hilary Greenberg, 4 votes – Councilmembers Burgess, Cooksey, Dulin, Peacock
3. Rosemary Martin, 1 vote - Councilmember Kinsey
4. David Molinaro, 1 vote - Councilmember Carter
5. J.M. Bryan Taylor, 1 vote - Councilmember Turner

Results of the second ballot were recorded as follows:

1. Tami Burris, 5votes – Councilmembers Barnes, Carter, Cannon, Howard, Mitchell
2. Hilary Greenberg, 6 votes – Councilmembers Cooksey, Kinsey, Burgess, Peacock, Dulin, Turner

Ms. Greenberg was appointed.

**Storm Water Services Advisory Committee** – The following nominees were considered for one appointment:

1. James Baysinger II, nominated by Councilmembers Barnes, Burgess, Cooksey, Peacock, Turner

2. Hollis Nixon, nominated by Councilmembers Carter, Howard, Kinsey, Mitchell
3. Brandon Plunkett, nominated by Councilmember Dulin

Results of the first ballot were recorded as follows:

1. James Baysinger II, 7 votes - Councilmembers Barnes, Burgess, Cannon, Cooksey, Dulin, Howard, Turner
2. Hollis Nixon, 4 votes – Councilmembers Carter, Kinsey, Mitchell, Peacock

Mr. Baysinger was appointed.

**Tree Advisory Commission** – The following nominees were considered for one appointment:

1. Fred Dodson, Jr., nominated by Councilmembers Barnes, Burgess, Cooksey, Dulin
2. Susan Tompkins, nominated by Councilmembers Carter, Howard, Kinsey, Mitchell, Peacock, Turner

Results of the first ballot were recorded as follows:

1. Fred Dodson, Jr., 5 votes – Councilmembers Barnes, Burgess, Cooksey, Dulin, Howard
2. Susan Tompkins, 6 votes - Councilmembers Cannon, Carter, Kinsey, Mitchell, Peacock, Turner

Ms. Tompkins was appointed.

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#### **ITEM NO. 19: MAYOR AND COUNCIL TOPICS**

Councilmember Peacock said my question regards the subject of four-year terms and Mr. Mitchell's memo that you sent last week, and I wanted, number one, for you to explain it a little bit further and explain what your methodology was in the subject of referring or adding something to the referral to the committee, which is related to the structure of the advisories that you wanted to put onto that, and then I had some comments beyond that, but I just hadn't had a chance to chat with you beforehand.

Councilmember Mitchell said I'm confused with the request. You didn't understand the memo?

Councilmember Peacock said I did understand the memo. I just wanted to know why we are adding that to the referral to the committee, and were you calling it for a vote is really my question tonight or –

Councilmember Mitchell said not tonight. It's coming on our agenda March 28<sup>th</sup>.

Councilmember Peacock said I didn't know what the purpose of it was.

Councilmember Mitchell said, well, you didn't read it.

Councilmember Peacock said I read your memo, and I have a comment. I wanted to first find out what was behind it and where we were going with it, and then secondly make a comment to it. My basic comment is why are we pulling together all of these collections of people after it's already been in committee once and we are getting ready to send it back to committee. Now, I commend you on the thought behind having such a broad, different spectrum of people to look at the subject, but I just don't understand why we are going to go down that path with such extensive detail at that time we vote on it.

My second point to it, Mr. Mitchell, is the one group that is not there that I find that is the most qualified to be able to discuss four-year terms if previously elected officials. Not one of the people, although it has a very diverse group, I don't think one of them can speak to what it's

actually like to serve. So I would say if I were to go to that forum of having an extra study group, if you will, over the subject, I would like to see us pulling elected officials.

Councilmember Mitchell said, thank you, Councilmember Peacock, because I didn't know where you were going. Two quick ones. First one was I think all the discussion around the dais has been not including what I call citizens' input, so now we have the opportunity to engage the citizens and get their input provided to us the first time ever since I have been here since 1999. Secondly, in the committee discussion, we did bring up the point of a former Council member because the name we mentioned was Greg Phelps, and so the committee discussed do you add a former Councilmember Greg Phelps, and we chose the latter to add a Luther Moore and a Ted Arrington, so when it comes back on March 26<sup>th</sup> or March 28<sup>th</sup>, please feel free to elaborate if you would like to add –

Councilmember Peacock said I'll speak to it on the 28<sup>th</sup>. Again, I wanted to make my point and express it to you now early that I appreciate the intent of it. I think we might be going too far at this point, but we'll find out on the 28<sup>th</sup>.

Councilmember Mitchell said so you don't like the public input part.

Councilmember Peacock said I don't dislike the public input part, but we haven't even gone back to committee first to determine if public input is needed. I still this largely resides with this body to make a decision about what we feel is in the best interests of those serving or seeking to serve on that. It's not that I'm against public input. It's just at this stage I feel it might be a little premature.

Councilmember Mitchell said in the committee discussion we voted 3-1 to move forward and then had a Dinner Briefing. I can't remember. Eric Campbell, what was our next action. I know we voted 3-1 to move forward.

Mayor Foxx said the committee chair is chomping at the bit.

Councilmember Cooksey said I think the horse has left the barn on this. Procedurally the proposal from Mr. Mitchell was offered as a committee response in recommendation to Council on addressing the charge to the committee of looking at four-year terms, so it will come back to this committee in some shape or form. For example, we all saw Ted Arrington's name on it. It's my understanding he now lives in Arizona, so there is still some work to be done on that committee list, but we will see this for debate by this Council on – as an action item on the 28<sup>th</sup>. I don't know how much we can accomplish by debating a misty motion here. It's kind of just cloud like.

Mayor Foxx said all good. Thank you all for engaging on that.

Councilmember Mitchell said two things. One, Mayor and Council, it was a great presentation by Johnson C. Smith University, The Knight Foundation this weekend. They touted the soul of the northwest corridor, and, City Manager, what I would like if we can in the near future to try to make this presentation at a Dinner Briefing for the full Council. I think it would be helpful as we are talking about building our urban corridors to five priorities is to look at this as one way to get an understanding and maybe potential brand our corridors. I would like to just add that. I apologize. I was trying to print out the color PowerPoint presentation. I will make sure I put in one package on Wednesday so you all can see what the soul of the northwest corridor in the study. It was great.

The second one, if I can recuse David Howard because I have a development that I would like to move up, Mayor and Council, 2011-25. It's Wesley Heights Way. It's a senior citizen development, and Charlotte-Mecklenburg Housing Partnership is one of my key developers. So, Debra Campbell has expressed no problem moving that forward on the April timeframe, but I wanted to get blessing from the Council.

Councilmember Barnes said what's the purpose for that, Mr. Mitchell?

Councilmember Mitchell said it's a rezoning, a new senior citizen development, on Wesley Heights Way.

Councilmember Barnes said the reason I asked is I have expressed before some concern about accelerating petitions unless there is some compelling reason, and I was just curious as to what is compelling.

Councilmember Mitchell said timing for application for tax credits.

Councilmember Barnes said thank you, sir.

Mayor Foxx said is there any objection to moving that up based on Mr. Mitchell's comments?

**Curt Walton, City Manager**, said that's a hearing in April?

Councilmember Mitchell said in April, yes, City Manager.

Mayor Foxx said is that all right, Mr. City Manager?

City Manager Walton said yes.

Councilmember Barnes said I have two items. One is an announcement I want to make regarding a Town Hall meeting I'm hosting on March 10<sup>th</sup> from 6:30 to 8:30 at Sugar Creek Presbyterian Church. I want to thank the wonderful people there for allowing us to have the meeting there. We are going to cover public safety issues in the district. We are also going to cover the DNC and how people can get involved. We are going to have a conversation about the Blue Line extension, the northeast corridor, and we intend to have a discussion also regarding water and sewer rates at night. I hope people will attend.

Also, there is an issue looming regarding our schedule in May. We have a meeting on May 23<sup>rd</sup> where we are supposed to conduct a public hearing on our proposed budget. That is also the same night as the NASCAR Hall of Fame Induction Ceremony, and I talked to staff about it, and one of the questions is whether we want to move our meeting to 4:00 p.m. to allow people to attend the induction ceremony who may want to attend it. It's May 23<sup>rd</sup>. Perhaps I could ask staff to poll the Council, Mr. Mayor, but I wanted to put that issue out there for your consideration, and, Mr. Manager, if you could have someone poll the Council.

Councilmember Carter said I would just like to vote a voice of problem in that working people don't get off until 5:00 so having a hearing at 4:00 limits our audience and people who are able to respond to what we are doing.

Councilmember Barnes said I think that is a very fair point. What I believe we are proposing is to move the Dinner Meeting to 4:00, is that correct, or the public hearing on the budget?

City Manager Walton said the actual meeting would be at 4:00, but we could put the public hearing at the end.

Councilmember Barnes said, in other words, we would wrap up by 7:00.

City Manager Walton said right.

Councilmember Barnes said so people could get to the ceremony if they want to go.

Councilmember Carter said thank you.

Mayor Foxx said so we'll poll the Council.

Councilmember Dulin said two things. Last week I had asked for some information from staff about the median maintenance contracts all around Charlotte. Staff came back with very good information. I think each of you got a copy of it, and I have gone over it with my highlighter and highlighted the medians that I represent, and it's good information to know and to be able to tell



at our neighborhood meetings. I know each of you – at least the district folks – will want to do that, and, secondly, Mr. Mayor, this being the week, I want to be the first one to bring up the CIAA basketball tournament and wish our hometown Golden Bulls all the best as they go back to the winner's circle. We will celebrate the Golden Bulls' victories next Monday.

Mayor Foxx said I'm going to be very brief and report very briefly on the U.S. Conference of Mayors meeting last week. We had a series of meetings on a number of topics, but probably the one that is probably hottest right now is HR-1, which is the bill that has moved through the House of Representatives and now the Senate is looking at it. The concern is that it would create mid-year budget reductions in items that are core to local government including the CDBG block grant funds that we receive that are used largely here for housing and to some extent for after-school programs and others.

There was a fairly well attended press conference that the Mayors Conference orchestrated on Thursday about that opposing the reductions in the CDBG block grant funds. It's an unusual step for Congress to take a budget and reduce mid-year, but that's what has been proposed, so I wanted you to know that conversation is what is kind of going on. You are probably going to hear some of that with the National League of Cities when you go up to Washington. It's going to be something you are going to be hearing about, so I thought you would at least like to know that conversation is happening as you are reaching out to your Representatives and Senators. I think it's just wise to be aware of that issue and do the best you can to make the case for dollars that help us help our citizens. Anyway, that was really the upshot. We will continue monitoring that as well as other developments there, and, with that, I don't have any further report.

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## **ADJOURNMENT**

The meeting was adjourned at 9:28 p.m.

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Stephanie C. Kelly, CMC, City Clerk

Length of Meeting: 3 Hours, 43 Minutes  
Minutes Completed: April 13, 2011