

The City Council of the City of Charlotte, North Carolina, reconvened for a Dinner Briefing on Monday, October 10, 2011 at 5:07 p. m. in Room 267 of the Charlotte Mecklenburg Government Center with Mayor Anthony Foxx presiding. Council members present were Michael Barnes, Jason Burgess, Patrick Cannon, Nancy Carter, Warren Cooksey, Andy Dulin, David Howard, Patsy Kinsey, James Mitchell, and Edwin Peacock.

ABSENT UNTIL NOTED: Councilmember Turner.

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ITEM NO. 1: MAYOR AND COUNCIL CONSENT ITEM QUESTIONS

Councilmember Dulin said Item No. 21, the Police Vehicles. That number breaks down to \$26,018.68 per 212 vehicles. We probably have that much more per vehicle in equipment and I would like to know what that additional equipment number is. Also, there aren't any Chargers on this. This is Benson Ford-Mercury, Horace G. Ilderton LLC, Parks Chevrolet and Vic Bailey Ford Lincoln, but no Chargers. We have a Charger that we are testing, Car No. 228 and it is unbelievably good looking police car and I'd really like to buy some of those if we are going to be buying police cars.

Deputy City Manager, Ron Kimble, said I am assuming it is based on the lowest responsible bidder but we will have that information for you.

Mr. Dulin said we've got a whole yard full of them down at the yard, but we are buying \$5.5 million worth of police cars at \$26,000 a piece. That is pretty cheap and a strip down cop car. I also pulled #23, additional street lights. Duke Energy is going to put them up and then we pay for the energy to fire them up. What is the standard cost per light? Do we know how much it costs to burn one light for a year or a month? This write-up made it look like we were paying them a unit cost for a unit number of street lights. As we all know there are hundreds if not thousands of street lights around the City that aren't working. My morning walk today, I passed many, many that were not working and I was wondering if we are paying whether it is on or not. Item No. 25 is for community information, and I suspect others have pulled #25 as well. It is DNA for cold cases that are working well. I'm sure some of us will have some comment on that. Item No. 31, extend the contract with the County to use their IT people for a cost of \$400,000. I didn't get an idea for how many hours of County staff time that is buying us. About five years ago I did those numbers and it came out to like \$76 or \$86 per hour we were paying them. If the County has too many employees we can probably outsource cheaper than that. I was just curious as to how many hours for \$400,000 a year we are going to get in IT support out of the County.

Councilmember Barnes said I had a question regarding Item No. 21, similar to the question Mr. Dulin asked. I recall however, that we received information indicating that the Crown Vic would no longer be made and the Impalas were not the preferred vehicle, so I do have a question regarding the makes and models of the vehicles we are purchasing and whether we should in fact wait until the appropriate number of Chargers are available. Regarding Item No. 22, this is \$252,000 contract for architectural programming and I don't recall seeing that in the past on our contracts and I'm curious as to what architectural programming is as opposed to straight architectural professional services or design technical services. Item No. 24, this is a contract for the purchase for handguns for CMPD and it says that we are not allowed to get bids. I just wanted to get some understanding around the statute that prohibits us from soliciting the lowest bid for the purchase of handguns in the interest of perhaps saving some tax money by getting competitive bids.

Councilmember Carter said #19, Stream and Wetlands Vegetation Services, the latter statement, removal of non-native plants along restored streams. Plants or trees, I would like a definition of what is being removed because it could threaten the environment. Item No. 28, Utilities Bio solids Dewatering Equipment. What are we doing with the bio-solids at the end of the process? Are we recycling these? Item 41-F-V, these are neighborhood improvements on the eastside and there are a significant number of condemnations. There was one instance where a translator was used, many instances of an unclear title, but I'm concerned about the concentration and the number of these condemnations, and particularly with 41-S, there is an appraised value of

\$2,300, but indicates it is for a portion of a fence, a portion of a deck and trees. That seems like a very low bid to me.

Mayor Pro Tem Cannon said Mr. Deputy City Manager, do you have all of those?

Deputy City Manager, Ron Kimble, said sure do.

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ITEM NO. 2: PRIVATE WATER AND SEWER LINE WARRANTY

Deputy City Manager, Ron Kimble said tonight we want to bring to you an exciting new opportunity, one that several of you have come to us in the past months, talking about water and sewer line warranty on private property. It came out of some National League of Cities conversations that many of you have been exposed to over the years. I will ask Steve Miller, Director of Customer Service with Charlotte-Mecklenburg Utilities, to come and explain the program to you tonight and entertain your questions. Hopefully it will be on an upcoming agenda very soon to implement.

Steve Miller, Charlotte-Mecklenburg Utilities, said on behalf of Charlotte-Mecklenburg Utilities, we would like to present some information about a potential new program for residential customers that warrant private water and sewer lines. Mr. Miller used PowerPoint for his presentation to Council. (A hard copy is on file in the City Clerk's Office).

Councilmember Howard said are you recommending that our customers can actually pay this as a part of their bill or is this something separate?

Mr. Miller said that is an option. Our initial rollout would likely be a third party billing by the provider and as we move forward that may be an option for us to add it to our bill. That would be a convenience for the customer. One point I wanted to make about the local licensed contractor is one of our targets is to have a very high SBE participation and we are targeting a number at 50% or higher. The providers have demonstrated to achieve that number at a number of other utilities or even higher. One of the providers has provided for a grant to our SBE Program which would train, license and certify additional SBE contractors. This could also be an enhancement to our SBE Program.

Councilmember Barnes said I want to ask you about customer fulfillment because there is the anticipated use of the City's logo and the anticipated insertion of solicitations in their bills. People are going to assume that this is something we are doing. I want to get your thoughts on the ability to move potential contractors to actually execute because if someone calls in a problem and it is not handled appropriately, they are going to be calling me and I don't think that is necessarily a good thing if it is not something the City is not doing. I want your thoughts on how we are going to assure compliance with at least reasonable service standards. Also I would like to get information from you regarding the incidences of problems regarding waterlines outside the home and outside the public right-of-way.

Mr. Miller said the contractors go through quite an extensive process to become certified and be part of the program. First of all they must be a licensed local contractor and have a reputable reputation, also there is drug screening and background checks performed on the contractors. We have looked at complaints with the various providers and that is one of our evaluation criteria, to keep that at an absolute minimum. We are taking a close look at that. We don't want to get the complaints any more than you do.

Mr. Barnes said of the entities that you have listed as interested, what was the complaint rate regarding those three.

Mr. Miller said they are very low. The denial rates are typically less than 2%, around 1.7% on the claims denial rate. Complaints are very low. The providers take a very large effort into insuring customer satisfaction so they often send out feedback surveys from customers and the satisfaction ratings are typically 96% or higher from the providers and the contractors.

Mr. Barnes said I was curious about the number of complaints or problems that people in our county had experienced regarding the waterlines or sewer lines.

Mr. Miller said they are private issues and we don't always, as a utility, get notified when lines break. We do through part of our high bill inspection process and we do perform a number of high bill inspections and we look at that data very closely. In our inspections for the last year we have about 26% where the low flow indicator is turning on the meter, which could be a potential leak. It may be an ice maker or a humidifier running, likely leaks are somewhere in that range where customers would need to make the repair. Again, repairs can be quite costly, costing up to several thousand dollars. There is some research recently done that shows that over 60% of Americans do not have a thousand dollars on hand to deal with a household emergency. Making a \$1,000 payment to make a repair could be a life changing situation for someone who may even, at worse case, turn them into foreclosure.

Mr. Miller continued his presentation with slides on Page 6.

Councilmember Kinsey said what would this not cover?

Mr. Miller said it would not cover acts of God or deliberate damage from the customer. This is not an insurance program, it is a warranty against failure of the water and sewer lines.

Ms. Kinsey said are those the only two things it would not cover?

Mr. Miller said in general terms yes.

Ms. Kinsey said how would a decision about an act of God be made?

Mr. Miller said one piece is a deliberate action such as a customer driving a fence post into the ground and cause a break. That would not be covered or if there was an earthquake and broke lines, that would be an example of an act of God and that would not be covered.

Mr. Kimble said remember, as Mr. Miller indicated, it only covers from the meter to the base of the house initially. We could expand the program later to cover other things, but right now we are just looking at that line between the meter and the foundation wall of the house.

Councilmember Carter said the State Legislature has something in mind with the annexation, whereby we will be installing lines from the main city pipes into the homes and I think we need to look at the legal ramifications if we install those lines, whether it is a liability, is it different in this program versus other sites. I think there are some real legal difficulty there that I had not anticipated.

City Attorney, Mac McCarley, said we agree those are important issues.

Mr. Kimble said we are evaluating those as we look at the program.

Mr. Miller said we may find there is some linkage between those annexation requirements and this program, but that is being evaluated now.

Ms. Carter said and the time limits of that evaluation.

Mr. Miller said I don't believe we are doing an annexation this next coming year, but the next annexation, they would need to be in place well before then of course.

Mr. Kimble said it will be for future properties that are annexed so this program would still be a valuable program for existing residents up till that time.

Councilmember Cooksey said by any chance would this coverage cover the additional higher water bill that might come into play if someone's pipes burst while they were on vacation?

Mr. Miller said that is something we will evaluate during our evaluation period and one of the providers has given us some information that there is an additional insurance to cover potential
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high water bills. That may be another option item for the customer if they were to have a \$500 water bill due to a leak or a line breakage that the insurance or warranty would kick in and cover that high cost.

Mr. Cooksey said it is good to know it is a possibility.

Mr. Miller continued his presentation with the last slide on Page 6 and Page 7.

Mayor Foxx said how did the proposal process get initiated?

Mr. Miller said we began with an RFI (Request for Information) and we had four vendors provide RFIs back to us, then we did a public posting for an RFP for proposals. Those were received on the 23rd, so that was posted publically.

Mayor Foxx said how wide a net was cast in the RFI process?

Mr. Miller said we posted on the City's Char-Meck.org website and we also posted on the state website.

The Mayor said, and you got four responses?

Mr. Miller said yes.

Mayor Foxx said I just want to understand the process because typically when we are going to do a new type of thing, we approve it. Have we done that in this situation or was this staff driven?

Mr. Kimble said it was staff driven, but with feedback from various council members over the last year, bringing back information from the National League of Cities meetings and asking us to just take a look at the program. We did it under being both staff and Council members viewing this so staff took the initiative.

Ms. Carter said we brought it back to Council and there was approval of asking staff to get the information and move forward on it.

Councilmember Dulin said I'm sorry I missed the beginning of the conversation because Mr. Mitchell and I were on a different subject together out of the room. Will we be warranting work that private contractors put in and not our people?

Mr. Miller said this will cover on private property from the meter to the building foundation and likewise with sewer from the sewer right-of-way to the building foundation. Any warranty work that is done, there is a private contractor that would do the work and that work is covered, warranted for one additional year.

Mr. Dulin said we would be selling a warranty to the homeowner for work that a private contractor has put in without our watchful eye?

Mr. Miller said that is correct, so the existing water and sewer infrastructure on private property and that would be warranted.

Mr. Dulin said we are all on the front lines when homeowners have water problems and bill spikes, but that seems to be we would be selling a warranty for some other mechanics work if we were a mechanic shop.

Mr. Miller said our prices would not increase so the base pricing which ranges from \$4 to \$13 per month, depending on the services that are opt in by the customer. Those prices would not increase and there has to be a notice, what we are asking for in our RFP was a 6-month notice to have any kind of pricing increase. The City would not burden any increase that would be opt in by the choice of the customer. The customer has a choice to participate in the program or not to participate.

Mr. Dulin said those numbers are \$4 to \$13 per month? I'm clearly not comfortable enough to vote on this one way or the other. This is for information tonight obviously, but it seems to me that we should not be warranting other people's work unless we had supervision of that work or we did the work ourselves. As I say that, it would be nice for customers, constituents, friends and neighbors of this body to be able to have a warranty if they had bought in, for them to be covered, but folks have homeowners insurance and they have other insurance as well. I don't mind selling them a warranty for work that we do because we did it, but I'd have trouble selling a warranty for work that another contractor did.

Mr. Miller said that is the purpose of this presentation, to hear that type of feedback.

Councilmember Burgess said I misunderstood. These are private companies that are providing these services, not the City of Charlotte.

Mr. Miller said that is correct.

Mr. Burgess said so we are not providing the warranty?

Mr. Miller said no, we're not. We are a partner with a private company.

Mr. Burgess said so it has nothing to do with us. My second question is what do you get for \$4 per month and what do you get for \$13 per month?

Mr. Miller said typically customers may have a water service line on their private property. They have irrigation and very likely have a sewer line. The \$4 option will be if the customer chooses to opt into the water only. If they want to bundle together the irrigation and sewer, it could be as much as \$13. If they want to cover just the water line and nothing else it would be in the \$4 range.

Mr. Burgess said it seems to me the best way to roll this out is initially have it part of the water bill. That is my opinion, but why would somebody want to pay another bill every month, especially if it is \$4. It seems to make more sense to put it in with the water bill from get go.

Ms. Carter said online service is an option? Online payment, online notification?

Mr. Miller said yes, the providers have online where they can subscribe into the program, look at their balance and opt out and cancel.

Ms. Carter said that obviates a bill, they could just simply pay on line as an automatic service. This is a service that we would be offering, it is not something that is under our purview, but it is a service offered by the City, such as the drug prescription card that we offer. It saves something like \$100,000 for our citizens. It is an extra service, but it is something offered by the National League of Cities. I'm not sure that we will choose their providers, that is part of the process, but this is something that has been suggested as a good practice.

Mr. Dulin said I don't mind studying it longer, and I might get there, but I'm not there. I'm not sure I want the City of Charlotte getting into the water and sewer warranty business.

Councilmember Howard said we're not getting into it.

Mr. Barnes said Mr. Miller, I would strongly encourage you to make sure that the insert clearly indicates that this is not a service being provided by the City of Charlotte. It should be at the top in bold letters, it should be on the back, because again, if the fulfillment process is not what people expect there is going to be a lot of blow back to the City, to us and obviously to you guys. In an effort to make it as clear as possible for the general public I would strongly urge you all to make sure that is indicated, and to the extent possible it should be very clear that we are not pushing this on anybody. It is not money they are paying to us. Would there be some conduit for payment?

Mr. Miller said there is a potential for revenues to the Utility Department from the license fees.

Mr. Barnes said then they will say well, you are in bed with them so it is your fault.

Mr. Kimble said these are all excellent points. We will try and do more feedback loop to you in information, but remember Duke Energy has a similar program where they are a partner. Piedmont Natural Gas as a similar program and there are others in the nation and we are going to look at best practices and we will make sure we incorporate in our thinking the valuation of the things that you are bringing up tonight.

Mr. Barnes said when I get the Duke Energy insert and the Piedmont Natural Gas insert, it seems to me that they are providing the service. I know they are not intellectually, but when you read the insert it feels like something that Piedmont or Duke is going to provide.

Mr. Kimble said good feedback.

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ITEM NO. 3: POST-CONSTRUCTION CONTROLS ORDINANCE REVISIONS

Deputy City Manager, Ron Kimble, said we felt that before you have this considered at your agenda tonight we needed to go over this again, the vote coming out of Committee to cover that again with you tonight, and answer any more questions and have any more comments that people want to make prior to going to official consideration of this item tonight.

Councilmember Peacock said the Environment Committee had a very good discussion and I want to thank all the members of the Committee for their participation and I look forward to hearing the presentation.

City Engineer, Jeb Blackwell, said as it has been described, we are going to talk about the Post-Construction Controls Ordinance proposed revisions. The Post-Construction Controls Ordinance has been in effect for a little over three years now and we have had a number of years now to observe where it has and hasn't worked effectively. In many cases we think it has worked. There have been some challenges and of course it is a sweeping ordinance, trying to address a major problem we have. We had some fish concerns in the river and our streams are mostly impaired so we have some big issues and it is a significant ordinance. It was a big undertaking for us to put this into effect and after going forward we've seen a couple of areas that we think the ordinance might need a few tweaks. We do this under the consideration that there are new federal rules coming out and we are expecting the draft of those, as we have told you before, we expected that draft in November. They have now moved that date to December for the draft or rules from the feds, and if you will remember in past years, sometimes those have moved back several times. They are now saying December and it may be December, but it is also possible that it could change again. Once those draft rules come out they won't be final, it will take a number of years before they work all the way through, but we will start to see some ideas about where they are going. Our expectation is that they will at least be addressing redevelopment, which we will be talking about tonight. We have observed some difficulties that developers have had where we are sure the difficulty of the ordinance has been justified by the benefits we are getting and those are a couple of the areas we wanted to talk about. Our normal process for doing ordinance changes, as you all know, is a very complicated process and involves a lot of input. I think the Post-Construction Controls Ordinance took several years to do and the Tree Ordinance took several years to do, so starting a long process on this, we would be finishing it up about when we get the new federal rules and be ready to start again. We had suggested to Council that we look at these and if you are comfortable going forward then we would want to go forward with them, but if not, we can certainly can continue to go as we are with the rules as they are.

The changes that are proposed are some revisions to work with the revised Tree Ordinance which became effective this last July and there are some overlapping requirements there and we thought for simplification it would be good to eliminate those parts in the Post-Construction Controls Ordinance and additional flexibility, which is basically an extension of the fee in lieu option. There are two other changes, they are four in all, but the two that are general housekeeping were non-controversial and have pretty much been endorsed by everybody. Those were not referred to Committee, but the top two were referred to the Environment Committee.

Mr. Blackwell used PowerPoint for his presentation to the Council. (A hard copy is on file in the City Clerk's Office).

Councilmember Howard said are you going to actually address where it would be more restrictive? From what I understand those that are in place is with very low density.

Mr. Blackwell said yes, I will talk about those right now. He continued his presentation with slides on Page 3.

Mayor Foxx said give me a for instance, why does the current ordinance not give you sufficient flexibility to make a common sense application of the PCCO and secondly, give me a very clear example of where this particular change would have made a difference.

Mr. Blackwell said can you repeat the first question?

Mayor Foxx said I want to know why the current language of the PCCO doesn't give you the flexibility to make a common sense application today.

Mr. Blackwell said when the ordinance said X percent is required in that zoning, that is not something that we have the authority in the Post-Construction Controls Ordinance to just bury, so we would not be able to say staff is going to reduce that requirement, because that is an ordinance requirement. There are some areas that are administrative rules, etc. and we have more authority to make a staff call there. A variance on that would need to go to the Storm Water Advisory Committee. We've had four variances under the other Post-Construction Controls Ordinance and we've haven't had any variances under this area, but that would be where our variance would need to go to the Post-Construction Controls Ordinance.

Mayor Foxx said you haven't had any variances go through under this?

Mr. Blackwell said on this, we have not.

The Mayor said have you had any attempted?

Mr. Blackwell said none attempted, no sir. You asked also for a more specific example on the site. If someone had, for example, a ten-acre site and they had six acres previously developed, then they came through to develop the rest of it, it would be redevelopment under the Tree Ordinance so it wouldn't have a tree save requirement. The Post-Construction Controls Ordinance would look for 10% in that case so there would be 4/10 of an acre of tree save in that instance. If there is a partially developed site and you are working with that small increment, there could be some tree save there that you would gain.

The Mayor said if there hasn't been an attempt, what gives you cause for concern that this is preventing development?

Mr. Blackwell said we don't really like having the same rules in two ordinances, we don't like to reviewers looking at the same area. If you submit anything for a building permit we could all say the rules are written down, but you always get comments back because reviewers review it, they apply it and see it so having it in two places creates two different ordinances they have to work through, two different reviewers they have to work through so it is duplicative for us and it is also more unknown for them because of how the reviewer might review and interpret and apply the ordinance.

Mayor Foxx said you are saying a City reviewer will look at the PCCO?

Mr. Blackwell said yes sir.

Mayor Foxx said isn't that something that can be addressed through how we're staffed?

Mr. Blackwell said these are fairly different ordinances with fairly different goals, and these two areas don't directly overlap. There is a fair amount of different and it would be difficult to do. It would certainly be possible, but I think it would be easier for outside folks and us rather than
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trying to blend them. We felt the best way to streamline this was having our tree save in one area.

Councilmember Kinsey said does the development type determine which ordinance applies, does one trump the other?

Mr. Blackwell said the more stringent requirements are applied. Both ordinances are in full effect, but the net effect of that is whichever is the more stringent is one that applies.

Mr. Howard said to me this is not whether or not it is preventing development, it is about making sure that our own ordinances make the most sense and they are understood. From what I understand it dealt with the tree requirements in the Post-Construction because it came through first with the understanding that when you got to the tree ordinance it would take care of that and you would need to go back and clean up some of the language that they put in the Post-Construction. This is more about us being an overseer to streamline our requirements so they are easily understood more than whether or not it is stopping something.

Ms. Carter said I would argue that the stakeholder process was long, extended, seriously debated and a compromise was reached. Amounts of wisdom in both of these ordinances and consequently when it is more stringent, is someone not saying that there is value in that stance, going back and correcting it in a very lighthearted way, not considering what is being changed absolutely to me is questionable, particularly when we are looking at a federal overruling. My stance all along has been if the federal ruling is coming upon us, which it will, then wait for the federal ruling and then see how we need to retrofit.

Mr. Blackwell continued his presentation with the last slide on Page 3.

Councilmember Turner arrived at 6:08 p.m.

Mayor Foxx said I think if we've got people in our permitting area who are looking at trees and people who are looking at PCCO, maybe there is an operational reason why that is the case, but it strikes me as a person unencumbered by having to actually apply these rules as a little bulky to have that happen. It seems to me that it is another reason why we should be looking to consolidate our permitting and at a minimum, looking internally at how we can streamline the process, irrespective of what the rules are.

Mr. Blackwell said we can look at that more, although I don't know if that will help the folks on the outside to have two to work through.

Mr. Blackwell continued his presentation with slides on Page 4.

Councilmember Cooksey said I just wanted to double check something that was in the attachment. We are talking about a proposed change that would affect four-tenths of one percent of the geography of the City, right?

Mr. Blackwell said it is a relatively small impact. That is why we think it is a small number of trees, but it certainly true that there would be some potential for some additional tree loss.

Councilmember Dulin said the Environmental Committee was interesting that day. My recollection is that was Council members Dulin, Howard for reducing the PCCO and Ms. Carter and Mr. Peacock against so that is how we ended up 2 – 2 and we need to make sure that we get five people at these committee meetings. I voted against the Post-Construction Design Ordinance because I thought they went too far when they came up to us in 2008. I voted against the Tree Ordinance because I think it goes too far to hurt development of our community and where there is building there are jobs. Where we make it easy for somebody to borrow money and buy a piece of property in the Eastland Mall Area, there are jobs and economic prosperity. We need to protect our tree canopy and we are working on that. Post-Construction Controls Ordinance, do we need to protect the water, of course, and our streams or course. Do we need to make sure that the streams that we fix are well planted, of course, but this does not affect the Tree Ordinance, or it affects it very, very minimally as Mr. Blackwell as said, and to support the reduction that Post Construction does not hurt our ability or our reputation or our state of desire to protect the trees

of our city. As I have stated many times, if you saw the area known as Dilworth in 1929, it was a cattle farm. If you see pictures of Myers Park in 1929, cattle farm, no trees, all fields. In my opinion we've got more trees now than we did. We lose trees when we build of course, but trees help sell property and the people that develop property understand that. They understand it better now than they did back in the 70's of course. This will not affect our ability to protect our trees if we get rid of the over burdening to the people who are out there taking the risk. There is no risk to us coming down here and sitting at this table every Monday night, but there is risk to those guys who are out there borrowing money trying to get our economy going. Until somebody can borrow that money and build something we aren't going to make a single job. I'm going to continue to support the reduction of the PCCO by this matter.

Councilmember Barnes said I wanted to ask Mr. Cooksey if he would repeat the percentage of land that is impacted by the proposed change.

Mr. Cooksey said according to Attachment 1, Tab 1 of the Agenda Packet, there is a chart where the potentially affected property is estimated to be 0.4% of the City's area.

Mr. Blackwell said that is based on low density, but there is so little of the low density done in Charlotte.

Mr. Barnes said 0.4% of 1% would be impacted by the change that you proposed.

Mr. Blackwell said there is the low density, the middle density and then there is the step site. The low density is where there was a lot of discussion about 25% versus 15%. What we were suggesting is that while that percentage is a big percentage it is very little land actually involved and land that we think we have good tree protection on.

Mr. Barnes said is it 25 and 17?

Mr. Blackwell said the 17 is the medium density, which would change from 17 to 15.

Mr. Barnes said I don't have the pleasure of servicing on this Committee, but I will make a statement that will probably indicate how I'm going to vote. There is a lot of talk on the local, State and National level about certainty and the lack of certainty and its impact on job creation. What concerns me is that the certainty always seems to relate to matters of air quality destruction, water quality destruction. We had essentially used a bad economy as an excuse to destroy our environment and I'm not going to support that. I'm not going to support this action, I'm going to stick to what the two Advisory Committees indicated and what the dissenting members of the Committee indicated as well.

Ms. Carter said this 0.4% becomes graphic when you go to a development that it has addressed. I can take you to James Road. There are developments off there where they have been clear-cut and seedlings replanted, 2-inch caliber, which is nothing and mature trees have been taken down. That affects the quality of life. That affects the tree canopy that affects the heat factor. That affects the health of our children and people who live there. Take away that 0.4% in a development such as this, and I'm not saying it happens everywhere, but it can and that opens the door to where it is. Those of the least of us who have fewer voices and who have fewer impact on what happens to them, and I think we need to protect them.

Mayor Foxx said I know there is more to do, but I'm going to say the argument seems to be a little incongruous to me because if it is 0.4% of 1% of overall land in the county, then why would these groups be saying we shouldn't do this. There has got to be a reason why. It strikes me that the size of the land mass may not be the reason. Secondly, if Mr. Howard's point is to be taken, that the Post-Construction Controls were shaped to anticipate the Tree Ordinance and the Tree Ordinance now presents the need to clean it up, was the Tree Ordinance not through about at the time the Post Construction Controls were developed and why would a standard have been adopted in PCCO that wasn't consistent with what the Tree Ordinance would have so I'm a little confused.

Mr. Blackwell said at that time the Tree Ordinance was not formulated enough to know what it was going to do as far as natural area and a number of the folks were the same stakeholders on
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those two groups, but the Post-Construction Controls Ordinance of course has been in effect for three years, it went on ahead and did do that protection, then in January the Tree Ordinance was put in effect that had that other protection.

Mr. Blackwell continued his presentation with the slides on Page 5.

Councilmember Peacock said I know we are dealing with some highly technical data, but I wanted to clear up a couple things. In the white paper that was presented by staff under Tab 1, there is a little summary of official comments that we received from PCCO and you see 84 people had spoken out against and 12 had spoken for the changes. One of the things we think when a revision comes to us like this, it had to be driven by one particular project or one particular developer, or one particular desire. What is interesting about these changes is that they are largely coming from staff who I believe is trying to pro-act here. You are trying to pro-act upon the belief that it is more powerful to redevelop sites as they are and give people the most choices that you can have through a mitigation option which you believe will increase the overall amount of money that you can be receiving in order to improve other watersheds.

Mr. Blackwell said that is our goal.

Mr. Peacock said Mr. Howard said this in committee multiple times, that the original, the greenest and most sustainable thing we can do is to take an existing site somewhere in this City, whether it is in a transit or distressed business corridor and do the most that we can do on that site. But, if there are challenges on those sites the question become how flexible are we on that. There hasn't been one particular project that has come to you and it has literally changed the world, you all are just sensing the fact that maybe we aren't hearing about transactions for the simple reason that they are just not coming to us, they are just going somewhere else. From that perspective I feel as Chairman of the Committee, I feel that is a rather unusual and we are not being reactive, we are trying to be proactive and I commend staff for doing that. I just hope Council will see this for what you have commented on here. You said that most developed land in Charlotte does not have any form of runoff control until these sites are redeveloped and the runoff is controlled or a mitigation fee is paid and the impact mitigated elsewhere, local watersheds will continue to be impacted by excess runoff if as envisioned the fee provides a catalyst for more redevelopment and water quality will be benefited. That is really when our Committee got what I call the Howard Amendment on trying to make sure that these fees were flexible and they gave one-acre sites and those over one-acre sites a little better flexibility. I'll let him speak to that when we go downstairs, or now, but I thought he came up with a thoughtful proposal that again trying to meet a redevelopment site anywhere in this City, not just in those particular nodes. I wanted to amplify that to the Council just to pay particular attention to this one.

Ms. Carter said if we debate this downstairs there will probably be a repeated argument that I will put forward. Again I think the EPA directions will be something that we need to look at before we make changes. As I understand it the EPA includes a redefinition of imperious surfaces and a stronger mandate for the use thereof, so there is something that will be coming forward I believe from the Federal Government directing development in this area. Number one, those distressed areas have been successful. We had a priority, we had a goal, it's being achieved, why step back from that now. I understood that there were four projects outside the distressed area that we are developing and 16 within. At least those were the figures that I remember from the Committee meeting.

Daryl Hammock, Engineering and Property Management, said I don't think there were any outside the business distressed districts or transit station areas.

Ms. Carter said I would like to go back to the committee minutes because I think there were four mentioned to us outside and 16 inside.

Mr. Hammock said there were four that went to variance.

Mr. Blackwell said the question was asked earlier had there been any variances. There had been no request. On this one there had been four requested variances that staff had reviewed and supported and they went to the Storm Water Advisory Committee and they were approved.

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Ms. Carter said our variance system does work. If there is a good proposal and it comes back to us they get approved so I think the system is working right now. That to me is something that we do need to adhere to. The argument is stated that if the land stays as it is and is not developed it has less of water quality improvement and runoff. That to me is a bit counter intuitive because if you put more impervious area you are not improving the runoff. There is a tension there that I'm not sure we are recognizing in what is and what can be. The City assuming costs 20 years down the road, none of us will be serving at that time I imagine and we are passing a cost on to future Councils that I don't think is appropriate.

Mr. Cannon said they are saying I'll be serving.

Mr. Dulin said and what is going to make me mad is that is still going to look like he is 18. Jeb, can you go back to the picture of the business? It is outside of the mitigation fee option area and yet they will be able to pay the mitigation fee?

Mr. Blackwell said they will not. As it sits today they could apply for a variance, but they have not, but they are not eligible now as noted here, if they are not in the distressed business corridor or transit corridor they are not eligible.

Mr. Dulin said what are they going to have to do to be able to expand. All this guy wants to do is expand his business and make some jobs. What is going to have to do to be able to expand his business and properly apply himself to our boards?

Mr. Blackwell said right now he would need to apply for a variance.

Mr. Dulin said just a variance, and if we change it what will happen?

Mr. Blackwell said then he would be able to pay a fee in lieu.

Mr. Dulin said would we take that blue area there and do the math and find out how much of an acre that is and then charge him for the first.

Mr. Blackwell said it is 57,000 square feet so it would be a little over an acre.

Mr. Dulin said it is a little over an acre so for him to expand his business and stay in good graces with the City Council and Mayor of the City of Charlotte, we are going to charge him how much. The first acre is \$60,000 and then the second half acre would be \$90,000?

Mr. Hammock said under the proposal it would be \$60,000 for the first acre and then \$90,000 for each portion of an acre.

Mr. Dulin said that is roughly \$70,000 we are going to charge him over and above everything else he wants to do to expand his business and grow jobs, just for the hell of it.

Mr. Blackwell said for us to create the fund for us to do the downstream measures to test the water quality impact.

Mr. Dulin said I'm glad I'm not in that guy's kitchen when he finds out how much it is going to cost him.

Mr. Howard said the only thing I would add to what Mr. Dulin just said is that if you are not in a transit corridor or distressed business corridor that we have identified, then you can't do it right now anyway. Just remember that. That is a transit corridor property there, but if you are outside of that. If you are in a transit corridor now you can do that anyway at \$60,000 and you stop. On this one it would stop at \$60,000 wouldn't it?

Mr. Blackwell said he is just outside so he would not be eligible under the current fee.

Mr. Howard said right now he can't do it all. Just remember that Andy. He can't expand and do a payment in lieu at all.

Mr. Dulin said he could expand if he goes to the variance process.

Mr. Blackwell said yes, if it was approved.

Mayor Foxx said has this case gone through the variance process?

Mr. Blackwell said he did go through variance and this was an approved one.

Mr. Dulin said this is a big city and there are hundreds of buildings like that.

Mr. Blackwell said this could be one of the four that we were talking about that did go through variance.

Mr. Howard said what was the variance that he got? He didn't get out of paying anything did he?

Mike MacIntyre said he paid a structured fee much like we're proposing.

Mr. Howard said that would be what?

Mr. MacIntyre said I think it was approximately \$70,000. There were going to have to put in about \$400,000 of improvements and this variance helped them quite a bit.

Mr. Howard said just a few points on the natural area. The part that I find uncomfortable about this whole subject matter, even from the groups that we've heard from, and I want to remind this Council, we've heard from groups for and against. We've heard from our friends at the Sierra Club and our friends in the environmental community, but we heard from the builders and the Chamber and people who are encouraging building as well. I think there are people who care about the community and not people who have done anything in the past to try to make our community not what it should be. I'm a little uncomfortable with the fact that if you are for this you are against trees and the environment and if you are the other way around, it is vice versa. I don't think that is the case. For me it is just simplifying the fact that if you are going to deal with post construction, that is run-off and treatment. That is what this ordinance should be and if you are going to deal with trees that should be in the Tree Ordinance. That is what I've heard staff say over and over and over again. We talk about this small amount of land but what I also heard staff say is that right now because you have two competing ordinances they have to review it each time. Let's look at it the other way. That means that we have staff time going into reviewing something twice for a small amount of land. So we are reviewing stuff twice and I've heard us talk about getting rid of duplication and not only for staff, but to make it simpler for the community to understand our ordinances. We are not doing that in this situation, and we actually have staff telling us that we are not doing that. We've actually heard complaints from the community saying that staff is not being responsive and flexible and in this situation they are coming to us telling us we need to do this because it doesn't make sense. I want to direct your attention Attachment #1, The Role of Trees in the Post Construction Controls Ordinance, it says "However trees do not provide direct storm water control through filtering, detaining or reducing runoff from paved surfaces. No runoff control devices in the local design manual use trees to achieve the ordinance objectives. Trees are not an effective or economical way to address runoff challenges. The PCCO addresses problems caused by runoff and the removal of a Natural Area requirements not the impact of water quality". This is really about making the protection of tree a Tree Ordinance thing and about dealing with runoff and treatment in Post Construction. That is what we are talking about. This idea that if you want to do something that is common sense and makes these ordinances line up the way they are supposed to means you are against the environment that is something that I'm uncomfortable with because I'm not. I support the Tree Ordinance as well. The last thing on the payment in lieu, what I said was the most environmentally sane thing we can, the most environmentally costly thing we can do is encourage redevelopment in areas where there is development already. If we make it harder for development to redevelop where it is, it will go somewhere where it is easier to do develop which is normally something that has nothing on it, which is a grass pasture. In this situation of payment in lieu, let's do what we can to encourage people to redevelop where they are and let's talk about that for a second. Right now it is \$60,000 up to an acre and that is kind of where you stop. You have to be in the distressed corridor or you have to be on the transit corridor to do

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that. We are not encouraging people in other places and I have look on the map so Monroe Road, Tyvola Road, South Tryon, Woodlawn, some of those places where we may see things going in the wrong direction that are not disadvantaged corridors, that are not transit, if somebody wants to develop right now, we are kind of just saying no. We are not being flexible, only if you want to move to one of these other places. What I'm saying is from an environmental standpoint that is not the smartest thing. We want those guys to redevelop where they are, not just abandon a building and go develop somewhere where it is easier. That is what I'm saying in this situation and that is why I'm supportive of this. Then we are saying if you go beyond an acre we are also going to make it make sense and not going to jump up to \$90,000, it is going to be a ratio of \$90,000 up to two acres, which to me is a fair way to get to what is really fair to the city and to the development community. What I've heard from staff is that actually more people are looking at redeveloping where they are and not going to other places. The idea that we can only react to the variance means that we are not anticipating. We don't know how many people have abandoned big boxes and go somewhere else. What we know is about the four people who tried it and came in for a variance, but there may be plenty of other people that we don't know.

Mr. Cooksey said how long does the variance process take?

Mr. Blackwell said up to 60 days.

Mr. Cooksey said where about in a building owners process for improvements would they find out that they might need a variance?

Mr. Blackwell said they probably would learn that at the pre submittal meeting, would be the most typical place. Often that is where we don't see the project again after that and of course you don't know what caused them to leave the project. It could have to do with financing and when I say we don't know, really we don't know.

Mr. Cooksey said I appreciate you saying that because it is always difficult to track what doesn't happen.

Mr. Barnes said regarding the \$60,000 for the first acre and \$90,000 for each additional acre, approximately what would be the value of the water treatment that we would experience by providing those downstream provisions with the \$78,000? Does the \$78,000 take care of that acre that they are redeveloping?

Mr. Blackwell said some of our measures treat more efficiently than others. The pond projects are extremely efficient and would treat a fairly high amount for that amount of money. We need to do all those anyway and one thing I would say is that we are going to be maintaining water quality measures anyway. The question is do we expand it by the ones that are offsetting private development as well. Some of them are more expensive to construct for acre treated and some are less. You have to do streams ones which are a little more expensive than ponds one, which are really valuable.

Mr. Barnes said so we didn't prevent this man from creating jobs?

Mr. Blackwell said no sir.

Councilmember Burgess said I heard today from somebody in the industry that is just waiting on this particular issue with the mitigation fee with lots of redevelopment that they are ready to do once they are able to, but they are not going to as it is too expensive otherwise. I can tell you from my personal conversation today that it sounds like this going to get done as long as the mitigation fee changes.

Councilmember Turner said sir, could you come back to the microphone because earlier you answered a question. Could you state your name and re-answer that question.

Mr. MacIntyre said I am the Post Construction Controls Ordinance Administrator.

Mr. Turner said you indicated that they had applied for an adjustment, was that approved?

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Mr. MacIntyre said that was approved I believe back in July.

Mr. Turner said I want to go back and focus on the cost effect. As I read this report, it also indicated that if we allow this to happen, we still did not see a major impact to our streams and the water quality that will go to that stream from this site, if they developed it out. Tell me what you find to be the solution for this that this Council could do to make it more simpler for us to accomplish our objective in the corridors where we would like to fill in the wedges and give businesses the opportunity to do just what this person is proposing and keep the cost down.

Mr. MacIntyre said a lot of times these redevelopment sites have to go underground with storm water measures and that is what this site would have had to do, especially at the top. They would have had to build underneath this particular thick concrete pad that they are using for their operations basically 24/7, so by allowing people to take the amount of impervious that they have now and put back the same amount of impervious and to treat it somewhere other than where they need to do their operations, that would be a very effective way for them to meet the intent of the PCCO. Also one other thing about this site, because the Tree Ordinance has now become in effect, they are actually decreasing the amount of impervious coverage on their site so the two ordinances in this case actually complement each other. These people waited I know at least 45 days to get their variance procedure when what it would have taken prior is just a visit to the office and say this is our situation and they explain it to staff, staff says yes, this is a good candidate for the mitigation payment. Basically giving them a little bit of guarantee of what is expected of them at the front of their project instead of waiting 45 to 60 days.

Mr. Turner said in your experience do you believe that we as a City could have prevented that by providing, do you think it was a lack of knowledge on their behalf. To me it sounds like they hurt themselves. They thought they could save something and if they had had that knowledge they would have come earlier and we could have helped them better prepare themselves versus waiting till the end of this process.

Mr. MacIntyre said actually on this site they did everything they could to get it through. It is the other sites that we are more concerned about, the ones where we say you have to build these controls on your site or you can go through the variance process. A lot of those we never hear from again. They did everything in their power on this one.

Mr. Dulin said for example let's talk about the Eastland Mall site a minute. The Post Construction Ordinance will have that 80+ acre site, so it all flows down to the corner so whoever buys it and redevelops it is going to have to put a pond down there, somewhere between four and five acres.

Mr. Blackwell said the most economical way to do it would be a pond.

Mr. Dulin said if they are out there doing their own mitigation like that and they start changing the façade of the building, they won't have to pay a mitigation fee.

Mr. Blackwell said that is unlikely one for mitigation, it is such a large site and it would be pretty expensive to pay the fee and since they've got enough land to put a pond in it would probably be most economical to do that.

Mr. Dulin said they put their pond in and a couple other things at their own expense and then don't have to do the mitigation fee? But if they did the site would you let them do the mitigation fee without putting the pond in to catch all that water that is shooting through there?

Mr. Hammock said that is exactly the point. We would give them a choice to pay the fee or build the pond. It is up to them.

Mr. Dulin said so the first acre is \$60,000 and then it is \$90,000 per acre after that.

Mr. Blackwell said yes, it would be a whopper of a fee.

Mr. Dulin said so he builds the pond and then the Tree Ordinance kicks in for the trees in the parking lot, etc. But the trees in the parking lot don't have anything to do with the trees in the
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Post Construction Controls Ordinance because those trees would be covered by the Tree Ordinance.

Mr. Blackwell said as it stands right now it would depend on what density what density he was developing, etc. He would probably be controlled by the Tree Ordinance entirely , but if we went very low density there then he could potentially fall into the PCCO.

Mr. Dulin said we spend millions every year fixing private damns and when that guy has to build that five acre pond down there does he have to do that with his own money or are we going to help him since he is going to be trapping so much water and treating so much water, are we going to float some money to help him?

Mr. Blackwell said I would expect it would be entirely his money.

Mr. Dulin said entirely private cash.

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ITEM NO. 4: OAKHURST REDEVELOPMENT INFRASTRUCTURE PROJECT

Deputy City Manager, Ron Kimble, said Peter Zeller from Neighborhood Services will cover this item. This is a project that has come to our attention and we want to pro-case in front of the Mayor and City Council and ask for a deferral to the Economic Development Committee.

Peter Zeller, Neighborhood Services, said this is a project that you folks have seen before. You approved a rezoning for this project back in September 2010. Mr. Seller used PowerPoint for his presentation to Council. (A hard copy is on file in the City Clerk's Office).

Councilmember Cannon said do you have a number on the wage amount?

Mr. Zeller said no, we do not have a wage. This would be a variety of retail.

Mr. Zeller continued his presentation with the last slide on page 3.

Councilmember Dulin referred to the proposed improvements and asked if those were City expenses or developer expenses?

Mr. Zeller said we will get to that in a moment. He continued his presentation with the last slide on Page 4, explaining that the yellow is the residential portion and the red the retail portion.

Councilmember Barnes said I have some strong concerns about this because of a couple of things. One, it appears that they have owned this site for a number of years, a \$50 million development cost deal and it looks like less than \$2 million is their hang up. There are a lot of deals that have been done in this City since I've been on this Council where developers have paid their own money to realign roads. We've asked them in many cases to add turning lanes, add stop lights to realign intersections and they've done that. It is going to be very difficult for us to get anyone else to do that if we do this. What I'm hearing you say is that they are essentially asking us for money, as Andy said earlier, for the hell of it because they can get it because we are a source of money instead of paying for these improvements themselves. They didn't indicate an interest in paying us back did they? Once they sign all the leases and get the shopping center open are they going to pay us back?

Mr. Zeller said that would be part of the discussion we would have with the developer.

Mr. Barnes said that would only seem fair if we are going to do it.

Mr. Dulin said Mr. Barnes we are in the business of roads and creating better roads and better intersections and moving traffic and moving people. The way this fellow is going to pay us back is he is going to borrow the money, build something and create jobs, create tax revenue where it is empty fields now. There is a worn out fence and I'd like to give him a shot of making something positive over there.

Mr. Barnes said it goes well beyond that Andy.

Councilmember Carter said there is a balance in our ledger that the County has. They owe us some money and the question is who controls the schools assets. Could that enter into the equation?

Mayor Foxx said maybe he Committee could talk about that.

Ms. Carter said I think it would be an interesting proposal to see if we could work that because it takes something off the ledger that we don't know if we will ever be paid back and puts in into use, reduces the cost, reduces the precedent that it sets and it might be workable. We have made other similar projects.

[Motion was made by Councilmember Cannon, seconded by Councilmember Barnes, and]
[and carried unanimously, to refer this to the Economic Development Committee.]

Councilmember Peacock said what we are talking about is business corridor revitalization funds to be used for this project. We are at \$14 million now and you are talking about \$2 million that they would want or need potentially, all largely going to infrastructure, roads, intersection changes, pure infrastructure that we are talking about as a proposal that will go to committee?

Mr. Zeller said yes, the cost is between \$1.5 and \$1.9 million by our best estimates right now. The \$1.9 is kind of a dooms day scenario, but it would all go to public infrastructure. It would not go to any private infrastructure or any private enhancements.

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ITEM NO. 6: CLOSED SESSION

[Motion was made by Councilmember Barnes, seconded by Councilmember Howard, pursuant]
[to NCGS 143-318.11(a)(4) to go into closed session to discuss matters related to the location]
[of an industry or business in the City of Charlotte, including potential economic development]
[incentives that may be offered in negotiations. The vote was recorded as unanimous.]

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DINNER MEETING

The Council reconvened at 7:18 p. m. in the Council Meeting Chamber of the Charlotte Mecklenburg Government Center with Mayor Anthony Foxx presiding. Council members present were: Michael Barnes, Jason Burgess, Patrick Cannon, Nancy Carter, Warren Cooksey, Andy Dulin, David Howard, Patsy Kinsey, James Mitchell, Edwin Peacock and Warren Turner.

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INVOCATION AND PLEDGE

Mayor Foxx gave the Invocation and led the Council in the Pledge of Allegiance to the Flag.

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AWARDS AND RECOGNITION

Charlotte Symphony 80th Anniversary

Mayor Foxx said we have several Awards and Recognition, the first is the Charlotte Symphony's' 80th Anniversary which we are very pleased about. We have in the audience Jonathan Martin who is the President and Executive Director of the Symphony, Burney Hargadon, Chair of the Public Affairs Committee and Amy Burns who is with the Symphony Youth Orchestras. The Charlotte Symphony has just begun its 80th season and its second under the leadership of Music Director, Christopher Warren Greene. Mr. Greene is building on the momentum he achieved in his first year in Charlotte, which included launching a new innovative
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new series and conducting the Royal Wedding in London. This year's highlights include a collaborative festival, two vibrant youth orchestras and the promising success of the Winterfield Strings Program and an initiative at a Title I School in east Charlotte. Mr. Greene we want to welcome you and offer you an opportunity to talk about this wonderful occasion for the Symphony.

Jonathan Martin, said thank you for giving me the change to share the three-minute story of the Charlotte Symphony as we begin our 80th anniversary season. First, five quick facts, some of which the Mayor just shared, some of which you may not know about your Orchestra. The Symphony serves over 200,000 adults and children each year in over 100 performances uptown at SouthPark and all across Charlotte with classical, popular and family programming. The Symphony creates jobs. We employ over 100 full and part-time professional artists and administrators, delivering over \$15 million in annual economic impact and 85% of every dollar invested in the Charlotte Symphony stays right here in Charlotte. The Symphony is actually three symphonies. As the Mayor said, we operate the Charlotte Symphony and we operate two Youth Orchestras, teaching hundreds of kids ages 10 – 18 and a 150 member, all volunteer chorus. The Symphony is an educator. We spend nearly two-thirds of a million dollars each year educating our children, using the power of live music. The Symphony is the largest asset in Charlotte's Arts and Cultural scene. A pool of music and education talent from which all of Charlotte's performing arts groups draw and a powerful indicator, very important, it is a cultural marker that this city uses as it competes in the national market place for jobs and attention. As with all of us our world changed dramatically in the past three years, creating significant challenges for us and an imperative to accelerate the change that had already been underway. So how are we changing? Number one, through new innovative concerts that is changing the way younger and more diverse populations can relate to the Symphony Orchestra, our new sold out concerts at the Knight Theatre are just the beginning of a broader transformation and how live music is being presented in Charlotte. Number two, through education programs focusing much more on immersive music instruction, more than just episodic exposure to music. It uses music to change children's lives. Our ongoing success with our youth orchestra program and our early success at Winterfield Elementary School is the foundation of a much broader, much deeper initiative that we are committed to that will ultimately involve many more children in more schools. Those are just two examples of the change being led by a new dynamic artistic director, Christopher Warren Greene, a fulltime Charlotte resident, a true global star who recently carried Charlotte's brand into an event heard and seen by over two billion people as the Conductor for your Orchestra at the Royal Wedding in April. Christopher and his wife Rose Mary are talented musicians and experienced educators and both are committed, as am I, to creating a new American Orchestra right here in Charlotte, North Carolina. That is why we came here. The story of the Symphony is not just about challenge, but also one of adaptation and hard fought success on the path to a more relevant and sustainable orchestra for the next 80 years and beyond.

Mayor Foxx said we have a Councilmember who has a very distinguished connection to the Symphony, Patsy Kinsey.

Councilmember Kinsey said actually Councilmember Carter and I both served as President of the Charlotte Symphony Women's Association, now known as the Gill, so I'm not the only one. I did serve about 15 years on the Board however and actually served as an interim manager 30 years ago when we celebrated the 50th Anniversary. When I saw this on the agenda, I couldn't believe it had been 30 years, and I'm so sorry I didn't bring the poster we did in commemoration of our activity and I hope you have it somewhere there at the office. I do have a long history with the Symphony. I studied with the musicians and I remember my first concert at Piedmont Junior High School when I was very young, so I have grown up with the Symphony and I hope it is around for 80 more years because people don't realize how much depends on the Charlotte Symphony Orchestra in this community.

Councilmember Howard said last month I had the opportunity of representing the City at an event for our matching grants and actually we had the Winterfield String Program to perform and it was great. I just wanted to let you know that to me this is the best of what Charlotte does. It was the schools coming together with the neighborhood to apply to the City and then the Symphony coming in and actually providing them training material as well as the instruments in some situations. Mayor, just so you will know, the only thing they wanted to know was where

was the Mayor. I told them you were not here but I took them up and showed them our offices and then I took them to your office and showed them a real office. They took pictures and then we came down here and they all say in your seat and were Mayor for 30 seconds each. We had a ball, but after they finished all they wanted to know was, where is the Mayor.

Mayor Foxx said Patsy, I didn't know you were a Piedmont Pirate.

Ms. Kinsey said Oh yes sir, and a Central Wild Cat. Actually we were the Panthers way back in the dark ages.

Charlotte's Crown Tree Award

Mayor Foxx said the City of Charlotte is obviously known as the City of Trees and we will be talking about that a little later and see how long we can stay that way, and has received the National Arbor Day Foundation designation as a Tree City for the past 31 years. This year's awards are being presented in the category of outstanding tree preservation which exceeded Tree Ordinance Requirements. The projects being recognized are Park South Mews Neighborhood and Mountain Island Church of Christ.

Councilmember Peacock said as you recognized earlier, Charlotte is known as the City of Trees. Our City has set a goal, a very ambitious one, to maintain our tree canopy at 50% by 2050. We've had 30 consecutive years of being Tree City USA and throughout the process of revising our Tree Ordinance recently we learned that out of all top 20 cities in the US we have the number one tree canopy, so we value it very much in this city. Tonight we will recognize two sites and will recognize Tom Johnson from our Engineering Department to share with us these two recipients.

Tom Johnson, Engineering, said I'm the Senior Urban Forestry Specialist here at the City of Charlotte. I work in Land Development. The Charlotte Crown Tree Award is given by the Charlotte Tree Advisory Committee annually on behalf of the Mayor and City Council. There are four categories in which we present these awards, tree preservation, tree planting, tree advisory and educational efforts. Tonight, the sites that we are looking at were for tree preservation efforts, the first is Mountain Island Church of Christ, located on Mount Holly Huntersville Road. Recently they did an expansion of their parking lot and they went above and beyond the ordinance requirement to protect trees. They protected several oaks that were greater than 24" in diameter. The second site we are honoring is South Park Mews Neighborhood, located on Old Reid Road between Park Road and Park South Drive in the SouthPark area. They did some real innovative things for these trees. The roots were pruned prior to any construction so as to prevent any accidental construction damage to the roots. They also put up chain link fence to help protect these trees during the construction process.

Mr. Johnson said those are the two sites we are bringing forward to you on behalf of the Tree Advisory Committee. I want to thank these two sites for their participation. I would ask that Artie Smothers, Dan Whitecotton and Alan Semonini to come forward to receive these awards.

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CONSENT AGENDA

[Motion was made by Councilmember Mitchell, seconded by Councilmember Cannon, and]
[carried unanimously, to approve the Consent Agenda as presented, with the exception of Item]
[Nos. 19, 21, 22, 23, 24, 25, 28, 31, 39-E, 41-S-V. Item Nos. 41-T and Y have been settled and]
[removed from the agenda.]

The following Items were approved:

16. Contract to the lowest bidder, BRS, Inc. in the amount of \$299,908.40 for the construction of the Walkers Ferry Road Water Main, funded by a Community Development block Grant received by Mecklenburg County.

Summary of Bids

BRS	\$299,908.40
R. H. Price	\$306,472.10
Davis Grading	\$319,141.90
Monroe Roadways	\$331,112.87
Dellinger	\$340,064.45
Advanced	\$341,533.28
State Utilities	\$379,379.00
Sanders Construction	\$416,969.98
United Construction	\$419,521.30
Landsdown Construction	\$435,275.50

17. (A) Low bid, unit price contract with the following distributors for the purchase of larger water meter electronic radio transmitters and registers in the combined estimated annual amount up to \$250,000 for the term of one year.
- HD Supply Waterworks (\$125,000)
 - MSC Waterworks (125,000)
- (B) Authorize the City Manager to renew the contracts for two additional, one-year terms at the same unit prices.
18. (A) Contract to the lowest bidder Dallas 1 Construction in the amount of \$1,245,733.50 for large water valve investigation and replacement services; (B) authorize the City manager to renew the contract for three additional terms with price adjustments as stipulated in the contract.

Summary of Bids

Dallas 1 Construction	\$1,245,733.50
Sanders Utilities	\$1,459,080.70
BRS, Inc.	\$1,946,475.30

20. (A) Low bid unit price contracts for providing Firefighting Turnout Gear for a term of three years to the following:
- Municipal Emergency Services, Inc.
 - Newton's Fire and Safety
- (B) Authorize the city Manager to extend the contracts for two additional, one-year terms with possible price adjustments at the time of renewal as authorized by the contract. The FY2012 expenditures are anticipated to be \$200,000.
- (C) Authorize the City manager to approve additional grant fund purchases totaling approximately \$750,000 as a result of the 2011 Assistance for Fire Firefighter Grant.

Summary of Bids

Globe/D1183-D and Y1183-D	Municipal Emergency Services	\$542,570.
Morning Pride LTO4212Black	Newton's Fire & Safety	\$189,600.

26. Resolution authorizing the Utilities Key Business Executive to execute a Municipal Agreement with the NC Department of Transportation for design and construction of water and sewer line relocations and adjustments along I-485 (Outer Loop), in the estimated amount of \$3,933,386.13; authorize the City Manager to approve the final pay request for the actual cost of the utility construction.

The resolution is recorded in full in Resolution Book 43, at Page 340.

27. Purchase of Ultraviolet (UV) Disinfection and Filtration Equipment parts as authorized by the sole source exemption of G.S. 143-129(e)(6); contract with Infilco Degremont, Inc. for the purchase of ultraviolet (UV) and filtration replacement parts, based on negotiated OEM unit prices, in the estimated annual amount of \$200,000 for the term of five years.

29. Two-Year, unit price, services contract with Hach for routine maintenance and repair of Hach-brand water quality analytical instruments, in an estimated total amount of \$400,000 for the initial two years; authorize the City Manager to renew the contract for three additional one-year terms, in an estimated amount of \$200,000 per year.
30. (A) Purchase of JCB Construction Equipment Parts and Services as authorized by the sole source exception of G.S. 143-129(e)(6); (B) contract with Dougherty Equipment Company for the purchase of JCB Construction Equipment Parts and Service in the estimated annual amount of \$160,000 for the term of one year; (C) authorize the City Manager to extend the contract for four additional one-year terms with possible price adjustments at the time of renewal as deemed reasonable and appropriate by the City Manager.
32. Resolutions to approve the issuance of up to \$80 million of Airport Special Facility Revenue Bonds.

The resolution is recorded in full in Resolution Book 43, at Page 341-343 and 344-348.

33. (A) Purchase and installation of baggage conveyor barcode system and repair parts, as authorized by the sole source purchase exception of G.S. 143-129(e)(6); (B) agreement with SICK, Incorporate, for equipment, installation, repair parts, and employee training used for the baggage conveyor barcode scanner systems in the amount not to exceed \$65,000.
34. Change Order #2 with Blythe Development Company in the amount of \$345,310.01 for additional road improvements related to West Boulevard relocation.
35. (A) Contract with Newton & Associates, Inc. not to exceed \$175,000 for Passenger Facility Charge applications, administration, and reporting; (B) Budget Ordinance No. 4743-X in the amount of \$175,000 from the Passenger Facility Charge Fund.

The ordinance is recorded in full in Ordinance Book 57, at Page 374.

36. Resolution of Intent to abandon two 10-foot alleyways located off of Tennessee Avenue; set public hearing for November 14, 2011.

The resolution is recorded in full in Resolution Book 43, at Page 349-350.

37. Resolution of intent to abandon a residential portion of Piedmont Row Drive; set public hearing for November 14, 2011.

The resolution is recorded in full in Resolution Book 43, at Page 351.

38. Resolution authorizing the refund of property taxes assessed through clerical or assessor error in the amount of \$15,269.72; resolution authorizing the refund of business privilege license payments made in the amount of \$10,191.61.

The resolutions are recorded in full in Resolution Book 43, at Page 352-353 and 354-355.

- 39-A. Ordinance No. 4744-X authorizing the use of In Rem Remedy to demolish and remove the structure at 3805 Voyager Road (Neighborhood Statistical Area 107- Dixie/Berryhill Neighborhood).

The ordinance is recorded in full in Ordinance Book 57, at Page 375.

- 39-B. Ordinance No. 4745-X authorizing the use of In Rem Remedy to demolish and remove the structure at 429 Campus Street (Neighborhood Statistical Area 26-Biddleville Neighborhood).

The ordinance is recorded in full in Ordinance Book 57, at Page 376.

- 39-C. Ordinance No. 4746-X authorizing the use of In Rem Remedy to demolish and remove the structure at 2533 Hemphill Street (Neighborhood Statistical Area 2 – Pinecrest Neighborhood).

The ordinance is recorded in full in Ordinance Book 57, at Page 377.

- 39-D. Ordinance No. 4747-X authorizing the use of In Rem Remedy to demolish and remove the structure at 3531 Markland Drive (Neighborhood Statistical Area 9 – Ponderosa/Wingate Neighborhood).

The ordinance is recorded in full in Ordinance Book 57, at Page 378.

- 39-F. Ordinance No. 4748-X authorizing the use of In Rem Remedy to demolish and remove the structure at 7600-1 Reames Road (Neighborhood Statistical Area 123 - Beatties Ford/Trinity Neighborhood).

The ordinance is recorded in full in Ordinance Book 57, at Page 379.

- 39-G. Ordinance no. 4749-Z authorizing the use of In Rem Remedy to demolish and remove the structure at 7600-2 Reames Road (Neighborhood Statistical Area 123 – Beatties Ford/Trinity Neighborhood).

The ordinance is recorded in full in Ordinance book 47, at Page 380.

40. Amendment to the Discovery Place Lease extending the term for 10 years , plus up to four 10-year renewal periods.

- 41-A. Acquisition of 6,402 square feet in temporary construction easement at 6111 and 6131 East Independence Boulevard from Paul Thomas Morgan and wife, Sherri W. Morgan for \$13,000 for City View Stream Restoration, Parcel #40.

- 41-B. Acquisition of 3,524 square feet in fee simple, plus 127 square feet in utility easement, plus 1,054 square feet in temporary construction easement at 6065 Johnnette Drive from Hickory Grove Baptist Church, Charlotte, North Carolina, Inc. for \$11,675 for Farm Pond Neighborhood Improvement Project – Phase I, Parcel #25.

- 41-C. Resolution of condemnation of 1,187 square feet in storm drainage easement, plus 9,554 square feet in conservation easement at 1515 Allenbrook Drive from William Buerger and any other parties of interest for \$6,425 for Allenbrook/Westridge Stream Restoration, Parcel #6 and #55.

The resolution is recorded in full in Resolution Book 43, at Page 356.

- 41-D. Resolution of condemnation of 397 square feet in fee simple, plus 1,526 square feet in slope easement, plus 1,633 square feet in temporary construction easement at 1308 Charidge Lane from Unshawn Davis and Jacquelyn Lewis and any other parties of interest for \$5,175 for City Boulevard Extension, Phase II, Parcel #53.

The resolution is recorded in full in Resolution Book 43, at Page 357.

- 41-E. Resolution of condemnation of 1,354 square feet in sidewalk and utility easement, plus 1,117 square feet in temporary construction easement at 1909 Commonwealth Avenue from James E. Schacht and Clayton C. Watkins and any other parties of interest for \$47,325 for Commonwealth Streetscape, Parcel #6.

The resolution is recorded in full in Resolution Book 43, at Page 358.

- 41-W. Resolution of condemnation of 43,541 square feet in sanitary sewer easement, plus 51,981 square feet in temporary construction easement at 9903 Paper Tree Road from Centex Homes and any other parties of interest for \$1,950 for McKee Creek Outfall Sanitary Sewer Project, Parcel #19.

The resolution is recorded in full in Resolution Book 43, at Page 359.

- 41-X. Resolution of condemnation of 3,811 square feet in sanitary sewer easement, plus 6,279 square feet in Temporary Construction Easement at Starnes Randall Road from Larry Douglas Starnes and David Allen Starnes and any other parties of interest for \$950 for McKee Creek Outfall sanitary Sewer Project, parcel #46.

The resolution is recorded in full in Resolution Book 43, at Page 360.

- 41-Y. Resolution of condemnation of 12,136 square feet in sanitary sewer easement, plus 125,679 square feet in temporary construction easement at Starnes Randall Road from North American Islamic Trust, Inc. and any other parties of interest for \$22,475 for McKee Creek Outfall Sanitary Sewer Project, parcel #49.

The resolution is recorded in full in Resolution Book 43, at Page 361.

- 41-Z. Resolution of condemnation of 550 square feet in sanitary sewer easement, plus 1,417 square feet in temporary construction easement at Downey Birch Road from Centex Homes and any other parties of interest for \$1,275 for McKee Creek outfall Sanitary Sewer project, Parcel #91.

The resolution is recorded in full in Resolution Book 43, at Page 366.

- 41-AA. Resolution of condemnation of 2,397 square feet in storm drainage easement, plus 4,023 square feet in temporary construction easement at 717 Royal Court from McEwen Associate and any other parties of interest for \$66,000 for Royal Court Storm Drainage Repair Project.

The resolution is recorded in full in Resolution Book 43, at Page 363.

- 41-AB. Resolution of condemnation of 1,601 square feet in storm drainage easement, plus 2,004 square feet in temporary construction easement at 4613 Willard Street from Jerry R. Oliver, Jr. Rhonda O. Monaghan, Michael T. Oliver and Anthony L. Oliver and any other parties of interest for \$1,500 for Thomasboro/Hoskins Neighborhood Improvement Project, Phase 4, parcel #185.

The resolution is recorded in full in Resolution Book 43, at page 364.

- 41-AC. Resolution of condemnation of 337 square feet in sidewalk and utility easement plus 901 square feet in temporary construction easement at 1800 Toddville Road, from First Beneficial Homes and any other parties of interest for \$200 for Toddville Road-Freedom Drive/Tuckaseegee Road Sidewalks, Parcel #57.

The resolution is recorded in full in Resolution Book 43, at Page 365.

42. Titles, motions and votes reflected in the Clerk's record as the minutes of June 13, 2011 Business Meeting, June 20, 2011 Zoning meeting, June 27, 2011 Business Meeting and July 18, 2011 Zoning Meeting.

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ITEM NO. 19: CONTRACT TO THE LOWEST BIDDER CAROLINA WETLAND SERVICES, INC. IN THE AMOUNT OF \$387,002.18 FOR INSTALLATION OF NATIVE PLANTS AND REMOVAL OF NON-NATIVE PLANTS ALONG RESTORED STREAMS.

Councilmember Carter said the question I have about removal of non-native plants along restored streams, I am wondering about the size of those plants and if they are trees that there be extra debate about removing large trees.

Assistant City Manager, Eric Campbell, said staff informed me that primarily removals are vines rather than plants and trees, but if there are invasive plants they are removed. Rarely are trees removed unless it is similar to a Mimosa plant which is invasive and not a natural habitat.

[Motion was made by Councilmember Carter, seconded by Councilmember Dulin, and carried]
[unanimously, to approve the subject contract.]

Summary of Bids

Carolina Wetland Services, Inc.	\$387,002.18
Habitat Assessment & Restoration Program, Inc.	\$495,495.00
Metrolina Landscape Company	\$649,341.00

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ITEM NO. 21: (A) LOW BID UNIT PRICE CONTRACT FOR PROVIDING POLICE VEHICLES FOR A TERM OF ONE YEAR TO THE FOLLOWING: BENSON FORD-MERCURY, HORACE G. ILBERTON, LLC, PARKS CHEVROLET AND VIC BAILEY FORD LINCOLN; (B) AUTHORIZE THE CITY MANAGE TO EXTEND THE CONTRACT FOR THREE ADDITIONAL, ONE-YEAR TERMS WITH POSSIBLE PRICE ADJUSTMENTS AT THE TIME OF RENEWAL AS AUTHORIZED BY THE CONTRACT. THE FY2012 EXPENDITURES ARE ANTICIPATED TO BE A COMBINED TOTAL OF \$5,516,000.

Councilmember Barnes said this is an item to authorize \$5 million for the purchase of CMPD vehicles and in light of the fact that the Crown Vic is apparently going out of production and the Impala does not meet our needs, what types of vehicles are we buying from a Ford and Chevrolet dealership?

Assistant City Manager, Eric Campbell said looking at the list which you all didn't have, these aren't primarily the patrol vehicles. They are varying vehicles, animal containment vehicles, 15-passenger vans and some control vehicles on the list. The Chargers are included on the list as well as the Crown Vic. The reason CMPD is still purchasing the Crown Vic is because that is a large part of the fleet and they still have the parts in operational ability to maintain the Crown Vic as they are now. It is not just patrol vehicles. There are other vehicles and the Dodge Charger is on their list as well.

Mr. Barnes said out of the 212 vehicles how many are patrol vehicles?

Mr. Campbell said I don't have that information specifically.

Mr. Barnes said would there be any problem delaying this until we get the answer?

Deputy City Manager, Ron Kimble said why don't we delay action for now and try to get the answer before the end of the meeting.

Councilmember Dulin said I pulled this item because I ran the numbers and these numbers come out to \$26,018.68 per vehicle for the 212 new vehicles. We are a big city but we certainly don't need 212 new vans, dog trucks, utility vehicles and SUV's and all that kind of stuff. The numbers would be very important to know how many of these are patrol cars and how many are non-officer cars.

Mr. Campbell said we can get that information for you.

Later in the meeting Mr. Campbell informed the Council that he had the requested information.

Katrina Graue, Deputy Chief for Administration at CMPD, said it is 150 marked cars to include Crown Vic, Chargers, Impalas and Tahoes. It is 56 unmarked cars, 2 animal control vans, 2 crime scene vans and 2 other vans. The vans are at least 9 or 10 years old and in the past two years our authorized fleet number has been reduced so we are trying to replace some marked cars that we haven't been able to replace in the past two years.

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Mr. Dulin said we know the Impalas don't work so I'm curious as to why we are buying more. Secondly, I think there is only one in our fleet, a Dodge Charger.

Deputy Chief Graue said we actually have about 18 Dodge Chargers in our fleet. We started with two Dodge Chargers that we used for Officer of the Month and this past year we bought 16 or 18 more. I think we have 18 or 20 total.

Mr. Dulin said I don't have any idea where they are on the cost sheet, but the Dodge Charger that runs up and down Runnymede Road that I see from time to time is a heck of a good looking police car.

Deputy Chief Graue said we attempted to distribute those evenly across the 13 Patrol Divisions so that all the Divisions got the opportunity to try the Dodge Charger.

Mr. Dulin said I've done ride-a-longs in the Impala and it is too small. The officer wasn't even comfortable in it.

Deputy Chief Graue said unfortunately we are limited to the vehicles that the manufacturers make. The new Crown Vic is going to be that same size model and unfortunately we are limited to the vehicles that the manufacturers make for us.

Mr. Dulin said we don't have to buy them do we?

Deputy Chief Graue said yes, we have to have police cars and there are officers that can certainly fit comfortably in an Impala.

Mr. Dulin said a bigger car give you more protection around it for the officer's safety. Are we going to ramp up the Charger? That seems like a viable option. It is bigger than the Impala.

Deputy Chief Graue said our plan this year is to purchase 50 Chargers. Unfortunately the Charger costs a little more to maintain. The maintenance on a Charger is a little more than a Crown Vic of an Impala.

Mr. Dulin said my other question that didn't get answered was how much is the additional costs of ramping the equipment in these cars? All of them have computers, etc, etc.

Deputy Chief Graue said it is about \$16,000 to \$17,000 and I don't have a breakdown by item.

Mr. Dulin said I guess the 15-passenger vans don't need as much stuff in them, but \$16,000 for the 150 something, when will we see that item?

Deputy Chief Graue said those items are transferred from vehicle to vehicle so when one vehicle is decommissioned we move it into a new vehicle.

Mr. Dulin said I've seen down at the lot, how many police cars do we currently have in inventory now down there?

Mr. Campbell said we don't have that available, but we can get that number for you.

Mr. Dulin said that would be interesting because we are getting ready to buy 152 more and we've got some in stock down there already.

Deputy Chief Graue said I know we don't have any unmarked vehicles because the four promotions that we did, I didn't have vehicles to give those. We gave them marked vehicles. I know we don't have any unmarked cars to issue.

Mr. Dulin said at one point weren't we going from the unmarked to marked for everybody so we would have more visibility?

Deputy Chief Graue said that is why we are only purchasing 50 unmarked vehicles versus 150 marked.

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Mr. Dulin said you know we would like to give you guys everything you want because it is good for everybody.

Councilmember Barnes said I think the thing that confuses me is that we've received what would be inconsistent messages. We had understood you all to say that the Impalas were not practical, you didn't want to buy them. You said that the Crown Vics were going out of production so you were transitioning over to the Chargers and you are proposing to buy 206 cars, both marked and unmarked and about 50 of those would be Chargers and the balance would be the Impalas and Crown Vics and you do not know how many new vehicles you currently have in inventory.

Deputy Chief Graue said unfortunately we don't issue the vehicles so I don't think we have very many on the lot at BSS or EMD. I would imagine that it is not more than 25 or 30. We are in the process of trying to purchase the 2011 Crown Vics that are outstanding and that is the Crown Vics that we will purchase this year because as you indicated Crown Vics are no longer being made in the model that are being made currently.

Mr. Barnes said did you say that the new Crown Vics will be about the same size as the Chargers?

Deputy Chief Graue said same as the Impala. It will be built on a Torus frame.

Mr. Barnes said oh, so they are smaller?

Deputy Chief Graue said they are smaller than the current Crown Vic, yes sir.

Mr. Barnes said so they are smaller and less practical than you what you said you need and want?

Deputy Chief Graue said unfortunately we can only purchase police vehicles that are made for a police department and Ford has decided to make a smaller version of the Crown Vic on the Torus frame.

Councilmember Carter said I just wanted to say thank you to the Police for the 161st Class of Recruits that have just become officers. That was a very impressive ceremony and the Fire Department had their awards ceremony last week so last week was a stellar week for Public Safety.

[Motion was made by Councilmember Mitchell, seconded by Councilmember Carter, and]
[carried unanimously, to approve A and B.]

Summary of Bids

<u>Item #</u>	<u>Vehicle</u>	<u>Vendor</u>	<u>Price</u>
1.	Ford Crown Victoria	Vic Bailey Ford Lincoln	\$23,200
2.	Dodge Charger	Horace G. Ilderton LLC	\$22,165
3.	Ford Police Interceptor Sedan	Benson Ford Mercury	\$24,708
4.	Chevrolet Caprice	Parks Chevrolet	\$25,500
5.	Mid Size Admin 4-door Sedan	Horace G. Ilderton, LLC	\$18,096
		Parks Chevrolet	\$18,755
6.	Chevrolet Impala	Parks Chevrolet	\$20,674
		City Chevrolet	\$21,205
7.	Chevrolet Tahoe	Parks Chevrolet	\$25,145
		City Chevrolet	\$25,585
8.	Ford Police Interceptor Utility	Benson Ford-Mercury	\$24,521
9.	15 Passenger Van	Parks Chevrolet	\$26,608
		Horace G. Ilderton, LLC	\$26,847
10.	Chevrolet Animal Transport Van	Parks Chevrolet	\$37,174
11.	Chevrolet Crime Search Van	Parks Chevrolet	\$23,850
12.	Flat Floor 15 Passenger Van	Parks Chevrolet	\$28,162

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ITEM NO. 22: CONTRACT WITH LITTLE DIVERSIFIED ARCHITECTURAL CONSULTING, INC. IN THE AMOUNT OF \$252,040 FOR THE ARCHITECTURAL PROGRAMMING PHASE OF THE CO-LOCATED COMMUNICATION CENTER.

Councilmember Barnes said this is a \$252,000 contract for architectural programming and I want a clarification as to the difference between actual architectural services and other design services. This is one of the first times I'm seen architectural programming study used as a part of one of our action items.

Assistant City Manager, Eric Campbell said this is the needs assessment planning stage before the actual design phase. It is actually determining what would go into the building, how much space is needed, what equipment would have to go into the building, what parking would be needed to help us estimate what the total cost would be for the actual construction of the building to move forward. This is more of a needs assessment, planning phase before we even get to the design aspect of the building.

Mr. Barnes said how have we historically made those assessments?

Mr. Campbell said I believe this is the way we've made those previously. We may not have used the terminology as you've seen it tonight, but as far as the phase itself, it is done normally.

Mr. Barnes said so we spend a quarter of a million dollars to figure out what we need in the building?

Mr. Campbell said this particular building is a security building so it is unique for architectural purposes because it has to be fortified. This one is a little different than most of the other architectural buildings because of the joint communications center. We need to work with an architecture who has experience in those buildings.

[Motion was made by Councilmember Peacock, seconded by Councilmember Carter, and]
[carried unanimously, to approve the subject contract.]

ITEM NO. 23: (A) INSTALLATION OF PEDESTRIAN AND STREET LIGHTS AS AUTHORIZED BY THE SOLE SOURCE PURCHASING EXCEPTION OF G.S. 143-129(e)(6); (B) CONTRACT WITH DUKE ENERGY IN THE AMOUNT OF \$258,451.04 FOR THE INSTALLATION AND MAINTENANCE OF 31 PEDESTRIAN LIGHTS AND 8 STREET LIGHTS ON KENILWORTH AVENUE.

Councilmember Dulin said this is about street lighting and whether we are paying for street lights that don't work and what it cost us to run a street light for a year.

Assistant City Manager, Eric Campbell said my understand is we are paying \$9.90 per light. That includes the electricity as well as the maintenance. If the lights are not operating we still pay for that light, but the staff has put in a process to get those lights either reported to 311 or website so we will have minimal time with them being out.

Mr. Dulin said that is \$9.90 per month.

Mr. Campbell said that is my understanding.

Mr. Dulin said excuse me for being on to something here, but when the staff decide they were going to start the process of trying for us not to pay \$9.90 per month for a light that is not working.

Mr. Campbell said that is an ongoing process. We have a process with 311, through the website as well as staff who is on the street reporting those lights that are out to try to minimize the time the lights that are out that we are paying for.

Mr. Dulin said I am going to blow that we've been paying for now what might be years and years and years \$9.90 per light per month for street lights that don't work. On my walk this morning I probably passed 10 on just my little loop. Do we have any idea how many street lights aren't functioning in the City of Charlotte? Do you have any idea about how the people we work for aren't going to like this portion of our meeting tonight?

Phil Reiger, Assistant Director, Department of Transportation said we've had staff our doing assessments throughout the year and no more than 10% of lights are out at any given time. Most of the lights that you see out are likely on thoroughfares primarily because you do most of your traveling there, but also it is harder to report those outages because Duke Power requires an address associated with those outages and if you can't give them an address they require you to place a little tape around the pole if the light is out. We have troops out in the field periodically looking for those opportunities to fix the lights, but certainly recognize that at any given time lights can go out.

Mr. Dulin said do we have any idea how many street lights we have in the City of Charlotte?

Mr. Reiger said we approximately 80,000 street lights.

Mr. Dulin said so 8,000 of them are out if 10% of them are typically out. Mr. Cooksey what is 8,000 times \$9.90?

Mr. Cooksey said about \$79,200.

Mr. Dulin said about \$80,000 per month for street lights that don't work. We are a pretty good customer of Duke Energy. Are we in communications with them for some sort of rebate or some sort of help on the \$80,000 per month for street lights that don't work?

Mr. Reiger said we work with Duke Energy very closely. We are governed by the Utilities Commission which sets those rates so we do the best we can to report those outages and of course we ask the citizens three 311 and website to report them as well.

Mr. Dulin said every Tuesday and Thursday night when I go to neighborhood meetings we talk about nousey neighbors make safe neighborhoods and lights help make safe neighborhoods, use your lights on your driveway and around your house. I want the street lights working, but if they don't work I don't to pay \$9.90 per month. This has got to be fixed somehow quick, because I'm on it now and that is nuts. I'm sorry to blow up at your because you are a nice man, but thank you Mayor.

Mr. Cooksey said there is an inverse rule, the fewer business and policy items we have the more time we're going to spend on Consent Items, but it is a fascinating question. If we have to report the lights that are out, the contract is for installation and maintenance, that means they don't do any maintenance unless we report it. Am I concluding that correctly?

Mr. Reiger said no, not quite. Duke Energy also has people out riding the streets as well, but we rely on multiple facets to get those reported. We certainly empathize with your perspective Mr. Dulin and we want those lights on also and we don't want to be paying for things that are off, but you can appreciate the 80,000 lights is a lot of lights and it requires the community to keep them on.

Mr. Cooksey said I'm wading into unfamiliar territory which is always frightening, but if this is a \$9.90 flat rate, I'm presuming that that is somehow a better deal than if we were paying for the actual amount of juice used. How many kilowatt hours are we actually consuming with our 72,000 functioning lights?

Mr. Reiger said I don't know the answer to that exactly, but the street lights in the City of Charlotte are not metered, so we pay a flat tariff rate and that tariff rate is a standard lighting rate that is approved by the Utilities Commission.

Mr. Cooksey said that is where I was going. When was the last time that rate was evaluated?

Mr. Reiger said I can't give you an exact date, but it was recent, if you recall Duke Energy had increased their rates.

[Motion was made by Councilmember Cannon, seconded by Councilmember Mitchell, to]
[approve A and B.]

Councilmember Barnes said I'll continue with my bad math. Are we paying roughly \$6,500 per pole for this?

Mr. Reiger said I don't have a calculator in front of me so whatever \$9.90 per month times 12 months would be.

Mr. Barnes said item is for 31 pedestrian lights and 8 streets lights for a total of \$258,451.

Mr. Reiger said I haven't done the math on that actual item.

Sam Barber, Engineering and Property Management said that is correct.

Mr. Barnes said is that the standard for a street light in Charlotte?

Mr. Barger said yes Mr. Barnes I believe that is the going rate for the decorative lighting because they are going on different poles than the wooden poles. These are metal poles and they are a different light so that is the going rate.

Mr. Barnes said how much are the wooden poles?

Mr. Reiger said when the wood poles are installed the \$9.90 per pole, per month covers the standard wood pole installation. We pay a one-time decorative up fit when we move from standard to something decorative.

Mr. Barnes said if I'm putting in a wooden pole it cost how much?

Mr. Reiger said it is included in that \$9.90.

Mr. Barnes said and a decorative pole is \$6,000?

Mr. Barger said that is the going rate, yes sir. We are matching what is there already and those are the numbers that Duke Energy quoted us and that is what we've typically paid.

Mr. Barnes said we spend \$6,000 on decorative street lights?

Deputy City Manager, Ron Kimble said poles and lights.

[Substitute motion was made by Councilmember Dulin, seconded by Councilmember Barnes,]
[to defer this matter for one month until we get some more answers about the \$79,200 per]
[month for street lights that don't work. (Withdrawn)]

Councilmember Carter said isn't the \$6,000 a onetime cost for the installation. It is not per month.

Mr. Barnes said I think Mr. Dulin's point is that unless the poles are inventory, we are essentially wasting \$80,000 per month on light poles that don't work. I'm talking about the poles themselves costing \$6,500 and Mr. Dulin is talking about us paying \$10 per month for lights that don't work, and I think he is right.

Councilmember Turner said I hear the argument and the concern but I think everybody is missing the point. You are going to pay that \$9.90 no matter whether that light is working or not. It is contracted. The standard pole is a wooden pole and we don't have to have decorative lights, but we do and in my neighborhood and other neighborhoods we pay for those up fits and Duke Energy and the City of Charlotte covers that power bill. They replace those decorative lights if something happens to them. I don't see a reason to defer this issue and I think we have
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to understand the process which we have an agreement between ourselves and Duke Energy to install poles, install decorative lighting and the monthly cost that we pay whether that bulb is working or not, the electricity is still attached to that pole and it operates when you put a bulb in it that is a good bulb. Do like I do in my neighborhood and other folks, either you are a good citizen and call it in or you go out and put the yellow tape around it and I find it to be very efficient. When we put the yellow tape around our lights they get out and replace them. They work late at night when they do this and you don't see them doing it in the day time so I don't see a reason to do continue this issue because it is the way we do business and it is the cost of doing business. We don't put decorative light everywhere in the City.

Mr. Dulin said I don't have any problem paying Duke Energy for the power poles and the lights that work. They help keep neighborhoods safe. I have a big problem paying them for lights that don't work. They could take 10% off our bill every month which is close to \$800,000 per month for this whole city, \$9.90 times 80,000 is over \$700,000 per month, times 12 is what it cost to light this place up. Duke and all that technology that company has ought to have some technology out there to tell them when a light is out and there is no incentive for them to use that technology if their customers aren't going to speak up and say we are not paying you for the lights that don't work. This Council needs to speak up and say Duke Energy you are a great corporate citizen, we love you except we do not want to pay you for the lights that don't work.

Mr. Kimble said I hear to different issues on the table. One is the agenda item tonight which is the Consent Agenda about the poles on Kenilworth Avenue. Those are poles that we believe we need to install because they will match the rest of the poles and lights that have been installed in the Metropolitan Midtown Square Area and the redevelopment that is occurring in this area off of Greenwood Cliff Drive. So that is one issue that is on your agenda. I understand the second issue that you've brought forward which is why do we pay for lights that are burned out on all City streets, I think that is a separate issue and we will be glad to go and research that item and bring back more information to you about how it is handled with Duke Energy. I did hear Mr. Barnes raising the question about why are these poles so expensive on Kenilworth Drive. They are decorative poles, it is a major entrance way into the downtown area and we have spent money in the past to upgrade this particular entrance way into the uptown area and these poles will match the other poles that have been installed in and around that newly redeveloped area of our community. That is the going rate from Duke Energy.

Mr. Dulin said I will pull my substitute motion if we can get some answers fast from staff about what we are going to do about the money we are spending.

Mr. Kimble said we will be glad to research that.

Mr. Cannon said thank you for doing that because these lights have a life span and those life spans can actually be projected. We need to get more information about that also as a point of information and I think that will help us. If there is a light that is out, simply call it in. If I see a light out I call it in and Duke Energy is right on it. Area residents, if you see something out, just dial 311. It is as simple as that and then you are not having to wait for lights to be out over a period of time because someone has called it in and Duke has been proactive enough to go out and take care of the matter. It is as simple as that.

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

YEAS: Council members Burgess, Cannon, Carter, Cooksey, Howard, Kinsey, Mitchell, Peacock and Turner.

NAYS: Council members Barnes and Dulin.

ITEM NO. 24: (A) PURCHASE OF SMITH AND WESSON HANDGUNS M&P40, AS AUTHORIZED BY THE SOLE SOURCE EXCEPTION OF G.S. 143-129(E)(6); (B) CONTRACT WITH LAWMAN'S SAFETY SUPPLY FOR THE PURCHASE OF SMITH AND WESSON HANDGUNS M&P40 IN THE ESTIMATED AMOUNT OF \$60,000 ANNUALLY FOR A TERM OF TWO YEARS; (C) AUTHORIZE THE CITY MANAGER TO EXTEND THE CONTRACT FOR TWO ADDITIONAL ONE-YEAR TERMS WITH POSSIBLE PRICE ADJUSTMENTS AS DEEMED REASONABLE AND APPROPRIATE BY THE CITY MANAGER.

Councilmember Barnes said this a request to approve a \$60,000 annual contract for the purchase of Smith and Wesson handguns and the note indicated that we are not allowed to pursue bids on the matter and I wanted to understand under the statute whether we truly are not allowed to get the best price for the product.

Assistant City Manager, Eric Campbell said actually Mr. Barnes staff did go out to bid on this item, however they shortly discovered that Lawman's was the only regional distributor for Smith and Wesson handguns in our area. They are the only one licensed to distribute the handguns that our CMPD offices use, so that is why we were limited in using them for this particular handgun. We are paying the cost per handgun which is about \$400, retail value is anywhere between \$550 and \$600.

Mr. Barnes said so it is a little bit less than retail? Excellent.

[Motion was made by Councilmember Barnes, seconded by Councilmember Kinsey, and]
[carried unanimously, to approve A, B and C.]

ITEM NO. 25: ACCEPT A GRANT IN THE AMOUNT OF \$485,777 FROM THE U.S. DEPARTMENT OF JUSTICE FOR COLD CASE DNA ANALYSIS; BUDGET ORDINANCE NO. 4750-X APPROPRIATING \$485,777 IN GRANT FUNDS FROM THE U.S. DEPARTMENT OF JUSTICE.

Councilmember Dulin said this is information for the general public, a grant of \$485,000 to continue our DNA testing for cold cases. We have 130 cold cases, 29 have been solved, resulting in 19 arrests, including going back and arresting 6 serial rapists. This Council has done a good job over the years to find the money to do the DNA testing ourselves if the State won't help us do it and I just wanted to let the citizens know that we are going to continue that history of doing everything we can to solve cases, cold or hot.

[Motion was made by Councilmember Cannon, seconded by Councilmember Barnes, and]
[carried unanimously, to accept the subject grant and adopt the subject ordinance.]

The ordinance is recorded in full in Ordinance Book 57, at Page 381.

ITEM NO. 28: LEASE AN ASHBROOK SIMON-HARTLEY BIO-SOLIDS DEWATERING UNIT FOR TWO YEARS IN THE NOT-TO-EXCEED AMOUNT OF \$100,000 PER YEAR; AUTHORIZE THE CITY MANAGER TO RENEW THE CONTRACT FOR TWO ADDITIONAL ONE-YEAR TERMS WITH POSSIBLE PRICE ADJUSTMENTS AT THE TIME OF RENEWAL, BASED ON THE TERMS OF THE CONTRACT.

Councilmember Carter said this one about the bio-solids dewatering equipment and the end product is dried out bio-solids and I'm wondering if those are to be recycled by mass as a source of energy.

Assistant City Manager, Eric Campbell, said yes, it is recycled and it is primarily used for fertilizer to farmland.

[Motion was made by Councilmember Carter seconded by Councilmember Barnes, and carried]
[unanimously, to approve the subject lease and the two additional one-year terms.]

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ITEM NO. 31: (A) AUTHORIZE CITY MANAGER TO APPROVE AGREEMENTS WITH MECKLENBURG COUNTY FOR TEMPORARY USE OF MECKLENBURG COUNTY INFORMATION TECHNOLOGY SERVICES EMPLOYEES TO WORK ON CITY OF CHARLOTTE TECHNOLOGY PROJECTS FOR AN ANNUAL ESTIMATED AMOUNT OF \$400,000; (B) AUTHORIZE THE CITY MANAGER TO ENTER INTO SUCH OTHER CONTRACTS FOR THE TEMPORARY USE OF MECKLENBURG COUNTY EMPLOYEES AS MAY BE NEEDED FROM TIME TO TIME IN THE FUTURE AS LONG AS THEY ARE WITHIN THE CITY'S BUDGET.

Councilmember Dulin said the City of Charlotte is paying \$400,000 for one year to the County of Mecklenburg to hire their IT people on a temporary basis you were going to give me some numbers.

Assistant City Manager, Eric Campbell, said it is approximately 6,000 hours for three employees. As you mentioned they are temporary employees and the hourly rate for one employee is \$55 per hour, one is \$71 per hour and the other is \$76 per hour. That is the low end of the technology market value for these positions. They can range anywhere from \$75 to \$150 per hour so we are on the low end of the market rate.

Mr. Dulin said we are going to get 2,000 hours per year out of each of these people?

Mr. Campbell said yes sir.

Mr. Dulin said they are going to be housed by us and who pays their benefits?

Mr. Campbell said I'm not sure about where they are housed, but their benefits are included.

Mr. Dulin said our \$400,000 is also going to reimburse the county for their health insurance, etc.

Mr. Campbell said yes.

[Motion was made by Councilmember Barnes, seconded by Councilmember Howard, and]
[carried unanimously, to approve the subject authorizations.]

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ITEM NO. 39-E: ORDINANCE NO. 4751-X AUTHORIZING THE USE OF IN REM REMEDY TO DEMOLISH AND REMOVE THE STRUCTURE AT 3524 ODUM AVENUE (NEIGHBORHOOD STATISTICAL AREA 22 – OAKVIEW TERRACE NEIGHBORHOOD).

Audies Moore, 9932 Bradley Russell Court, said I recently purchased this property out of a tax foreclosure and later found out that it was set up for demolition and I want a chance to try to bring the property up to code.

Councilmember Mitchell said this one is a tough one for me because this is in my district and looking at the pictures. Were you not aware of the demolition order before you purchased the property?

Mr. Moore said no, I wasn't aware of it.

Mr. Mitchell said what is your estimation of what it will cost to make the repairs?

Mr. Moore said I'm not sure because this is my first project. I did have the property cleaned up so there is no trash around it and it is just the standing house right now.

Mr. Mitchell said the inside needs substantial work. Do you have a tenant already in place to rent or sell this home once you bring it up to standard?

Mr. Moore said no.

Mr. Mitchell said is there any way you can get your money back?

Mr. Moore said no.

Mr. Mitchell said so the county sold this to you through foreclosure?

Mr. Moore said yes.

Mr. Mitchell said Ben, do you mind, because you called me and gave me a heads up on this one. Can you share with the Council the history of this property and how long you've been working and that is why you brought it to us today?

Ben Krise, Neighborhood and Business Services, said we started our case via field observation along the Rozzelles Ferry Road Corridor in the District 2 area. We held our hearing in April of 2011, we subsequently had a compliance for the demolition in May 2011. All the proper list pendency's were filed to insure that the property title insurance would be conducted, any subsequent buyers or purchasers would be aware of the impending demolition order. Our cost to repair, just the minimum standards, is 130% of the structure value. There are major structural, mechanical, electrical and plumbing issues with this structure. As of this afternoon the structure remained open and vacant and accessible to anybody passing this area. Mr. Moore had contacted our staff on Monday, October 3rd and proposed a plan to staff that he wanted to utilize the structure for indoor warehousing or storage. That is not a permitted use in that zoning district. It is in a B-2 district and that is not a permitted use and therefore not an acceptable plan.

Mr. Mitchell said just to remind Council, Rozzelles Ferry is one of our top corridors we tried to make a priority area. Mr. Moore, I was a little disappointed that you wanted to use it for storage because that is not the vision we have for that corridor. I hate that you bought it under those pretense and I wish you had called me prior and I would have shared with you the vision we have for that area. I'm very sensitive but I'm going to make a motion that we move forward with the demolition because I think we need to stick with the B-2 and we have a plan to implement Rozzelles Ferry with more than just a storage unit for that site.

[Motion was made by Councilmember Mitchell, seconded by Councilmember Cannon, and]
[carried unanimously, to adopt the subject ordinance.]

The ordinance is recorded in full in Ordinance Book 57, at Page 379.

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ITEM NO. 41-F: RESOLUTION OF CONDEMNATION OF 1,404 SQUARE FEET AT 7401 DELTA LAKE DRIVE FROM MARIO CASTILLO AND WIFE, ARACELY CASTILLO AND ANY OTHER PARTIES OF INTEREST FOR \$175 FOR DELTA LAKE NEIGHBORHOOD IMPROVEMENT PROJECT, PARCEL #23.

Councilmember Carter said there are 27 condemnations on our list and 17 of those were in the east side on Delta Lake, Eastway/Sheffield and Farm Pond. These are neighborhood improvement projects and we are very grateful for the City investing in the east side and it is considerable money tied up here looking at improvements. I am concerned that there are 63% of these condemnations on these three projects. There is one in particular that I am very concerned about and that is 41-S, Parcel 32, 5825 Crossing King Drive. There is a condemnation in the amount of \$2,300 for a fence, a deck and trees. It seems like a very low cost for those three items to be taken out. There is indication that four of these properties had extensive negotiations on the remuneration for the property, but it just seems like there is a great number of these condemnations that were presented to us tonight.

Assistant City Manager, Eric Campbell, said on that particular property, that \$2,300 amount was based on an independent appraisal so that is where the staff got the \$2,300. The number that you are seeing as far as the condemnations are due primarily to the large numbers of foreclosures in the area on properties in general and title issues that occur. Staff has informed me that less than 20% of the properties identified by the City actually require condemnation. Those are the basic answers I have and if you have something more specific I will ask staff to chime in on it. Ms. Carter said that \$2,300 evaluation, were there two evaluations there or simply one independent evaluation?

Mr. Campbell said I would have to ask staff about that.

Jeff Reid, City Real Estate, said instance you are speaking about a certified MAI appraiser did take into account the condition and the value of the deck and the stairs that were removed and there was a review done by another certified MAI appraiser so there would have been the initial appraisal and then a review appraiser who made sure that it was in line.

Ms. Carter said that makes me feel more comfortable, but I am concerned about the large number of condemnations in that area.

Mr. Reid said we share that concern and I would point out that out of a total of what I counted as 16 transactions or foreclosures, 11 of those involved title issues, things like liens, judgments and taxes that prevent us from getting a clear title. The only way we can get a clear title to the easements or the property rights that we need is by going to condemnation. Two of those were completely non-responsive to our inquiries. They did not respond to personal visits, phone calls, letters or door hangers so we have never been able to communicate with them and in order to preserve the schedule we have to recommend that we move forward with condemnation on those. One of the ones you mentioned has actually been settled in the interim before tonight and one we have been unable to come to terms and reach an agreement with. Actually only one out of each of the ones you have mentioned is something that we haven't been able to reach some accommodation with the owner.

Ms. Carter said I was concerned that perhaps that there had not been a translator involved in some of these cases.

Mr. Reid said that issue has not arisen to my knowledge. I'll be happy to check into that and let you know what I find out, but to my knowledge that has not been an issue.

Ms. Carter said where the owner has not been reachable, I was concerned because some of those names are Vietnamese or Hispanic and I was just concerned that adequate communications were available.

Mr. Reid said that is a very good point and I can check on it and will be sensitive to that going forward because they are apparently foreign names.

[Motion was made by Councilmember Carter, seconded by Councilmember Barnes, and]
[carried unanimously, to approve Items 41-F.]

The resolution is recorded in full in Resolution Book 43, at Page 366.

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ITEM NO. 41-G: RESOLUTION OF CONDEMNATION OF 7,423 SQUARE FEET OF EXISTING RIGHT-OF-WAY, PLUS 76 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT AT 7541 LISA CIRCLE FROM DONALD WALLACE HEIM AND ANY OTHER PARTIES OF INTEREST FOR \$50 FOR DELTA LAKE NEIGHBORHOOD IMPROVEMENT PROJECT, PARCEL 29.

[Motion was made by Councilmember Carter seconded by Councilmember Barnes, and carried]
[unanimously, to adopt the subject resolution.]

The resolution is recorded in full in Resolution Book 43, at Page 367.

ITEM NO. 41-H: RESOLUTION OF CONDEMNATION OF 418 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT AT 1314 DRESDEN DRIVE WEST FROM MOHAMED HANAFI METWALLY AND WIFE, AWATEF A. METWALLY AND ANY OTHER PARTIES OF INTEREST FOR \$900 FOR EASTWAY/SHEFFIELD NEIGHBORHOOD IMPROVEMENT PROJECT, PARCEL #25.

[Motion was made by Councilmember Carter seconded by Councilmember Barnes, and carried]
[unanimously, to adopt the subject resolution.]

The resolution is recorded in full in Resolution Book 43, at Page 368.

ITEM NO. 41-I: RESOLUTION OF CONDEMNATION OF 1,331 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT AT 3760 DRESDEN DRIVE EAST FROM GLORIA J. MCNEILL AND SHEILA PRINCE AND ANY OTHER PARTIES OF INTEREST FOR \$575 FOR EASTWAY/SHEFFIELD NEIGHBORHOOD IMPROVEMENT PROJECT, PARCEL #47.

[Motion was made by Councilmember Carter seconded by Councilmember Barnes, and carried]
[unanimously, to adopt the subject resolution.]

The resolution is recorded in full in Resolution Book 43, at Page 369.

ITEM NO. 41-J: RESOLUTION OF CONDEMNATION OF 805 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT AT 3774 DRESDEN DRIVE EAST FROM GLORIA J. MCNEILL AND SHEILA PRINCE AND ANY OTHER PARTIES OF INTEREST FOR \$375 FOR EASTWAY/SHEFFIELD NEIGHBORHOOD IMPROVEMENT PROJECT, PARCEL #47.

[Motion was made by Councilmember Carter seconded by Councilmember Barnes, and carried]
[unanimously, to adopt the subject resolution.]

The resolution is recorded in full in Resolution Book 43, at Page 370.

ITEM 41-K: RESOLUTION OF CONDEMNATION OF 520 SQUARE FEET OF TEMPORARY CONSTRUCTION EASEMENT AT 1101 ROANOKE AVENUE FROM ANDREW REID PICKENS AND ANY OTHER PARTIES OF INTERST FOR \$225 FOR EASTWAY/SHEFFIELD NEIGHBORHOOD IMPROVEMENT PROJECT, PARCEL #57.

[Motion was made by councilmember Carter, seconded by Councilmember Barnes, and carried]
[unanimously, to adopt the subject resolution.]

The resolution is recorded in full in Resolution Book 43, at page 371.

ITEM NO. 41-L: RESOLUTION OF CONDEMNATION OF 924 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT AT 3311 DRIFTWOOD DRIVE FROM SEGUNDO ALFONSE LLIGUICOTA AND ANY OTHER PARTIES OF INTEREST FOR \$175 FOR EASTWAY/SHEFFIELD NEIGHBORHOOD IMPROVEMENT PROJECT, PARCEL #128.

[Motion was made by Councilmember Carter seconded by Councilmember Barnes and carried]
[unanimously, to adopt the subject resolution.]

The resolution is recorded in full in Resolution Book 43, at page 372.

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ITEM NO. 41-M: RESOLUTION OF CONDEMNATION OF 529 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT AT 1130 WESTCHESTER BOULEVARD FROM HIEN NGUYEN AND WIFE, NGA TRUONG AND ANY OTHER PARTIES OF INTEREST FOR \$200 FOR EASTWAY/SHEFFIELD NEIGHBORHOOD IMPROVEMENT PROJECT, PARCEL #132.

[Motion was made by Councilmember Carter, seconded by Councilmember Barnes, and]
[carried unanimously, to adopt the subject ordinance.]

The resolution is recorded in full in Resolution Book 43, at Page 373.

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ITEM NO. 41-N: RESOLUTION OF CONDEMNATION OF 426 SQUARE FEET IN SIDEWALK AND UTILITY EASEMENT PLUS 545 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT AT 3801 AND 3805 ROSEHAVEN DRIVE FROM PARAMOUNT REALTY, INC. AND ANY OTHER PARTIES OF INTEREST FOR \$975 FOR EASTWAY/SHEFFIELD NEIGHBORHOOD IMPROVEMENT PROJECT, PARCEL #138.

[Motion was made by Councilmember Carter seconded by Councilmember Barnes and carried]
[unanimously, to adopt the subject resolution.]

The resolution is recorded in full in Resolution Book 43, at Page 374.

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ITEM NO. 41-O: RESOLUTION OF CONDEMNATION OF 424 SQUARE FEET IN SIDEWALK AND UTILITY EASEMENT, PLUS 889 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT AT 3813 ROSEHAVEN DRIVE FROM PARAMOUNT REALTY, INC., AND ANY OTHER PARTIES OF INTEREST FOR \$1,325 FOR EASTWAY/SHEFFIELD NEIGHBORHOOD IMPROVEMENT PROJECT, PARCEL #139.

[Motion was made by Councilmember Carter, seconded by Councilmember Barnes, and]
[carried unanimously, to adopt the subject resolution.]

The resolution is recorded in full in Resolution Book 43, at Page 375.

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ITEM NO. 41-P: RESOLUTION OF CONDEMNATION OF 132 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT AT 3701 ROSEHAVEN DRIVE FROM TIEN TRUONG AND WIFE, TINA TRUONG AND ANY OTHER PARTIES OF INTEREST FOR \$800 FOR EASTWAY/SHEFFIELD NEIGHBORHOOD IMPROVEMENT PROJECT, PARCEL #171.

[Motion was made by Councilmember Carter, seconded by Councilmember Barnes, and]
[carried unanimously, to adopt the subject resolution.]

The resolution is recorded in full in Resolution Book 43, at Page 376.

ITEM NO. 41-Q: RESOLUTION OF CONDEMNATION OF 827 SQUARE FEET IN FEE SIMPLE, PLUS 974 SQUARE FEET IN EXISTING RIGHT-OF-WAY, PLUS 5 SQUARE FEET IN UTILITY EASEMENT, PLUS 528 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT AT 6014 JOHNETTE DRIVE FROM ANEESH SINGLA AND ANY OTHER PARTIES OF INTEREST FOR \$1,025 FOR FARM POND NEIGHBORHOOD IMPROVEMENT PROJECT, PHASE 1, PARCEL #22.

[Motion was made by Councilmember Carter, seconded by Councilmember Barnes, and]
[carried unanimously, to adopt the subject resolution.]

The resolution is recorded in full in Resolution Book 43, at Page 377.

ITEM NO. 41-R: RESOLUTION OF CONDEMNATION OF 243 SQUARE FEET IN STORM DRAINAGE EASEMENT, PLUS 1,187 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT AT 5100 LAWRENCE ORR ROAD FROM NITA LYNN BRANTLEY-WILLIAMS AND SPOUSE, GREGORY WILLIAMS AND ANY OTHER PARTIES OF INTEREST FOR \$475 FOR FARM POND NEIGHBORHOOD IMPROVEMENT PROJECT, PHASE 1, PARCEL #31.

[Motion was made by Councilmember Carter, seconded by Councilmember Barnes, and]
[carried unanimously, to adopt the subject resolution.]

The resolution is recorded in full in Resolution Book 43, at Page 378.

ITEM NO. 41-S: RESOLUTION OF CONDEMNATION OF 567 SQUARE FEET IN STORM DRAINAGE EASEMENT, PLUS 833 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT AT 5825 CROSSING KING DRIVE FROM DAVID L. RISHER AND WIFE, LESLIE JO RISHER AND ANY OTHER PARTIES OF INTEREST FOR \$2,300 FOR FARM POND NEIGHBORHOOD IMPROVEMENT PROJECT, PHASE I, PARCEL #32.

[Motion was made by Councilmember Carter, seconded by Councilmember Barnes and carried]
[unanimously, to adopt the subject resolution.]

The resolution is recorded in full in Resolution Book 43, at Page 379.

ITEM NO. 41-T: RESOLUTION OF CONDEMNATION OF 237 SQUARE FEET IN STORM DRAINAGE EASEMENT, PLUS 774 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT AT 5815 CROSSING KING DRIVE FROM GWEN W. GILDER AND ANY OTHER PARTIES OF INTEREST FOR FARM POND NEIGHBORHOOD IMPROVEMENT PROJECT, PHASE I, PARCEL #33.

[Motion was made by Councilmember Carter, seconded by Councilmember Barnes, and]
[carried unanimously, to adopt the subject resolution.]

The resolution is recorded in full in Resolution Book 43, at Page 380.

ITEM NO. 41-U: RESOLUTION OF CONDEMNATION OF 146 SQUARE FEET IN FEE SIMPLE, PLUS 2,900 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT AT 5025 LAWRENCE ORR ROAD FROM ALFRETO M. ALEXANDER, ET AL. AND ANY OTHER PARTIES OF INTEREST FOR \$650 FOR FARM POND NEIGHBORHOOD IMPROVEMENT PROJECT, PHASE I, PARCEL #36.

[Motion was made by Councilmember Carter, seconded by Councilmember Barnes, and]
[carried unanimously, to adopt the subject resolution.]

The resolution is recorded in full in Resolution Book 43, at Page 381.

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ITEM NO. 41-V: RESOLUTION OF CONDEMNATION OF 250 SQUARE FEET IN STORM DRAINAGE EASEMENT, PLUS 250 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT AT 4727 HOBBS HILL DRIVE, FROM VIRGINIA RUBINO AND ANY OTHER PARTIES OF INTEREST FOR \$450 FOR FARM POND NEIGHBORHOOD IMPROVEMENT PROJECT, PHASE I, PARCEL #57.

[Motion was made by Councilmember Carter, seconded by Councilmember Barnes, and]
[carried unanimously, to adopt the subject resolution.]

The resolution is recorded in full in Resolution Book 43, at Page 382.

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ITEM NO. 10: CITY MANAGER'S REPORT

Deputy City Manager Ron Kimble said there is no report tonight.

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ITEM NO. 11: ORDINANCE NO. 4752 AMENDING THE POST-CONSTRUCTION CONTROLS ORDINANCE: (1) REMOVE NATURAL AREA (TREE) REQUIREMENT, (2) TEMPORARILY EXPAND THE MITIGATION FEE FOR REDEVELOPMENT PROJECTS UNTIL APRIL 30, 2014, (3) REVISE STREAM BUFFER REQUIREMENTS TO COMPLY WITH STATE LAW, AND (4) REMOVE REFERENCE TO WATERSHEDS NOT WITHIN THE CITY'S JURISDICTION.

Mayor Foxx said we had conversation about this at the Dinner meeting is why we went over a little bit. Mr. Peacock would you like to make some comments at the outset?

Councilmember Peacock said I want to thank City staff as well as recognize those on the Environmental Committee which include Council members Jason Burgess, David Howard, Vice Chair Nancy Carter, and Andy Dulin. We have looked this since June and at this point, from the debate that we had earlier and the good questions that we had at the Dinner Meeting, I want to ask the Mayor to break these out as we had done in Committee. If Council will recognize that staff, from the Dinner presentation has two that are largely administrative, Item #3 and #4 and the two that we spent the most time on have been Item #1, and #2 is to temporarily expand the mitigation fee for redevelopment project until April 30, 2014.

[Motion was made by Councilmember Peacock, seconded by Councilmember Dulin, to]
[approve Item #1 and 2 and 3 and 4.]

Councilmember Carter said are we going to continue our debate here?

Mayor Foxx said if we are going to have a debate now is the time to have it.

Ms. Carter said for Items #1 and #2 I am standing in firm opposition to this because there will be ruin from the EPA projected now for December of this year that will be enacted probably in next year. It has some new foundations including redefinition of impervious surfaces. It is something
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that will cause debate consternation, reconsideration of our policies and I think once we have something in firm stance in this City that has succeeded, then it is time for us to leave it alone until the federal regulations come down. We have strong regulations about our trees, even stronger around the streams and water quality areas that we have to focus on. It is better to leave trees in that area, large mature trees, that will protect the banks, that will shade the waters, which is an increasingly dire problem for us. Our water and our streams are heating up, the life is being changed in our streams. All of our streams in this county are polluted and we need water quality mitigation and to retroactively refit what has been recommended to us by our stakeholders, I think is a big mistake, particularly facing changes on the national level. Looking at taking water controls off site to me puts the people who are immediately downstream of redevelopment at greater risk. When you take off water control flow and quality off that site you allow people who are downstream from that site, and we are all downstream in one area or another, and that to me is a great challenge to what we are trying to do for our streams. I am arguing two different statements here about mitigation and the natural tree area. It is very difficult to do that at once, but they are both proposed here. Mitigation takes the control off the site, moves it anywhere in our area, preferably they say in that watershed, but not necessarily. You escalate the fees, but that is not necessarily what we need to do here. What we've looked at in the past is supporting our economically distressed areas and our transit corridors. Those mitigation fees have helped put redevelopment in those areas, which is a Council priority. It works, we've had 16 projects that are working. There have been 4 outside that area that appealed. They could not meet the controls regulations. They went through variance, addressing our water advisory commission, they received those variances and they have gone ahead with the projects. Our system works currently. It helps address our priorities of developing distressed areas and our transit corridors and it keeps our priority on our water control and water quality. I am absolutely opposed to meddling with things that we have spent 3 years on, 5 years on in our stakeholders. I'm really passionate about this. I don't think we meddle with success.

Councilmember Mitchell said I hate I missed the discussion during dinner and I apologize for that, but just reviewing the write-up, I have a couple questions. Is this particular agenda item time sensitive?

Mr. Peacock said it depends on the person you are speaking to as it relates to time sensitive. In Tree Ordinance time, considering it took us 4 years to have it revised, the answer would be no. As it relates to how much our Committee has dealt with it, the answer would be a lot and third I'm not certain that you would come out with anything any more conclusive out of committee by a referral back to us or even a deferral to this. Let me comment on one thing as well. I think from the audience's perspective and for anybody who is looking from the outside in, which particularly might have started with an editorial that came from the *Observer*, is that the geneses of this is a little different from some of the other things that have occurred. It did not come from one particular development and I have particularly not heard from any specific developers who lobbied in a great manner for this change to occur. It has largely been a proactive action by City staff to try to be as sensitive and responsive to making sure redevelopment occur everywhere. Ms. Carter is correct, it has been successful in our transportation nodes and in our distressed business corridors. What staff is trying to do is make a case for allowing a development of any site, anywhere in this City to occur and to allow that owner to pay a mitigation fee, which is going to be put into an aggregate pool which is going to address the overall problem that we have with this enormous impervious surfaces that are in these redevelopment sites. It just give us more flexibility across the board. Another thing that I will emphasize on why Ms. Carter and I differ on Item #2 is that this is a temporary action. It goes until April 30, 2014. Staff is bringing this us and they are not reacting to any one particular project. They are just actually following through on the four years that we spent on the Tree Ordinance. It is a little different than most of the debates that we've found between environmental groups and the developer community. It is just not here on this particular item. Ms. Carter and I disagree on Item #2. We are in agreement on #1 and that is what the committee vote reflected. The committee had a 2 to 2 and again we just had a healthy debate and we are really just fine tuning this and I think we are all trying to get it right and I don't necessarily know that if waiting another two years would help or hurt. We just don't know. I know the Economic Development Committee has ever had this type of problem before.

Mr. Mitchell said that is very helpful to me because if you look at the write-up, this is the first time we have noticed that the Committee seemed like it was split on two important items here, 2

against and 2 for. It looks like the only agreement was on item #3 and #4 so I didn't know if deferring or getting more feedback would help, and you answered that. Are we going to vote individually Mayor?

Mayor Foxx said the question has been divided and I think #1 and #2 ought to be broken out also. I think the most is to take #1 and #2 together, but I think we should take those separately.

Councilmember Turner said I just wanted to ask Ms. Carter if she could elaborate a little more in regards to her concerns with #1 and #2.

Councilmember Carter said mitigation of controls, spreading of development without focus on those distressed areas and transit corridors, which we have expressed as a priority to address in our water control efforts. In other words we give people a priority for developing in those areas and I think that is where the priority should stay. People argue that developing an already developed site, such as a big box, helps improve the water quality because there is not run off from the pavement. The EPA is probably going to change those surface requirements making it an impervious pavement versus a solid pavement, which is what we have now. That is why I'm arguing for a delay, looking forward to seeing what the Feds are going to do to us because it might be transformed and this two-year postponement here might not fit into that timeline. I'm concerned that we are going to fighting the Feds on one hand and not getting development where we need it, and another following our own priorities. We are looking at where trees are. If you reduce the number of trees around the stream you take the cover off the stream and that is shade and then the water heats up, you kill the life in the stream, you increase the germ proliferation, etc. and you just damage that stream beyond belief and it cannot be brought back by two-inch saplings. It can't be done.

Councilmember Cooksey said I have a question for Mr. Blackwell. This is one of those cases where I know I saw it and read it, but I can't find it now that I need it. Am I remembering correctly that the write-up on this proposal, Item 1 on our agenda about removing the natural area requirement, doesn't affect trees along streams?

City Engineer, Jeb Blackwell said that is correct. Stream buffers are still in the PCCO.

Mr. Cooksey said so there is no affect on trees along streams?

Mr. Blackwell said yes sir, that is correct.

Mr. Cooksey said am I reading this correctly that essentially all this section one addresses is a case where an existing property is 76% or more open space, grassland or what have you, and the proposed development is a low density residential development?

Mr. Blackwell said the place where the biggest difference where the PCCO provides the greatest additional protection compared to the Tree Ordinance is a case of 24% or less impervious.

Mr. Cooksey said four years ago Council adopted the PCCO that had that provision in it and then within about the last year or so we adopted revisions to the Tree Ordinance that put 15% as the factor on that same piece of property? We are talking about, based on the write-up .4 of 1% of the area of this city in which the older regulation says 25% tree cover, the newer one passed by this Council says 15%? Which committee hears any kind of appeal from the PCCO?

Mr. Blackwell said the Storm Water Advisory Committee.

Mr. Cooksey said and who hears an appeal from the Tree Ordinance?

Mr. Blackwell said the Tree Advisory Committee.

Mr. Cooksey said so we have two different committees that would hear an appeal, depending on where this goes. I support Item #1 because it clears up the distinction of what the tree cover should be on .4 of 1% of the land in this city and it does so my adopting the standard most recently adopted by the Charlotte City Council.

Councilmember Howard said is it possible, since #3 and #4 seems not to be a problem, can we go ahead and deal with those? I think the confusion is that we are talking about #1 and #2 all mixed in together and I'd like to try to figure out how to talk about one at a time.

Mayor Foxx said we can have a motion on #1 and we can talk about #1 and then we can go to #2 and talk about #2.

[Motion was made by Councilmember Howard, seconded by Councilmember Cannon, to]
[approve action #1.]

Mr. Howard said regarding #1, the one which Mr. Cooksey just spoke about, the removal of natural areas tree requirements, I said this upstairs and I didn't want to have to repeat it all down here. The first thing I want to do is make sure that the public knows that if you vote for something or against something you are for the environment or not for the environment. To me this is just plainly just trying to clear up some language issues. It was made clear and it was in our write-up and we've heard from staff over and over again that when they were dealing with the PCCO which came through before the Tree Ordinance was finished, they dealt with some of the tree issues in that ordinance, a few things that the Task Force felt like they could agree on. It was always understood that when the Tree Ordinance was actually finished they would go back and clean up the language because the Tree Ordinance would deal with trees and Post Construction would deal with what it was supposed to deal with, which is run off and treatment of water, not protecting trees. What we have is staff coming to us saying that we'd like to go on and pull the trigger on what we talked about before which is cleaning those two areas up. Again, just like Mr. Cooksey said, we are just trying to take away duplications because right now what we have is every time a developer comes in a staff person has to review it from the Tree Ordinance standpoint and from the Post Construction Ordinance standpoint and we have often talked about getting rid of duplication of services and that is one of those places just where it makes sense to get rid of it. That is why I'm supporting this first one. The other thing I want to point out is this is staff led, it is not developer led, this is committee led, this is the staff coming through and saying this is something we've always talked about and we want to go on and take care of it now. For those reasons I would love for us to move forward on #1. Also in the write-up staff points out that trees do little to help us with run-off or treatment of water. That is not what they function is and actually where trees normally are is not an area where there is a lot of run-off because it would be in natural areas already.

Ms. Carter said Mr. Howard, I would disagree with your statement that developers have not been participating in this process. They have been very vocal, they have contacted the Council members, they are advocates for the passage of this removal. There is .4% of our wedges that have been impacted by a smaller number of trees allowed and I can show you developments in the eastside where trees were taken out to that point and there is a lack of civility in those neighborhoods. I think preserving a water feature, preserving trees in a community are very important efforts in our community to build those neighborhoods of quality, which we love, where we will stay, where we will not move from in 18 months. These are the communities where neighbors find their hearts and life's wishes. I just hope that there is a tempering of an approach to this problem. It is a long-term problem when you take a tree down. It cannot be replaced immediately. There is a life cycle of a tree and we know that. We point to the lovely canopies over Queens Road, etc., but those trees' life cycles are almost over and that is the tragedy of what we have in our community. We have to build now for that canopy that will be the future. We have to interstice trees among the older trees. We have to maintain those natural areas where there are mature trees so that we will have the canopy of which we are so proud.

Mr. Howard said I want to respond because you know I respect you a great deal Nancy, and this is not that I'm against environment at all. Just a few months ago we voted for a very strong Tree Ordinance I would think. We took care of that as far as I'm concerned because you do that under a Tree Ordinance. What we are dealing with here is run-off and water quality. All I'm saying is for the sake of clearing things up for the public going forward, we need to simplify things. We don't need to have this overlap because we get calls all the time from people telling us this is confusing and they don't understand why it is so difficult. This is an opportunity, and as I was saying earlier, not that we didn't hear from both sides, because we heard from the environmental side as well. What I'm saying is this was staff led. Staff came to us with this and yes, we've heard from both sides, and that is what I was trying to say earlier.

Mr. Dulin said call the vote please Mayor.

Mayor Foxx said let me say a couple things on this one. This is still just one so we have three more to go in case anyone was counting. A couple of observations, number one is that I'm very familiar with this ordinance because the ordinance was approved when I was a Councilmember and Chair of the Environment Committee. I remember very carefully the 32 meetings of the stakeholder group that included developers, environmentalist and all of the various people who were involved, and in fact as the ordinance approached passage we actually got a presentation to this Council and sent the matter back to the stakeholder group before it was approved, precisely to get the input of all of the various stakeholders and they came back with a consensus opinion, which was the ordinance that has now been passed. From the standpoint of the history lesson, I think this ordinance has been beaten up, messaged, baked and whatever terms you want to use many times. Secondly, while I think it is very important for us to look at our ordinances from the standpoint of how easy they are to use, as well as what the benefit of the ordinances have when they are applied. This is nibbling around the edges in my opinion. I think if we are talking about .4% of 1% of the land mass in our area for this natural area requirement, it strikes me that either something is really, really, really important and it is causing people to miss opportunities to develop or this is kind of a throw away for lack of a better term that gives back something from the discussions that were had several months ago. Either way I'm not feeling like I have a good fix on what that is and I'm disturbed quite frankly that the Storm Water Advisory Committee would have opposed the action and that we would have gotten a negative reaction from the Tree Advisory Committee, and on top of that we have a non-recommendation from the Environment Committee because we had two members voting in favor and two members voting against. So we come here without a whole lot of guidance. The third point that I would make on this item is that I actually think that if this matter is an issue, it is one of those things where if there is one thing, maybe there are a hundred things that should be looked at. The staff has taken the time to identify these issues, but they haven't been necessarily been given direction by us to look at what other issues there are. Maybe they would pick these and maybe we would pick some other ones to try to deal with, but we heard upstairs that there is someone who looks at the Tree Ordinance and applies that and there is somebody else who looks at Post Construction Controls and applies that and they work in the same department. It seems to me that we ought to be giving some direction to the staff to look at operational how these ordinances are applied and whether that can be streamlined. I also think that we should be looking at whether we can streamline permitting internally and whether we can get permitting consolidated between the City and County which I think would be a much bigger benefit, not only to the industry, but to the community. I'm troubled by the lack of a recommendation from groups we count on to give us recommendations, even though I think there has clearly been some concern about this particular provision. It just seems to me that there are much bigger fish for us to fry potentially in terms of making our processes more easy to use, so I would like to see, regardless of what we do tonight, some direction to the staff to take a look at our operational issues and taking a much broader look at our ordinances to see if there is some ways that we can streamline and perhaps directing the staff to relook at this issue of consolidated permitting because I think those are the bigger picture issues that might actually help more.

Mr. Cooksey said the argument you are presenting I think is an excellent one and I think what may help, although I doubt it will, is that after getting all the input and feedback, I'm viewing #1 as the same sort of minor correction item that items 3 and 4 are. We still have to do items 3 and 4. Three is revise stream buffer requirements to comply with state law and #4 is removing references to watersheds not within the City's jurisdiction. Technical correcting items because to put that .4% into perspective the City area is approximately 300 square miles. .4% of 1% of that is 1.2 square miles. To go from 25% tree canopy to 15% tree canopy is an eighth of a square mile. This is a technical correcting amendment to the Post Construction Controls Ordinance to clarify that we are dealing in PCCO with controlling storm water and leaving tree requirements to the Tree Ordinance because at the time the PCCO was written it was easier to stick this sort of thing in PCCO than it was go to hack open the Tree Ordinance again. We've since done that. It is a minor correcting amendment. I think to your concern about the Storm Water Advisory Committee and the Tree Advisory Committee is a fair and valid one. My perception of this is that the issue of the minor technical correction amendment affecting 1/8 of a square mile in the City of Charlotte has been conflated with the larger issues as Councilmember Howard has talked about of the environment in general, trees in general, how we feel about them. Yes, we love them. Yes, we want to preserve them as Council voted for a Tree Ordinance that does that. This

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is a technical correcting amendment and it is unfortunate that it has been blown so far out of proportion. I hope that helps address some of the points that you raised Mayor.

Mr. Howard said the only thing I would add to that is that what I heard from staff is that every time we have somebody come in, right now we are doing both calculations because we have to figure out which one is more constraining. All this is saying is give us one. That is what they are saying, give us one so we don't have to do that. When we talk about resources, we talk about duplication of services that is what this is. Let's give them one which is what they are asking for.

Councilmember Cannon said I have a question for Mr. Blackwell. One of the things we have been discussing in the Government Affairs Committee has been this issue to some extent, and whether or not the State Government will come and even trump what we are going through this evening in this long and drawn out discussion. Can you give us any feedback on that please?

Mr. Blackwell said don't know the answer to that, actually the person who has been closest involved with the shaping of those Federal regulations has been Tim Richards. He has been involved and testifying in Washington several times and we have been tracking that and I believe what we are talking about here is what we anticipate seeing there. Tim can come and speak to that in a little more detail if necessary.

Mr. Cannon said that is fine, if he wouldn't mind coming down and correct what I was stating for the record, they should not have been state, but federal government.

Mr. Blackwell said I think it will be a while before we know something because it will have to come from the feds through the state before it comes to us.

Mr. Cannon said as I think we may have learned in Committee, I think it was around December that we would hear something, so that is pretty close.

Tim Richards, Deputy City Engineer, said I happen to serve on a national group called National Association of Flood and Storm Water Management Agencies and the most recent information we have is that the EPA will have new draft storm water rules December 2nd. Then their goal is to have those in final form by fall of 2012. They are under court order actually to have this done by fall of 2012 so that is their goal and they say that they are going to stick to that. Of course once we get the federal rules then it will trickle down to state and to us.

Mr. Cannon said that you, I appreciate that as I wanted to make sure that we caught that in the wake of what could be coming in the very near future.

Ms. Carter said if we designate one rule for the tree saver why step down, why lower the requirements? If we give one rule why do we not keep it at the higher standard? That to me is where we need to be with the City, and 1/8 of a square mile, if that is in your back door that is an important 1/8 of a square mile. That is not just one development that can be parsed out to several, so that 1/8 of a square mile is very important in some of our citizens' lives.

Mayor Foxx said was there discussion in Committee about which rule the Committee would pick? There are two different standards on this tree save within this space so was that discussed?

Mr. Howard said I wanted to ask staff that. I think what you are saying is that it is only in that 1/8 of a square mile, that small portion where the Tree Ordinance would be the one with the higher constraints. Every place else PCCO is the one that is the higher.

Mr. Blackwell said PCCO is only more restrictive in smaller area. In the majority of places, the Tree Ordinance is the more protective.

Mr. Howard said that is right because we are trying to protect trees. So the majority of community, the Tree Ordinance is the higher number. It is the smaller amount that the Post Construction would be a higher number so trees are already taken care in the majority of the City with the Tree Ordinance.

Mayor Foxx said I guess the question is did the Committee consciously pick the Post Construction Standards in the natural area.

Ms. Carter said by the vote.

Mayor Foxx said it was 2 to 2.

Mr. Carter said okay, two of us supported it and two of did not.

Councilmember Burgess said do you want to vote again real quick?

Mayor Foxx said we have this in front of us and truthfully I think this is a practice point to staff, I actually think that when we have this type votes, if there is not 100% attendance that should really stay at the Committee level until you have a tie breaker because it really does put us in a bind, particularly on something like this when you've got citizen input that is overwhelmingly against a particular item. We have this item #1, Remove natural area tree requirements.

The vote was taken on item #1 and was recorded as follows:

YEAS: Council members Burgess, Cannon, Cooksey, Dulin, Howard, Kinsey, and Mitchell.

NAYS: Council members Barnes, Carter, Peacock and Turner.

[Motion was made by Councilmember Howard, seconded by Councilmember Cooksey, to]
[approve Item #2, Temporarily expand the mitigation fee for redevelopment projects until]
[April 30, 2014.]

Mayor Foxx said my question on this one is why was that date picked and is there any merit to it other than a slag?

Mr. Kimble said I think it was to give a trial period of a certain number of years and I believe the ordinance went into effect, how long ago Darryl?

Daryl Hammock said the ordinance went into effect in July 2008 and this is basically a 2 ½ year trial period. It was picked because I think in the event we wanted to continue this revision that process may need to go through a committee in early 2014 and need some time for that.

Ms. Carter said two other considerations if you consider the mitigation, if the water is piped through a site there is no chance for water quality to be improved. There is no filtration. If it is piped it is in a straight line. It runs faster, and when it runs faster there is more erosion downstream. Consider those items please.

The vote was taken on the motion to approve Item #2 and was recorded as follows:

YEAS: Council members Barnes, Burgess Cannon, Cooksey, Howard, Kinsey, and Peacock.

NAYS: Council members Carter, Dulin, Mitchell and Turner.

Mayor Foxx said Item #3, revise stream buffer requirements to comply with State Law. We didn't talk about this upstairs, can someone walk through this for us?

Mr. Hammock said there is a section of the ordinance where it erroneously exempts certain redevelopment sites in transit station areas and distressed business districts from state required buffers so this is a technical correction and it will make us compliant with state law.

The vote was taken on Item #3 and was recorded as unanimous.

Mayor Foxx said Item #4, remove reference to watersheds not within the City's jurisdiction.

The vote was taken on Item #4 and was recorded as unanimous.

Mr. Cannon said on Item #1, I need to rescind my vote as a vote against and not in favor.

Deputy City Attorney, Bob Hagemann said technically a motion to reconsider would be in order and it can be made by anyone voting on the prevailing side of the motion.

[Motion was made by Councilmember Cannon, seconded by Councilmember Turner, to]
[reconsider the vote on Item #1.]

Mr. Dulin said I need to confirm that #1, removal of tree requirements, passed 7 to 4.

Mr. Peacock said it did and it will pass 6 to 5.

Mr. Dulin said so Mr. Cannon's change will not affect the outcome.

The vote was taken on the motion to reconsider Item #1 and was recorded as follows:

YEAS: Council members Barnes, Burgess, Cannon, Carter, Dulin, Kinsey, Mitchell, Peacock and Turner.

NAYS: Council members Cooksey and Howard.

Mayor Foxx said now Item 1 is back on the table for a vote. The vote was taken and was recorded as follows:

YEAS: Council members Burgess, Cooksey, Dulin, Howard, Kinsey, and Mitchell.

NAYS: Council members Barnes, Cannon, Carter, Peacock and Turner.

Mayor Foxx said I think this item needs some time. I think it needs to be considered and if I had the ability to make a motion to defer this item to give additional time to actually have a recommendation from the Environment Committee I would have been supportive of that. I think we've got some bigger issues to deal with and therefore I am going to veto this item.

Mr. Dulin said the veto rolls back to us next Monday night? Is that correct Deputy City Manager?

Mr. Kimble said at the next official City Council Meeting I believe.

Mr. Howard said are you asking for the Environment Committee to get back together on that one issue? If so we need to schedule a meeting.

Mayor Foxx said I've already vetoed it now. I was hoping that you would have done it anyway. As you know I think vetoes ought to be used fairly infrequently and that you ought to have some warning as to what some of the issues are, but in this instance there is a lot of consternation about this provision and I think we need to take some time with it. I don't feel like we got a recommendation from the Environment Committee that we should rely on as a Council. If there is an effort to have the Environment Committee take a look at it, and I don't know Mr. Hagemann if I've fired all my bullets at this point, but if they want to take another look at it I'm happy to have that reconsidered.

Mr. Hagemann said Mayor you can withdraw your veto and then we are back where we were before you vetoed it, which is it passed 6 to 5 and it would have to be Council Action to refer it to Committee.

Mr. Howard said if the veto stands the vote that we would need to deal with that would be how many?

Mr. Hagemann said it takes 7 votes of Council to override at the next meeting.

Mr. Peacock said is that a veto just for Item #1 Mayor?

Mayor Foxx said yes.

Mr. Peacock said let me speak to the choices that we have here. We are happy to convene a meeting. We did do a pole before the meeting occurred and Dr. Burgess was texting me about 30 minutes before the meeting and it was looking probably that he couldn't make it. If we were looking for a more assertive outcome from Committee, if that is the desired objective, if you
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want to defer Item #1 and we will be happy to get together as soon as humanly possible we can do that to further debate this. We can do it after the meeting if you like. Actually we could not. We have to post that meeting and give ample time.

Mr. Dulin said Mr. Cannon could you speak to the reason why you decided to rescind your vote and change?

Mr. Cannon said I hadn't planned on it, but sure. One, I think that it is important that we try to preserve as much as we can where we can. Ms. Carter spoke eloquently and if you recall her comments I really don't need to repeat those again. Two, I will make reference to something else a little later this evening to get a staff report back to us on how some things are being taken out in this City, just here in uptown, without just cause and/or reason for that. I felt compelled to vote the way I voted.

[Motion was made by Councilmember Howard, seconded by Councilmember Dulin, to]
[reconsider Item #1 again.]

Mr. Barnes said what are we reconsidering?

Mayor Foxx said Item #1.

Mr. Barnes said with your veto or the action? I support the veto.

Mr. Howard said he is withdrawing his veto for it to go back to Committee, which is what the desire was earlier.

Mr. Turner said my concern was I think it was indicated that Councilmember Burgess was absent and if all that is going to do is validate his support one way or the other, coming back 3 to 2 doesn't necessarily give me the answer or give us better direction in this short period. I'm going to oppose the reconsideration and stick with the Mayor's veto.

Mr. Howard said I'm going with the fact that the Mayor said he wanted a definitive response from the Committee and that was one of his reasons for the veto. I'm addressing that only.

Mr. Barnes said the fact of the matter is, to Mr. Howard, if the Committee revisits the issue and comes out 3 to 2 one way or the other we may have 7 votes to override the veto or we may not. I support the veto.

Mr. Howard said if you voted against it you would, but I'm saying right now it would pass if it were not for the Mayor saying he would veto and with the Mayor saying that he wants the Committee to have a definitive vote one way or the other, I'm talking about accommodating what the Mayor is asking for. If it were not for that it would pass.

Mr. Cannon said I hear that and I respect that, but I believe the definitive would have come out of what we saw tonight from the party who happen to be absent at the meeting. The definitive has already shown its hand, but here is the other thing to that. It could be that because of maybe the level of engagement was not where it needed to be by the member of the Committee that was absent. From that respect I can be where you are if that is what you articulating.

Mayor Foxx said there is a motion to reconsider Item #1 on the table. Let's see what happens.

The vote was taken on the motion to reconsider Item #1 and was recorded as follows:

YEAS: Council members Burgess, Cannon, Cooksey, Dulin, Howard, Kinsey, and Mitchell
NAYS: Council members Barnes, Turner and Peacock.

[Motion was made by Councilmember Howard, seconded by Councilmember Dulin, to refer]
[Item #1 to Committee. The vote was taken on the motion and recorded as follows:]

YEAS: Council members Burgess, Cannon, Cooksey, Dulin, Howard, Kinsey and Mitchell
NAYS: Council members Barnes, Carter, Peacock and Turner

Mayor Foxx said this will go to committee and hopefully we will get a definitive vote out of that.

The ordinance is recorded in full in Ordinance Book 57, at Page 383-386.

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BUSINESS

ITEM NO. 12: (A) AWARD THE LOW BID UNIT PRICE CONTRACT TO MODERN NISSAN OF LAKE NORMAN FOR THE PURCHASE OF THE NISSAN LEAF ELECTRIC VEHICLES FOR THE TERM OF ONE YEAR; (B) AUTHORIZE THE CITY MANAGER TO EXTEND THE CONTRACT FOR THREE ADDITIONAL, ONE-YEAR TERMS WITH POSSIBLE PRICE ADJUSTMENTS AT THE TIME OF RENEWAL AS AUTHORIZED BY THE CONTRACT. THE FY2012 EXPENDITURES ARE ANTICIPATED TO BE A TOTAL OF \$249,887.40.

[Motion was made by Councilmember Howard, seconded by Councilmember Mitchell, to]
[approve A and B. The vote was taken on the motion and recorded as follows:]

YEAS: Council members Barnes, Burgess, Cannon, Carter, Dulin, Howard, Kinsey, Mitchell, Peacock and Turner.

NAYS: Councilmember Cooksey.

Councilmember Mitchell said what was the opposition against this one?

Councilmember Cooksey said borrowed money.

Mr. Mitchell said so you don't like the fact that we are getting it from the federal government?

Mr. Cooksey said as I have consistently voted every since this started, I don't like the fact that it is purely borrowed money with no standard authorization appropriation process. I have been voting no on these for a couple years now.

Mr. Mitchell said I'm trying to understand is it a real reason or is just a philosophical vote no.

Mr. Cooksey said it is a real reason that I think the debt involved in the American Reinvestment Recovery Act like the TARP effort before it, is bad federal policy and I don't want to be supportive of it.

Mr. Mitchell said have we approved any stimulus money in District 7?

Mr. Dulin said we went over this a couple years ago.

Mr. Mitchell said can we get information on those we approved in District 7 and check Mr. Cooksey's voting record for consistency?

Mr. Cooksey said I voted no on all of them.

Mr. Mitchell said even in your District?

Mr. Cooksey said yes.

Mr. Dulin said this write-up is about electric vehicles for our Key Business Executives for use in their departments. I'd like to test drive to see how these things test and see how inconvenient or convenient it is to drive from here to there also.

Deputy City Manager, Ron Kimble, said KBUs, not KBEs for use in our departments

Mr. Dulin said why do you get to have all the fun?

Mr. Kimble said I'm not going to drive one.

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Mr. Dulin said we are making a little light of this, but I'm really excited about these electric vehicles, and I'm starting to see Chevy Volts pop up in town and every time I see one it is very cool to see these cars zipping around. I sat in one the other day at the Ballantyne Chili cook-off which was great. This is a big deal and I read the places that we are going to be putting our stations and for us to be able to go out and advocate for these stations and advocate for electric vehicles, I'd like to be a part of that research. We are going to spend other people's money to buy these six cars and I don't know why I can't help.

Councilmember Mitchell said Mr. Dulin brought up a good point. Where are these stops that we've identified throughout Charlotte?

Rob Focus, Energy Sustainability Manager said Mr. Mitchell can you repeat your question?

Mr. Mitchell said have we identified the stops?

Mr. Focus said do you mean where the stations are going to be located? We have and one of the additional pieces of material in your agenda is the Council Manager Memo that has a list of those stops. It is behind tab 2.

Mr. Dulin said I've studied this list and it would be very interesting to see how convenient or inconvenient it is to use this list.

[Motion was made by Councilmember Turner, seconded by Councilmember Dulin, that Mr.]
[Dulin and the Chair of Transportation have that opportunity if they want to be part of the test]
[program to drive those vehicles.]

Mr. Barnes said I would make a friendly amendment to make it open to everybody, the Mayor and Council.

Mr. Turner said I would second that so I will remove my motion.

Mayor Foxx said what was the intent for the use of these vehicles?

Mr. Kimble said to test them out in operational situations and make sure that they become vehicles that as they grow in importance over the years that we have tested them from an operational standpoint.

Mayor Foxx said do you have a particular department that was going to test these or particular people?

Mr. Focus said the departments that are going to be getting them are Neighborhood and Business Services, Engineering and Property Management, Aviation, Utilities and C-DOT. Those departments that will be driving the vehicles will be out on the street every day, using them mainly from 9:00 to 5:00, but the people who were chosen were chosen particularly because they are going to be using the vehicles a lot so we will be able to test and will be able to get good data and they also will be very visible in the public.

Mayor Foxx said I think that is the right thing to do. I think us saying we are going to pull a car out of Neighborhood and Business Services to ride around to Bitsy Bounty, it just doesn't make sense to me. I think it is fine to suggest that we offer Council members an opportunity to ride in them, but I just don't know that we need to be directing.

Mr. Dulin said it turns out you can't ride in them a lot because the Toyota doesn't go but 100 miles until you've got to plug it in for 8 hours or 6 hours. Our warranty is only good for 12,000 miles per year, but who ever you've got riding around in them, can't use them but for 100 miles before they've got to plug it back in. They are going to have to have their regular car stashed somewhere to go use for the rest of the day.

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ITEM NO. 13: AMEND THE CITY COUNCIL MEETING CALENDAR TO RESCHEDULE THE CITY MANAGER'S EVALUATION FROM THE CANCELLED MEETING OF NOVEMBER 21, 2011 TO EITHER NOVEMBER 28, 2011 FROM 3:00 TO 5:30 P.M. OR NOVEMBER 30, 2011 FROM 11:30 A.M. TO 2:00 P.M.

Mayor Foxx said this item has been addressed earlier today and for those of you who were not at the 4:00 meeting today, we did have a quorum and the discussion was around the process of the City Manager's evaluation. The decision was made to re-refer that matter to the Restructuring Government Committee with some specific guidance around how that evaluation should proceed this time and also with some broader discussion about how it might be done long-term. We also looked at the dates and made a decision that November 28th will be our outside date and we did want to reserve November 30th as a date that we might use if we need it. November 28th is the date for you to put on your calendars.

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ITEM NO. 14: NOMINATIONS TO BOARDS AND COMMISSIONS

- A. Bicycle Advisory Committee** – The following nominations were made for three appointments:

Christopher Gladora, nominated by Council members Burgess, Carter, Kinsey, Mitchell, Peacock and Turner.

Jonathan Harding, nominated by Council members Barnes, Burgess, Cannon, Carter, Cooksey, Howard, Kinsey, Mitchell and Turner.

Dick Perimutter, nominated by Council members Dulin and Peacock.

Keith Sorensen, nominated by Councilmember Cannon.

- B. Business Advisory Committee** –The following nominations were made in required industry sectors – manufacturing, transportation/logistics, financial services, technology, energy and healthcare:

Financial

Saeed Moghadam, nominated by Council members Cannon and Cooksey

Craig Murden, nominated by Council members Peacock and Turner

Jaime Palacio, nominated by Councilmember Carter

Thad Walton, nominated by Councilmember Dulin

Healthcare

Anu Murthy, nominated by Councilmember Burgess

Not in Required Industry Sectors

Chris Moeller, nominated by Councilmember Kinsey

Thomas Vinson, Jr., nominated by Councilmember Mitchell

Other

Lisa Crawford, nominated by Councilmember Howard

- C. Charlotte Housing Authority** – the following nominations were made for one appointment:

Joel Ford, nominated by Council members Barnes, Burgess, Cannon, Carter, Cooksey, Howard, and Mitchell.

Christopher Lachey, nominated by Councilmember Dulin

Richard Payne, nominated by Councilmember Peacock

William Scurry, nominated by Councilmember Turner

Robert Szymkiewicz, nominated by Councilmember Kinsey

- D. Charlotte Mecklenburg Development Corporation** – The following nominations were made for one appointment:

Jerry Hwang, nominated by Council members Burgess, Carter, Cooksey and Peacock

Charle'on Macon, nominated by Council members Cannon and Turner
Anthony Paraker, nominated by Councilmember Mitchell
Thad Walton, nominated by Council members Dulin, Howard, and Kinsey

E. Charlotte Mecklenburg Public Access Corporation – The following nominations were made for one appointment:

Eric Rowell, nominated by Council members Barnes, Burgess, Carter, Cooksey, Dulin, Kinsey and Peacock
Bernadine Simmons, nominated by Council members Howard, Mitchell and Turner
Thomas Vinson, Jr., nominated by Councilmember Cannon.

F. Housing Appeals Board – The following nominations were made for one appointment.

Charles Assenco, nominated by Council members Barnes, Burgess, Cannon, Carter, Cooksey, Howard, Kinsey, Mitchell and Turner.
Foti Kanos, nominated by Councilmember Peacock.

G. Keep Charlotte Beautiful - The following nominations were made for two appointments:

Bryan Bishop, nominated by Council members Carter, Kinsey and Mitchell
Richard Flanagan, Jr. nominated by Council members Burgess and Carter
Christopher Lachey, nominated by Council members Cooksey, Kinsey and Mitchell
ReGinae Reynolds, nominated by Council members Burgess, Cannon, Howard and Turner.
Craig Murden, nominated by Councilmember Peacock

H. Neighborhood Matching Grants Fund Review Team – The following nominations were made for one appointment:

Phyllis Croutch, nominated by Council members Barnes, Burgess, Cannon, Carter, Cooksey, Howard, Kinsey, Mitchell, Peacock and turner.

[Motion was made by Councilmember Cooksey, seconded by Councilmember Burgess]
[and carried unanimously, to approve the nomination.]

Passengere Vehicle for Hire Board – The following nominations were made for one appointment:

Twila Adams, nominated by Councilmember Mitchell
Hung Chau, nominated by Council members Kinsey and Peacock
Monique Stamps, nominated by Council members Burgess, Cannon, Carter, Cooksey, Howard and Turner.

I. Small Business Enterprise Loan Fund – The following nominations were made for one appointment:

Nigel Long, nominated by Council members Barnes, Burgess, Cannon, Carter, Cooksey, Dulin, Howard, Kinsey, Mitchell and Peacock.
Austin Scott, nominated by Councilmember Turner.

J. Tree Advisory Commission - The following nominations were made by three appointments:

Matthew McLaren, nominated by Council members Barnes, Burgess, Cannon, Carter, Cooksey, Howard, Mitchell and Peacock.
J. Martin Sondey, nominated by Council members Barnes, Burgess, Cannon, Carter, Cooksey, Dulin, Howard, Kinsey, Mitchell and Turner.
Joe Zuyus, nominated by Council members Burgess and Kinsey.
Oliver Sharmon, nominated by Councilmember Kinsey

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ITEM NO. 15: MAYOR AND COUNCIL TOPICS

Councilmember Cannon said Mr. Deputy City Manager, I would like for you to see if you and get Mayor and Council a report on a tree that was at the corner of Third and Mint Street in uptown Charlotte, right behind the old Federal Courthouse. What is there now is about 15' bark just sticking up in the air. Who ever took it down or cut it down, they need to cut it down at its base or do the proper excavation for it. I'm interested if they were in full compliance with what we expect relative to our ordinance. The second thing, right now relative to permitting, we have some issues in my opinion that need to be addressed or should be looked at relative to Police going through permitting. About every other week and as of late almost every week, I've been getting calls from either entertainment facilities or restaurants or hotels that are having trouble getting a permit, largely in part because we have one person in the Police Department that is responsible for carrying out that duty. He can either in court, he can be actually doing an inspection or he can be doing a background check. One person is having to cover all of that so when it is being asked of the person, can you get this through for us, the response is, well I've got up to 14 days. Why do you have to have grass growing under your feet? If you are that tied down, we need to talk about what can be done to create more capacity so that jobs can be created, our tax base can be expanded and we can be helping the city out further than what we are doing. I need to see what we can do to look at that matter accordingly because it is an issue. Just today, another hotel, it can't move forward because they are having to wait and wait and wait and a restaurant as well. And mind you on the background checks, that is about a 15 second process. As long as you can go over there and highlight a person's name, move it to the field for a background check and hit that button and get the information you need. We have one officer out there that is providing this and I think the person needs some help because in as much as he might be doing an excellent job right now, the job is not getting done across the board as it needs to. I think Councilmember Dulin and several others around this dais has gotten calls as well in the past. That is a permitting issue that is major right now that we should be addressing.

Councilmember Turner said many of you around this dais and Mayor your name was mentioned on Saturday, I attended Ms. Daisy Stroud's 90th birthday event at Johnson C. Smith University. As we know she has been a great pioneer of this City and a wonderful person. She definitely does not appear to be 90 years old in any aspect and she would let you know that. I wanted to let this Council know that it was a great event and to say Happy Birthday again to her and wish her many more.

Mayor Foxx said last week we had some correspondence with the City Manager on functional consolidation and it ties in a little bit with what Mr. Cannon was talking about with some of the permitting issues there. I would like to ask Mr. Deputy City Manager if we could get some insight from staff as to if we narrow the focus from four functional consolidation ideas to one or two, whether we could see some progress get made specifically around permitting, medic and fire. I know there seems to be some resource issues that have been mentioned there, but I wonder if we kind of casted a more targeted net whether we could see some progress occur there. If we could get a report back on that I would appreciate it.

Deputy City Manager, Ron Kimble, said the four that were referenced a while back, those two are the most heavily resourced projects because they are major, but we will get a report back. I think the Manager has given a perspective to the Mayor and Council, but Building Permitting and Fire/Medic require others to participate with us. We don't have full control over what would be done to study those two issues.

Mayor Foxx said I just think we ought to try. I think in particular with some of the discussion we had tonight around some of the regulatory issues that permitting is one area where I think we can make a really big difference for our community from an economic development perspective. I look forward to hearing more back on a plan there.

Councilmember Mitchell said in honor of our colleague Nancy Carter, the Crop Walk is this Sunday. Nancy would like for us to be there at 2:15, so those who can make it meet at Elizabeth and the new Charlottetown Avenue.

October 10, 2011
Business Meeting
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The meeting was adjourned at 9:22 p.m.

Ashleigh, M. Price, Deputy City Clerk

Length of Meeting: 3 Hours, 55 Minutes
Minutes Completed: December 6, 2011