

The City Council of the City of Charlotte, NC, convened for a Workshop on Monday, January 3, 2012, at 5:08 p.m. in Room 267 of the Charlotte-Mecklenburg Government Center with Mayor Anthony Foxx presiding. Present were Councilmembers John Autrey, Michael Barnes, Patrick Cannon, Warren Cooksey, Andy Dulin, Claire Fallon, David Howard, Patsy Kinsey, LaWana Mayfield, and Beth Pickering.

**ABSENT:** Councilmember James Mitchell, Jr.

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## **TRANSPORTATION: CDOT'S FY12 SNOW AND ICE PLAN**

Mayor Foxx said Happy New Year to everyone. We made it into the 2012 and a lot of good, hard work left to be done. We're going to go ahead and get going and with our Transportation piece, Mr. Manager.

**City Manager, Curt Walton** said thank you Mayor, Council. One of the plans I personally hope we don't need every year is the snow and ice removal plan, but just in case, we do have one that we brief you on each winter. Many of you have worked with Layton Lamb, who retired in December. Ken Martin is the Deputy Street Superintendent, and he will give you an overview of the plan tonight. There is actually a protocol that we follow relative to the removal of snow and ice on the streets, and so, I will turn it over to Ken.

**Deputy Street Superintendent, Ken Martin** said I am Ken Martin, Deputy Street Superintendent for the Maintenance Division, and it is my pleasure to present a brief overview of the plan that we have. We have a very comprehensive snow and ice plan for the City of Charlotte and would like to go over that with you tonight. (Mr. Martin used PowerPoint for his presentation to the Council; a hard copy is on file in the City Clerk's office.)

What we will talk about tonight are the plan elements. There are some things that we don't actually include in this plan, and we will talk about those in here, and I will give you a chance to ask some questions. Every year at Street Maintenance we have what we call snow week, media week. During this week we call together all of our Street Maintenance employees, and we come together for a whole week of training whereby we go over everything within the plan overview. We hand out snow books to all of our employees, and we go over their attendance requirements for them to be there. It's real important that they know what shift to come in on. We have two twelve-hour shifts. We start at 7:00 a.m. to 7:00 p.m., 7:00 p.m. to 7:00 a.m., and we run 24/7 until we get out of an event. We talk about their responsibilities of calling in if they can't be there. It's really important that they communicate with us. We also emphasize safety in this – safety of the employees, safety of the equipment, and safety to the citizens of Charlotte. When you put these machines on snow and ice, and you put a plow on it, and you put a spreader on this machine, it changes the whole dynamics of the machine. We want to make sure that everybody is safe and that they know exactly what they are doing. We load all of the equipment, and we check out all of the equipment that we have. That's a real important piece to make sure that all the equipment is working for the program before you get into a storm. You want to evaluate all of the equipment, check it out, and make sure that all of the components are working. You don't want to get into a storm, have something loaded up, have it hooked up, and it's not working. We coordinate with the Equipment Management Division, and we make sure that they understand that we have equipment that needs to be fixed so that when the storm comes up, we can make sure that it's up and running. We also run the material through the equipment to make sure it's operational prior to getting out there in the event of a storm.

Communications is a real important piece of this. During our snow week, we have what we call our media day. We invite the media to come out on our site and take pictures of our equipment, talk to employees, and tell them about our plan, to let them know what we are going to do, our routes, and give them an opportunity to ask us questions. They also take pictures of our trucks moving around and talk to some of our drivers. We also have news briefings if we know an event is coming. We want to make sure the media knows and gets the word out to the citizens what's going on throughout the City and that we are prepared to fight the storm, no matter what comes up. This plan is actually on the website for CDOT, and you can go in and dig into the weeds. Also, if you have questions, I am available to answer any questions. And I have contact

information at the end. Point of contact is 311. We tell folks to call 311. We put all our calls through there so that they are logged in, get into the system, so that we can capture and track those calls and make sure we are taking care of them.

Another key element is inter-agency coordination. We work very closely with police, fire, and medic. If there's something going on and they need assistance with one of our trucks, we are happy to go and accommodate them and try to help them. Also with CATS, we want to make sure that all routes throughout the City are covered with CATS. Solid Waste, we want to make sure that within our neighborhoods, if there is a lot of snow and ice, we contact them and let them know, because we are eyes on the ground. Our guys have already been out there, and we know what the neighborhoods look like. Equipment Services, we couldn't do this without Equipment Services working with us to make sure our equipment is up and running. NCDOT, we collaborate with them prior to any storm. Usually we know what they are doing and they know what we are doing and what we are covering. We work reciprocating – if we need salt, if they need salt, then we work with them. We also let Corporate Communications, 311, and CDOT know exactly where we are and what we are doing throughout the programs. So, communication is very important for this.

Another plan element is material storage. The picture on the left is our salt brine system. We have three salt brine systems. Salt brine is 23% salt water and you apply that 24 to 48 hours before a storm comes in. If you've been out riding around before the storm and see white marks on the pavement – you'll see them on freeways and some streets in towns, on bridges, that's salt brine that's been put down 24 to 48 hours before the storm. You don't want to do this in the rain because it will wash off; you want to do it when you know you've got ice and snow coming. Ice reactivates the salt and it actually keeps the snow and ice from adhering to the pavement, sticking to the pavement. We have 15,000 gallon capacity for salt brine, and we have 5,000 capacity for calcium chloride. Calcium chloride is only used when temperatures dip down below about 22 degrees, because salt kind of becomes ineffective. So, we use the calcium chloride and that brings the temperature all the way down to zero. It's just a good tool to have.

Councilmember Dulin said in the event we don't use all of our inventory, does it keep until the next year, or do you deliver it back; environmentally, what happens to it?

Mr. Martin said we keep the salt brine in the tanks, it stays mixed in the tanks, and it doesn't freeze so we can use it year after year. The calcium chloride is the same way, so once we have it on hand, then we can regenerate it pretty quickly, but we can reuse it. The salt that we have is in covered facilities, so we don't have a problem with that either.

Mr. Dulin said that looks like a new building. Is it designed – the one on the left, too, where the brine is – obviously that little tank area looks new – but is that designed to last the City for a generation now?

Mr. Martin said absolutely. This is covered, the containers are plastic. This facility is actually - if you were on our site up in our northwest district on North Point, you see the salt brine tanks that are on the left hand side, and then immediately to the right is the salt facility that you see. That is the largest facility that we have, and in that facility alone, we can contain 5,000 tons of salt – 2,500 tons on either side of that building.

Mr. Dulin said it doesn't go bad?

Mr. Martin said no, sir, it does not. It's vented to get the moisture, because salt will attract moisture, so it has fans that come on automatically that pull that moisture out of there.

Currently we have about 65 hundred tons of salt on hand which is plenty of salt to do anything that we need this year, next year, and probably the following year depending upon the storms that we have. It's plenty of salt to do what we need to do, so we don't anticipate having to make any purchases for salt. Snow plow routes, we have 16 priority routes throughout the City. That doesn't mean we just cover 16 roads. There are 16 routes and each one has four priorities. The total of miles that we maintain is 856 centerline miles. Centerline miles are two-way streets, lane miles are like a four-lane highway or road. So we have 2,223 lane miles throughout the city that we are responsible for. That breaks down to 731 centerline miles for the City of Charlotte, and

1830 lane miles. And we also do some streets for NCDOT, some state routes, 124 centerline miles for them, and 393 lane miles, and they reimburse us for the cost of what we do for them. We want to help them because their priority is to get out on the I-85's, I-485's, I-77's, and the major freeways, so we help them so they can take care of their priorities also. But we work very, very closely. Some examples of the state streets that we do within the City of Charlotte would be Providence Road, Eastway Drive, Wendover, Runnymede, Graham Street, Morehead, and West Sugar Creek Road. Those would be examples of some state-system streets that we do.

Our service level and targets, we have three service levels. One is like a Light Storm-Condition A, that's if we get word that bridges might freeze, or culverts might freeze, and so that's our lightest group of folks that we bring in. We have nine routes with three special response teams that can go out and take care of just bridges and culverts with salt brine. Then we have what we call our Moderate Storm-Condition B, which is less than or equal to a one-half inch of ice or less than or equal to eight inches of snow. We may plow or we may not plow, it's according to the depth of the snow and ice that we have, and temperatures that immediately follow the storm. A lot of times you can just put the salt out, and it will take care of what you have out there if it's a minimal amount and you don't have to plow at all. So we just make those considerations once the storm gets in. We target 90% clear within 48 hours after the storm, at the termination of the storm because you could still have snow and ice continuing to fall, you can actually plow it off, and get more to come. So, 48 hours after the storm. A severe storm would be greater than one-half inch of ice or greater than eight inches of snow. And we would probably be plowing in something like that. Our target for residential is 75% navigable within 72 hours after the storm. The word navigable means one lane in, one lane out, trying to get the folks in and out of the residential areas. A lot of times in this area, we don't even have to go there because the temperatures come back up and it's gone by the time we get there. However, if it's not, then on a storm of this size, we also have the option of calling in contractors if needed that we can put in those residential areas, or we can take our staff and move to the residential areas and keep the contractors on our routes.

Councilmember Barnes said can you tell us what the worst budget impact year has been from a snow removal aspect over the last 15 years.

Mr. Martin said the storm that comes to mind for me was back in 2004 where we had a substantial amount of snow within the city. In my 30 years with the city, that's probably the worst storm that we have had.

Councilmember Barnes said from a dollar perspective how much did that cost us?

Mr. Martin said I don't have those figures right off hand, but that's something I can pull together for you.

**Assistant City Manager, Ruffin Hall** said it was a FEMA related event so it didn't cost the city anything since much of the cost was reimbursed by the federal government. It was several million dollars.

Councilmember Barnes said in terms of current budget planning, how much money do we set aside in our budget to cover these types of events?

Mr. Hall said it's over a hundred thousand dollars of materials, but they may also budget for additional labor costs.

Mr. Walton said it's hard to look on a snapshot year to year because of the pictures that Ken showed, because we might go two or three years using nothing, and then we'll have one really bad year. So, most of the times, we underspend. Then, when we overspend, we usually significantly overspend. But it's what is called a life to date account, so it just keeps building.

Councilmember Barnes said it's within the operating budget?

Mr. Walton said yes, it's in the Powell Bill.

Councilmember Barnes said so it's isolated within the budget?

Mr. Walton said yes.

Councilmember Barnes said what's the balance now?

Mr. Hall said we'll have to get that for you.

There are a couple of things we don't do within this plan. Property owners are responsible for private and commercial driveway entrances. Also, they are responsible for sidewalks within their neighborhoods or within their areas. The exception to that is in the Tryon Street Mall and Special Services, Solid Waste Services for the City of Charlotte, takes care of the sidewalks in the Tryon Mall area. Also, NCDOT is responsible for interstates, freeways, ramps, and the major state arterials – US74, I-277, I-485, I-85, and I-77.

That concludes the information I want to give you tonight. Are there any others questions?

Mayor Foxx said great report. I know in the last couple of years when there have been events, they have been handled very well. So, we appreciate the work of your department and keep us informed.

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### **ENVIRONMENT: MULTIFAMILY COLLECTION SERVICE OPTIONS**

**City Manager, Curt Walton** said a little bit of history on this – prior to 2005 for multifamily units of greater than 30 units or more, the City provided two garbage pickups a week. In 2005, Council adjusted that to one garbage pickup per week to be consistent with all other residential units in the City. Several weeks later, several folks came forward saying that it was not sufficient. Council entered into a supplemental pickup for those apartment complexes that contracted with Republic, who our contract is with, we would pay the disposal fees. So, there was a cost to us of that second pick-up but the majority of the cost was borne by the apartment or multifamily complex. We were challenged in 2011 regarding that practice, and with changes even up to through today, so we wanted to give you the status of that. It is something that we are probably going to have to make some decisions over the next few weeks or months – pretty quickly. But we will give you an overview. I'd like to introduce Michelle Moore from Solid Waste Services and Thomas Powers from the City Attorney's Office who have been working on this.

**Deputy Director, Solid Waste Services, Michelle Moore** said I am Michelle Moore, Deputy Director for Solid Waste Services, and this is Thomas Powers, Assistant City Attorney, and we are here to talk about multifamily collection services. As Curt mentioned, the City's multifamily collection services were challenged in a lawsuit in 2010. The two plaintiffs were Cedar Greene Apartments, a local apartment association, and O'Leary Waste Systems, a local waste collection service provider. As of December 14, a ruling was issued in that case in favor of the plaintiffs. The judge modified that ruling as you can see, and Thomas will talk more about that in a moment. The judge's order was for the City to begin offering to pay supplemental solid waste disposal costs for any provider that meets the City requirements as of February 2. Our goals tonight are really three-fold: Give you an overview of our multifamily service collection; the impact of the court order, operationally and legally; and also provide some options for Council consideration. Council action will be required as of January 23. (Ms. Moore used PowerPoint for the presentation to the Council; a hard copy is on file in the City Clerk's office.)

A quick overview – and I know a number of you are already familiar with this – of multifamily collection services sites. We provide that via a private hauler, a private contractor, for complexes with 30 or more units, and we provide weekly pickup of garbage via dumpsters/compactors, bulky item collection, recycling collection, and Christmas trees. Also, as Curt mentioned, for FY2006, Council made the decision to adjust the budget and effectively reduced that collection from twice weekly to once weekly, an annual savings of about \$650,000. There were concerns raised about that service reduction by the Charlotte Apartment Association, and a compromise was reached in which multifamily sites could contract independently. They can hire a contractor, they can hire the City contractor, for supplemental service if they don't feel like they have enough. If a site contracts with the City contractor, the disposal costs are paid for

by the City. If they choose another hauler, those disposal costs are not paid. The annual estimated cost for those supplemental waste disposal fees are \$500,000 annually.

An RFP was issued in 2010 for the current multifamily contract. Six companies submitted bids. O'Leary systems was not one of them. As of September, Council awarded the contract to Republic Services. The terms of the contract, as you can see, it's a three-year contract that started in January of this year. It's a three-year contract with two optional one-year extensions. The language in the contract allows the City to terminate without cause with thirty days' notice.

**Mayor Pro Tem, Patrick Cannon** said is that January, 2011, you mean? You said "this year," I'm trying to get some clarification.

Ms. Moore said yes, you are correct. I misspoke. The contract began in 2011.

The 870 multifamily sites are served via that multifamily contract. About a third of those, 35%, currently are using Republic for the supplemental service, and again, just to reiterate, the sites pay the collection costs, the City pays the disposal costs for those sites, for the supplemental service.

**Assistant City Attorney, Thomas E. Powers III** said again, members of Council, what's important in regards to the decision that the judge rendered in December is provision #1 where the judge has declared unlawful under the North Carolina General Statutes the City's provisions of disposal costs for supplemental service. Basically what the judge is saying in this instance is that the City cannot allocate or pay for disposal costs for just its contractor, but must pay for the disposal costs of any contractor that provides supplemental service within the City of Charlotte. The other key provision here is that the judge is ordering the City to pay disposal costs of any service provider for supplemental service by the February 2, 2012 date. Again, this date has actually been modified because myself and Senior Assistant Mujeeb Shah-Khan were before the judge today and asked for a modification of the order entered in December. Before today's hearing, the actual order required the City to comply with the order by January 13, 2012. After appearing before the judge, the judge allowed a modification on the order for another thirty days to comply, which is why you have that February 2 date.

Again, what is key here is that the City Attorney's office appeared before the judge to ask for additional time and seek a modification of a restrictive provision within the Court order. After the hearing today, the judge has not modified the actual Court order at all. The only thing that he did was, more or less, give the City an additional thirty days of time to comply with his order. The way the order is currently structured, there is some concern as to whether the City can comply with the order without being in contempt in a future regard, because the order basically states that the City must pay disposal costs for all providers of supplemental service. So a future Council could be actually bound to provide supplemental service if it wanted to basically do away with that service, maybe due to budget concerns, or deciding maybe to roll that over into just one pickup per week per multifamily property. In that regard, one of the things that the City Attorney's office wanted the Council to consider as part of its deliberations is that in Option 1, you could comply with the order by paying all disposal costs for anybody who provides supplemental service. The alternative option would be, again, in order for the City to possibly look at modifying the contract or doing away with supplemental service, the City would actually have to appeal the order to the NC Court of Appeals and seek a stay in order for the City to possibly be able to look at other options of modifying the current service provision.

**Councilmember David Howard** said go back for a minute. When this came up the first time, I think the way I understood this was that supplemental was done; is that optional or is it required?

Ms. Moore said that it's optional.

Councilmember Howard said give me some history about why we went to supplemental to begin with.

Ms. Moore said when the service was reduced in FY2006, there was concern that it wouldn't be enough for some complexes, that they need that additional pickup. But the cost would be prohibitive, so the arrangement we came to was that the complex could have that supplemental

service, they could have additional service, and the City would, in effect, pay part of it – pay the disposal costs.

Councilmember Howard said the way that I understand what both of you guys are saying is that this is something we did because we went away from the roll-outs to dumpsters. Is that what happened in '06?

Ms. Moore said no sir, I think it was just a budget reduction concern, and also I think it was to encourage more recycling by the complexes as well.

Councilmember Howard said what is required of the City for multifamily properties?

Mr. Walton said nothing. We don't have to be in that business.

Ms. Moore said I think I understand what you are asking.

Councilmember Howard said essentially what I just heard is that we could be required, because of this ruling, to do something that we are not required to do.

Mr. Powers said right now the way the current supplemental service provision is actually provided is that we allow our current contractor, Republic Services, to go out and offer a secondary pickup that we will pay the disposal costs for. What this ruling does now is that it actually allows anybody who wants to provide secondary service to any multifamily property that receives primary service from us and it allows the waste hauler to go in, offer secondary service, and we then have to pay the disposal costs.

Councilmember Howard said without a cap on how many supplemental [inaudible].

Ms. Moore said correct.

Councilmember Howard said so we go from not required at all, which is zero, to not knowing what a cap could be if they wanted us to keep going?

Mr. Powers said that is correct. Again, we are only servicing about 35% of the market, so multifamily properties that now are allowed to have a second pickup paid for by the City for disposal may go out into the market and possibly get a waste hauler to come in and actually have their trash pickup for a second time that was not receiving it beforehand.

Councilmember Howard said let me make clear because I have friends in here, and I'm in the business. I get why we're doing it; I'm just trying to get my hands around it. I know aesthetically it's better for the properties and many other reasons. I just want to make sure I understand what you guys are saying. We essentially could just be on the hook going forward, no matter what budgetary wise, because of this ruling. So we have to deal with this ruling issue, regardless of what we want to do budget wise, to comply with what the judge says. We need to do something about this.

Mr. Walton said I believe so.

Councilmember Barnes said regarding the budget impacts, Mr. Manager, have we developed any budget potential projections if we go to this 'everybody can participate' model?

Mr. Walton said I think worst case, and Mr. Powers pointed out 35%, if the 65% suddenly wanted in, then we'd go from \$500,000 to \$1.5 million. We don't believe that's the case; we would have to some additional work, but it would definitely be in the six figures. Hopefully, in the lower hundred-thousands as opposed to the high or above a million.

Mr. Barnes said do we have the option of simply getting out of this business of providing supplemental service now? Let me give you an example. The Manager and I talked about his a few days ago. There are five people in my house, an X number of people in your house, and the trash guy comes once a week. My wife and I have to make sure that we don't have too much trash so that they can haul it away. We tend to have more recycling materials than we have

garbage. And we consciously make sure that we don't have too much garbage. In a multifamily property, everybody is entitled to put whatever amount of trash they want into the dumpsters, and much like my family, your family, and everyone else's, they should be entitled to one pickup per week. What I'm asking you is could we stop the supplemental pickups right now?

Mr. Thomas said right now, per the actual judge's order, it is the opinion of the City Attorney's office that you would not have the authority to do that. The way it is written, you are obligated to do that going forward.

Councilmember Barnes said so Option 2 is the one that makes the most sense to me, because the idea of us being on the hook to the point Mr. Howard was making – for an unlimited number of supplemental pickups. By that additional 65% that we are not currently servicing becomes what I consider a threat to our budget, so I would suggest that on the 23<sup>rd</sup> we seriously consider Option 2, unless there is another option and I don't see one provided here.

Councilmember Mayfield said when we are looking at the City paying for the landfill disposal costs, we are still saying who meets City requirements. But at this point, if I'm understanding correctly, we don't really have an idea of all of the companies that are out there that can pick up disposals right now, or do we? To know how many of them actually fall into that category that meets the City requirements to help get a better idea of what those numbers might look like?

Mr. Walton said we know the universe of haulers that are out there, but we don't know necessarily which ones are picking up which complexes for a second pickup. That would take some time.

Councilmember Mayfield said ok, and part 2 of that is thinking about it realistically. We do have apartment complexes with multiple homes, and as was mentioned earlier, once a week isn't necessarily going to be enough. You're going to have overflow depending on whatever is going on. So, the supplemental is needed; it's just a matter of what role will we really be able to play as the City, if we can incur the costs, or if we can have bids that come in at a reasonable amount. When it comes to the supplemental, we don't have any control over that bid process because the complex itself identifies the amount. So the question to the City Attorney, is there a way that we can maybe have a proposal that goes back to the judge that comes up with a reasonable amount where we would pay a partial for all those companies that come in opposed to whatever the amount might be?

Mr. Powers said myself and Mr. Shah-Khan actually went before the judge to try to illustrate that very point – that Council needed to look at and develop ideas of possible policy solutions to this problem and sought relief from the judge to allow Council to have that time to do such and to bring forth to remedy discrimination. Unfortunately, the judge decided to stick with the order as currently drafted and issued the order for the City to comply within thirty days. But I know that, again, Mr. Shah-Khan was the one that argued the motion today for reconsideration and that was of his very points – that there were a multitude of options that Council could look at to possibly look at remedy discrimination that were not within the confines of that order.

Councilmember Howard said I wanted to make sure that if we go with Option 2 that we have some way to cap how many. It's having the right to do supplemental or not supplemental is what I wanted to make sure. Because right now it's optional, and I want to make sure that it stays on the table for future Council. So I wanted to make sure that was part of what you guys were going back to ask for. You're asking for the right to do it or not do it. It's not just a cap. Can we still appeal that?

Mr. Thomas said you're saying if the City appeals, the way I'm understanding the appeal is that we would go before the Court of Appeals, #1 is to say that what we are providing is legal and lawful under NC General Statutes, or #2 we would possibly say that the City should have the ability to look at and explore other options to comply with the judge's declaration that its current practice is unlawful. So, we will be looking possibly at a dual track in regards to the appeal. But I do want to caution that I am not able to give you all the options because, again, myself and City Attorney Hagemann and Mr. Shah-Khan are still exploring how the appeal will actually be undertaken.

Councilmember Howard said that all I'm asking you to do is while you're doing it to remember to take into consideration that we want to have the right not to do it as well. It's not to, like you say, tie future Councils with having to do a supplemental. That's what I wanted to make sure. Second thing, the whole point in his ruling is to stop what he thought was discrimination between other people that provided. What was the rationale for if they didn't even apply for the bid? The bid is an open process. What was the ruling that if they didn't bid, why is it discrimination?

Mr. Thomas said I cannot actually answer that direct question in regards to how the judge looked at that particular fact and evaluated that as part of the entire process. What I can say is that basically the judge looked at the totality of facts and everything that was presented both from the O'Leary Group as well as Cedar Greene and the City Attorney's office, and he then determined that based upon what the City was doing, it was unlawful under NC General Statutes. As to the particular facts as to what he may have based his decision upon, unfortunately, I do not have that information and cannot give you a synopsis of that.

Councilmember Howard said you make a good point. So, part of what you would be doing is trying to find something that is lawful that maybe would still allow us to offer that supplemental service?

Mr. Thomas said yes, as part of the appeal, that would be something that we would be arguing that, again, based upon the judge's order, Council does not have the ability to look at and evaluate options that will remedy discrimination but possibly also to provide supplemental going forward. Again, the way the order's currently drafted, the order basically says you provide to everyone, and you provide it as of this date going forward with no end date. So, again, it will bind future Councils but does not give you the flexibility to look at and decide what you would like to have had as an offering for supplemental here in the City.

Councilmember Howard, ok what I'm getting at is this, so he's saying our bidding process and us limiting it to just one company is wrong, not that we are not providing access to everybody else? It was our bidding process that was wrong, not what we were trying to get at – which is providing supplemental service? We can talk about that offline.

Councilmember Barnes said in a nutshell, the judge's order forces us to do something that we don't have to do?

Mr. Thomas said that is correct.

Councilmember Barnes said that is why I think Option 2 is the better option. With regard to something Ms. Mayfield said. People have the responsibility for controlling the amount of garbage they produce and put into a dumpster. And it should not be my requirement to pay for you creating 50 or a 100 pounds worth of garbage every week when other people are creating 20 to 25 pounds per week. I think that this presents an educational opportunity in multifamily communities for recycling and controlling their garbage. Some people do produce inordinate amounts of garbage, but it's not my responsibility as a taxpayer to pay for you to throw away couches and a couple hundred pounds of trash every week. Just my opinion.

Councilmember Dulin said to that point, Mr. Barnes, you guys always hear me talk about Miss Nora, who I live next door to, a little 84-year old sweet lady. She doesn't consume anything. And a lot of these apartments – and there's thousands of them – have one person in them that aren't consuming as much. Some of them are going too. Some houses are consuming more, households with five people. It's a give and take on that. But the single households don't consume anything.

Councilmember Cooksey said what's the relationship of the money the city pays for these disposal costs and the revenue we get from the multifamily solid waste fee on the property tax bill? Is it a one-to-one? How are they connected, or are they connected at all?

Ms. Moore said they are connected. The solid waste collection fee does fund the disposal cost. Councilmember Cooksey said the next logical question would be if we have a requirement to pay additional disposal costs, would that not necessarily lead to an increase in the solid waste fee that appears on the property tax bill for multifamily developments?



Ms. Moore and Mr. Walton said it could.

Councilmember Pickering said it sounds like when we reduced the number of pickups from 2 to 1 as a cost savings measure I assume, apartment people came to us and were concerned that it wasn't going to be enough pickup for them; that they had more trash than one pickup would allow. And we were trying to be nice guys, shall we say, to offer help with the landfill costs. Is that correct?

**Director, Solid Waste Services, Victoria Johnson** said from my understanding, because I just started in 2005, when it was taken away, the apartment association was concerned about the City not having a second pickup. Therefore, the costs for that second pickup would be escalated because the City didn't have a control factor in it. The apartment will be deemed that at the first pickup we pay for, but a pickup that could cost now eighteen dollars would be charged at fifty or seventy-five dollars, so there was no control of the vendor keeping it at a fair-enough market value. So, the City intervened and said this is what we will offer: In order to insure that you don't get gouged on that second supplemental pickup, this is one of the things that we will do to help insure that it stays at a fair market value and won't escalate above.

Ms. Pickering said we were trying to reduce costs in the first place, but we were nice to offer some help with that second pickup.

Ms. Moore said yes, to help mitigate the effect.

Ms. Pickering said one last thing, Councilmember Barnes mentioned recycling, I'm big on recycling, particularly with our multifamily complexes and apartment complexes. If I calculate correctly, we are at about a 64% participation rate. So if there is a way to interject that into this discussion, I would love it if we could.

Ms. Johnson said that is a department goal also.

Mr. Walton said in response to Ms. Pickering, it was a cost reduction. There was also an equity issue that was discussed then, because for about 250,000 single family customers – a quarter million single family customers – we provide collection and disposal once a week. So it was to standardize that along with the multifamily units. It was as much an equity issue as it was a cost issue.

Councilmember Fallon said does this have to be put out for bid again?

Mr. Thomas said as the current order states, Council does not have that option. Based upon the appeal, that may be a future option, but at this time, Council does not have that ability to do that.

Ms. Fallon said what happens if you comply with the judge to the end of this contract, and then just abolish it totally? Can you or is it open ended?

Mr. Thomas said it will be open ended, even if the City decides to comply with the current contract and terminate it at the end, there is a possibility that based upon the language that the court order is written, that the City would then be brought before the judge for a contempt hearing because we have not continued to provide supplemental service to all apartment complexes and multifamily properties.

Ms. Fallon said I see.

Mayor Foxx said we'll have this come back to us next week?

Mr. Walton said the 23<sup>rd</sup>.

Mayor Foxx said the 23<sup>rd</sup> for further consideration, so if you have questions, please contact the staff between now and then as well.

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## **COMMUNITY SAFETY: DNC ORDINANCE BRIEFING**

Mayor Foxx said now we move to the briefing on the ordinances. I'll just say this by way of introduction, when we got the DNC on February 1, almost a year ago now, I remember Bob Hagemann saying we've got to have a pretty comprehensive review of our ordinances, and the work started shortly after that. So, we are now having an update on the work that has been done to date, and I will turn it over to Curt Walton and Bob Hagemann.

**City Manager, Curt Walton** said you are absolutely correct. This work does go back a number of months, so we are glad to be at the point of bringing it to you. I will let City Attorney Bob Hagemann and Deputy Chief Medlock give you the details here, because you may be thinking what's next during this. My suggestion would be after you hear this tonight, and there's a lot to absorb, is that we consider having a public hearing on it next Monday night, and then if you're ready to consider a vote on the 23<sup>rd</sup>, we'd do that. I assume that there will be a large number of speakers for and against these. So, if we have a dedicated public hearing next week, that would give you then two weeks to contemplate the comments that you hear before we put it on the agenda for consideration on the 23<sup>rd</sup>. You are, of course, at liberty to do whatever process you choose. That's our suggestion at this point, and it might help frame this a little bit as you hear us go through. With that, I will turn it over to Bob.

**City Attorney, Bob Hagemann** said as the Mayor indicated, after we awarded the DNC, we realized that we did need to do a comprehensive review of the City Code. We have done that in the City's Attorney office in conjunction with the Police Attorney's office and CMPD. Going through the Code, we've looked at what other cities have done in certain areas that Chief Medlock and I will describe, and we have developed this set of amendments as a recommendation for you. The amendments go to three different chapters of the City Code – Chapters 2, 19, and 15. I will describe the Chapter 2 amendments and a portion of Chapter 19 amendments. Deputy Chief Medlock will handle the rest. (Mr. Hagemann used PowerPoint for this presentation to Council. A hard copy is on file at the City Clerk's office.)

What we are proposing with Chapter 2 is exactly what Denver did back in 2008. In fact, the definition that we drafted is taken largely from what Denver adopted, and it seemed to work pretty well for them. It's a mechanism whereby the City Manager can declare an event of national or international significance, and certainly the DNC is what we would intend to use it for, as an extraordinary event. The effect of that declaration is that the Manager could then set different deadlines for certain identified permits and set a different method for issuing those permits. Specifically, the intent of this goes to parades and public assemblies – first amendment type activities. Back in 2004, we comprehensively rewrote our public assembly and demonstration ordinances. The way they work right now is you can apply at least 30 days before. What we anticipate doing is setting a deadline for applications sometime in this spring, and then we would institute a content neutral approach for issuing those permits. A lottery is what Denver did, and we intend to do the same. Again, the key permits that we've identified at this point would be for parades and certain kinds of demonstrations. We contemplate establishing a single parade route, and any group that wants to parade in Charlotte during the DNC would have to use that route. That's for understandable reasons; to stretch resources to cover multiple routes would be difficult. So we will establish a single parade route, take the applications, and hold a lottery; then each group, based on the result of the lottery, has the right to parade on the days and at the times they have been permitted. Similarly what cities have done in the last few election cycles is created something that is often called a free speech zone. It's a stage with amplification equipment where groups can, again through a lottery based system, reserve time to communicate their message to those who want to hear their messages. So, that's the extraordinary event provision.

Moving to Chapter 19 which contains the actual regulations dealing with pickets and public assemblies – we've been pretty successful. We've been sued a couple of times for Operation Save America, and our ordinances have withstood those legal challenges. But over the course of the years, I've identified a number of technical amendments that I've been accumulating heading toward this moment. The specific technical changes we are proposing to you as part of Chapter 19 amendments is the elimination of Marshall Park which is no longer a City asset; it's now owned by the County. The current ordinance has a prohibition on picketing at a festival, and shortly after the ordinance was adopted, we saw a number of cases come out around the country

and realized that that prohibition is not constitutional. We have not been enforcing it. So, we're proposing to take that prohibition out of the ordinance. We're proposing some minor definitional changes, largely drawing on favorable opinion from US District Court Judge Robert Conrad in one of the OSA cases. He characterized our ordinances in a certain way that is very supportive of the legality of our provisions, and we intend to pick up on his language in the definitions. Finally, although arguably it's implicit, there's nothing in the ordinance right now that gives the permit official the power to revoke permits that were previously issued when there are grounds for doing so. Those are the technical changes to Chapter 19. I'm going to turn it over to Deputy Chief Medlock now, and he's going to talk about the substantive, more law enforcement in public safety provisions.

**Deputy Chief, Charlotte-Mecklenburg Police Department, Harold Medlock** said I want to start with some of the research that we did as we begin to look at ordinances that would have an impact for us in the DNC for September of this year. We reached out to a lot of our police partners across the country. You can see some of the major cities that have hosted conventions or major events through the years, and their departments have been very helpful to us. As we shared our concerns and our needs with them, they shared with us that due to recent events in their cities, they are also revising many of their ordinances that needed updating. While we have done a great deal of research from these cities, they have also reached to us to find out what we are doing as we move forward for the DNC.

Chapter 19 talks about prohibited conduct at pickets and public assemblies. Now, a lot of the things that I'm going to share with you tonight that are in the ordinances, in and of themselves, don't seem to be a big deal or necessarily dangerous. But as I begin to describe some instances that we have faced in Charlotte, and that other cities across the country have faced, it will begin to bring a different light to it. The ordinance says that you cannot push or pull any cart or float unless authorized by public assembly permit. What we are trying to eliminate is someone using one of those vehicles or one of those devices to disrupt the flow of traffic, pedestrian or vehicle traffic; and also to eliminate the ability to hide or secrete items or devices inside those vehicles. Throwing or dispensing any items unless authorized. Again, if you think about Mardi Gras, there's a lot of items that are thrown during the Mardi Gras parades, but that's not what we are necessarily talking about here. We're talking about throwing items that would injure folks, either as part of the picketing or folks that might be observing. Certainly, police officers would be those folks that would be affected as well.

Councilmember Dulin said those items will be itemized, but not limited to? For instance, one of my sons shot a balled up McDonald's cup of ice a couple of years ago at one of my other sons. And it hit him, and it made a big problem in my family that day. But a balled up cup of ice is odd, but are we going to get down in the minutia of that sort of thing?

Deputy Chief Medlock said probably not to that level, Mr. Dulin. Again, a cup of ice – we're just not going to go to that level with these ordinances. Again as I said earlier, I want to make sure that you know that a lot of the items that I'm going to describe to you here that are in the ordinance, in and of themselves, are normal, everyday items. Taken by themselves by an individual or a couple of folks are not considered dangerous in most cases, but I want to go over some of these with you.

Chains or cables or bars –we're concerned about these being used as weapons against folks that are in the picket or the parade, and also against our police officers or any observers. Those items can also be used to lock an individual to another person or a police officer or a building. Any way to disrupt the flow of what's going on, we are concerned about that and the injury that it would cause.

Obstruction devices – I need to describe these to you a little bit. A lock box is a device where two people can put their hands in a hole of either a metal box or a wooden box; it may be filled with some materials, but certainly it would be a way for them to lock themselves so that you and I could not see where their hands were in the box, and again, either disrupting the flow of traffic. Usually these boxes, or sleeping dragons, are used by numerous people to completely close a road or a sidewalk or a street or a building. A sleeping dragon is the best way to describe that. That's a nice big piece of 4-inch diameter PVC pipe where two people put their arms in. There may be a chain or a set of handcuffs in there, and some of the more enterprising folks actually fill

those with concrete. So, not only are they locked in with the chains, but when we go to try to remove that, we can't see where their hands are because they're locked in concrete. They'll also wrap their arms and their hands in such a way or with material that would not allow us to do an x-ray to see where their hands are to be able to go in and then remove them from those devices. It's very time consuming, and it's very dangerous for the people that have locked themselves in these devices. They are in many cases permanent devices, forcing us to take the time and the manpower to remove them. It's also dangerous for officers who have to use the heavy equipment to remove those things.

Projectiles – something, again, very simple. Mr. Dulin, back to bricks and rocks. Me carrying a standard red brick down the street is not necessarily an issue as I go about my daily travels, but in a group of several thousand people or several hundred people, a group of folks carrying a brick or two down the street causes us some concern. Somebody's going to get hurt, and really we just want those bricks to be put down or the person can take the brick home. Either way, we just want them out of there with those things.

Something that a lot of folks don't think of that Denver experienced in 2008 was a musical device as described to a police officer. It was a two-litre bottle that when the officer confronted the individuals carrying them, they said, 'well this is a noise maker, a maraca.' A simple plastic bottle. The officer said 'Well, what's it filled with?' The individual said, 'It's filled with stones or pebbles.' While the bottles were easily dumped out and used as individual missiles, the bottle itself probably weighed close to ten pounds, and launched over would cause serious injury to someone. Again, that is a projectile.

Aerosol containers – this is really, really easy. Hairspray cans with a lighter become a flame thrower. Spray bottles that you would use to spray your roses on the weekend, filled with ammonia or some other noxious substance that I'll get into in a few minutes, is going to cause some serious issues with those people that would be affected by it. Spray guns, or even water pistols, can be filled with noxious substances. I'll give you a heads up – it's urine, the dreaded thing that we're all worried about.

Backpacks and coolers that would be large enough to conceal weapons – Mr. Dulin, crushed ice may not be an issue, but if someone came over with good, big chunks of ice, that would cause us concern. Bags of coal would be an example. We just recently ran into a situation where we expected folks to show up with coal rocks. Again, a very dangerous thing when it might be thrown.

Breakable containers – that's Molotov cocktails, folks. Anything that someone could fill with a flammable material, light, and throw gives us great concern. Again, in the two previous conventions, they experienced individuals who had those items with them during the convention.

Sharp objects such as box cutters or utility knives – one of the recent Occupy protests in one of our sister cities across the country that helped us had young ladies coming through the crowd where a police line was established. The officers were standing there in a defensive posture, the young women came through with what was described as X-Acto knives; if you're familiar with that, it's a very, very small, very sharp utensil. They came and sliced the back of the officers' hands, then disappeared into the crowds. So, any kind of cutting device that can injure an individual, certainly, we want to make sure that folks don't have those. Again, a very similar thing happened just recently in one of the protests across the country. Officers on the line who were holding a defensive position were pepper sprayed, or what we believed and their department believed, was pepper spray. Six of them were contaminated and had to come out. It caused a bit of a problem for that particular location and the crowd surging forward.

Masks are nothing new to us. We have a masking ordinance. And certainly on a day like today, we expect folks to wear the masks and scarves to keep warm. But in a crowd of several thousand people where someone may begin to use some kind of noxious substance, and folks began to put masks on to either throw something or to deploy those things, we want to have some measure that lets folks know that that's not appropriate.

Body armor and shields – you think that the police are the only ones that have body armor. What we've learned from a circumstance that happened in 2011, not a political convention but a major

event that occurred in Canada – the Stanley Cup hockey finals in Vancouver, where it was a big city street party. That afternoon, people were showing up with Kevlar helmets, gas masks, and carrying wooden objects. Officers thought they were wooden tables, but they turned out to be shields with handles on the back. So, those individuals coming to the event to do nothing but cause criminal conduct were bringing in those items. So, those items should be restricted.

Police scanners go without saying. We would prefer folks not know what our radio traffic is, and then begin to counter whatever moves we might make.

Fireworks – the thing that we've experienced here in Charlotte is that there are fireworks that frequently are used in major crowds. The thing that usually follows a very loud firework is the yell of the word 'gun.' When you have several thousand people standing around and some kind of explosive device goes off, and then someone screams 'gun,' you have several hundred people that began to charge, and someone is going to get hurt, someone will get run over. We've seen that here.

Additional items – placing anything that would restrict the right of way, such as a ladder. During an abortion protest here in Charlotte, we have had an individual who used a ladder to defeat a wooden fence located around the clinic. He brought a 12-foot, folding ladder, got up in the air, and was able to use our sidewalk to do the work that he did. Ladders can also be used as a device to push people. Platforms, stages, tables, and tents have no place in a major event. An interesting thing that you would never think about is the 12 x 12 pop-up tents that a lot of vendors use for fairs and festivals, etc. Two years ago during a major event downtown, we had a pretty major thunderstorm that occurred. A lot of the participants picked up the tents from vendors, who had abandoned their sites and gone indoors because they were smart. These individuals stayed out in the thunderstorm, and they went down the street picking up the tents and using them as large umbrellas. It was raining so hard that it was raining sideways, and they decided to turn the tents into the rain to protect themselves. And there were 20 or 30 behind each one of these. Again, this was a great example of folks using things that are not normally intended to be used in an offensive manner. We can remove these and charge the person using them, or the person who is using them could remove them on their own.

Chapter 15 – there's not much more in the actual ordinance than what you see on the screen. You can't camp on public property in the City of Charlotte, period. One of the things that the ordinance does allow us to do is that if we see someone beginning to camp, we can approach them, advise them that they are not able to camp, and they should put their items down; we begin to avoid a problem at that point. The obstruction of public right-of-ways is very similar to what I shared with you in the picketing and parade ordinance. Again, talking about lock boxes, sleeping dragons – here's an important thing. There are devices out there – some very creative folks in this world – that people will use to completely disrupt or shut down a major street, even on an interstate. In Denver, one of the bus routes for the delegate buses off of the interstate – a group of folks went out one morning with their sleeping dragons, chained themselves across the freeway, apparently to disrupt the delegate buses into the convention site. There was a backup plan, the buses continued on down the road, brought the folks in another way. The police wisely made the decision to just leave them there. It began to get pretty hot that day. They monitored it to make sure no cars came off the exit, and pretty soon, folks decided it was time to unlock themselves, and they left on their own. We will use those strategies as much as we can to prevent our streets from being locked down.

Councilmember Howard said Curt, I think this is as much for you as it is for friends of the police. I guess I always assumed that a lot of the security needs would be just in the downtown area where the events are going on. Given that example, that means that we are going to have people staying in other counties. We have a regional concern that we need to be coordinating wherever the delegates are.

**City Manager, Curt Walton** said that is correct. It's not just a center city event; it's primarily a center city event, but our responsibility is to protect the entire community. These things will help us to do that. They will certainly help with the DNC, not just downtown, but also it will help us outside the center city.

Mr. Howard said it also sounds like we need to see the Chief coordinating with the Chiefs in other counties to talk about how we coordinate stuff. They still have to get here from wherever they are.

Deputy Chief Medlock said Mr. Howard we are doing that. All the chiefs, all the sheriffs, from not only Mecklenburg County but the surrounding counties – anywhere this is affected – are part of the plan. They are being apprised. We are sharing resources and understanding what ordinances are affected all the way through.

Councilmember Cannon said in Chapter 15, I know you made reference to what camping means as defined by sleeping, etc. But, looking at Letter D about it being unlawful to light or use a campfire or bonfire on public property except as may be specifically authorized by a permit, can you speak to what may occur with propane tanks that might be setup during the day versus it happening overnight – over a 24-hour-plus period? Is that something that is allowed or not allowed on public property?

Deputy Chief Medlock said currently, Mr. Cannon, it's not allowed. Either bonfires or using some kind of heater on City property is not allowed.

**Chief Rodney Monroe, Charlotte-Mecklenburg Police Department,** said are you referring to a festival where they have the propane tank associated with that?

Mr. Cannon said or any related event or activity.

Chief Monroe said what we're looking to regulate is the overnight camping and what's associated with that. Therefore, not allowing those types of devices going on public property during those particular times. So, it's kind of separate from any other special event that may occur within the City. We're just trying to focus on the camping issue.

Mr. Cannon said ok, I just want to make sure that that is clear because I don't think it's widely known already about the existing laws.

Chief Monroe said I think there are current regulations now that govern the use of propane on public space.

Deputy Chief Medlock said finally, just a couple of other devices that we've learned about – vehicles that can be used where folks can be dropped out of them, attached themselves to and through the vehicle. The vehicle is no longer able to move, and we have to come in and remove those folks from the vehicle. There's also a device called a tripod, and it's not your typical camera tripod. The tripod used in a protest or demonstration for criminal purposes is something that an individual would carry in, put themselves in the middle of, and essentially, we cannot remove them from it without physically injuring them. So they are putting themselves in a booby trap in a place where there may be high pedestrian traffic, high vehicle traffic, and we're not able to easily remove them. Either some of our officers who are trained to defeat these devices or firefighters might have to go into or remove someone from these. There have been instances where folks have put themselves in it, a law enforcement officer or a firefighter has gone into to try to remove them from it, and the person has become very seriously injured as a result. We are concerned about these, and that's why that is in our ordinance as obstructing a right of way.

Noxious substances – folks, this is from the good stuff of garbage and animal parts. And I know it's hard to believe that animal parts might be acceptable to a police officer, but it is way better than having urine or feces thrown on you. We're concerned with folks carrying lighter fluid or any kind of flammable fluid, any kind of noxious substance that would injure the public or the police in the performance of our duties. We are asking these ordinances cover that. It is only as it relates to public assemblies and dispersing or interfering with a lawful assembly, or the police, fire, and the entry or exit to private property.

Police lines and barricades – the ordinance provides that CMPD is authorized to establish to protect folks and property. At some point when a barricade or line is established, always at the direction of the Chief of Police, it would be unlawful for a person to intentionally try to cross

that line. A great example of a police line: If you have two opposing sides of an issue that show up at the same place, even though we're going to do our best not to let that happen, the police physically, literally have to go in and create a barrier or a gulf between the two sides to keep it from becoming physical and people being injured.

Kindling bonfires – anywhere in the City, not just on City property. It is unlawful now, and would be unlawful to have a bonfire or a fire except by permit.

Attachments to public and private property – We've seen across the country, and in Charlotte recently, where folks have attached items, banners, or devices to bridges, overpasses that would damage to vehicles that are coming underneath the overpass, banners that present a particular cause that might be a danger to vehicles, and also in Charlotte, attaching to private property some demonstration or protest against that property would be unlawful in this ordinance. I'll be happy to take any questions.

Councilmember Cooksey said Deputy Chief Medlock, a question about a word that appears a lot in the proposed amendments, Section 19. Could you speak to us a bit about how officers are trained to determine or interpret intent? Because there's a lot here about what you're carrying with the intent to do something. Whenever I see an additional clause like that, I think if I'm carrying this but I don't intend on doing anything, but Andy is and he does, how do you make the difference?

Deputy Chief Medlock said I think the word 'intent' in police-speak gives us the ability to go up and talk to someone, to find out what it is they intend to do with it. As an example, I have a bicycle, and I have a D-ring or one of the kryptonite locks. That lock is affixed to the bicycle or I might be carrying it or have it on my bicycle handlebar. I know I'm going to lock my bicycle to a post to keep it from being stolen when I go away from it. But ten people carrying ten kryptonite bicycle locks with no bicycles causes us some concern. We know that those locks can be used to connect two people neck to neck. You've got folks in a device that is very difficult and dangerous to remove. The word 'intent' is 'in the setting that it's in.' If you're carrying a D-ring bicycle lock down Trade Street by yourself, we're probably a little inquisitive, but we don't know that you're necessarily going to be able to do anything but lock yourself up. Carrying rocks and bottles in a crowd of hundreds of thousands, there is an intent there to use those items for something other than building a house or a wall.

Councilmember Howard said by nature, just putting all of this out in the public, somebody will come up with something else. How do you cover the new things that nobody has thought about without us getting sued because we didn't write it down? Are we leaving some language in there somewhere that says 'and other perceived threats,' which I know kind of gets us in that same realm? What are we doing to deal with the new things?

Chief Monroe said the ordinance does identify 'and other' devices or items. Part of this language goes directly out to say what we will or will not tolerate. I think part of it is the message as well as the specific items that we listed. There will be other items, there will be new items, but the law gives us the ability based upon the intent of the use of those items to be able to take some action.

Mr. Howard said I see the City Attorney nodding and that will take care of us?

**City Attorney Hagemann** said I think, the intent here is to give CMPD as many tools as we can to try to prevent at the front end bad things from happening. Obviously, if somebody engages in a criminal act, appropriate law enforcement response would occur. The challenge with some of this stuff is in drafting it, you'll see that the intent is only attached to certain items, and it's attached to items that, with the bike lock example, can have a very legitimate, innocent purpose in use. So it's a balance between trying to give them the tools so that when they see one of these items, they can approach the individual carrying them and try to assess what is about to happen and deal with it proactively. From a drafting standpoint, it's just really, really difficult to anticipate or predict other items that haven't been used improperly yet, and try to prohibit them at the front end. I don't know if that's a really good answer, but we've done our best to learn from the other cities' experiences, to identify those things that we know are out there, and give them the best tools we can to be proactive and try to stop problems from occurring.

Mr. Cannon said I am going peruse the information that's been given to us today because we still need, of course, time to digest every word that's been placed here before us and begin to even pose additional questions. But, no one doesn't understand that this has been a work in progress since the announcement of the DNC. You are more than confident that any of the new or proposed changes that are before us do not violate anyone's First Amendment rights?

Mr. Hagemann said no sir, we are very confident that there is nothing in what we put before you that raises constitutional issues. That said, you need to be aware that every city that has hosted a convention in the last three cycles has been sued going into the convention. So we fully anticipate the possibility of that happening, and we are geared up and prepared to defend decisions that you make.

Mr. Cannon said thank you very much. That's going to be very important going into the decision that we will be called to make on the 23<sup>rd</sup>.

Mr. Howard said what about situations that we haven't identified where people could hurt themselves. Do we have the right to act on that?

Deputy Chief Medlock said we have that obligation right now. If we see someone that obviously is playing in traffic or doing something that's completely dangerous, we have the ability to step in and remove that person from that dangerous situation. That is a protection of life issue, not necessarily an arrest, but it is taking someone into custody to insure that they don't injure themselves or hurt someone else.

Chief Monroe said one of the other things that we've discussed throughout this process is having conversations with other groups that some of these ordinances would affect. Not necessarily to change anything, but to have that other voice to weigh in on our ordinances and determine whether or not we are too far off into uncharted waters, and that being the ACLU.

Mayor Foxx said are there any more questions on this ordinance? The City Manager has made a recommendation on process – and that would be to have a public hearing next Monday, followed by Council consideration on January 23<sup>rd</sup>. If there's no objection, we will go with that schedule.

Mr. Dulin said following that time line which I'm fine with, Mayor, Councilmembers, when does the new ordinance take place?

City Manager Walton said anything you adopt happens as soon as you adopt it.

Mr. Howard given the language that they used in other cities that have been sued, so that we are clear about direction, a motion may be in order,

[ Motion was made by Councilmember Howard and seconded by Councilmember Mayfield ]  
[ to support the City Manager's recommendation. ]

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

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## CITIZENS' FORUM

### DNC ORDINANCE

**Scottie Wingfield** said our city has a great opportunity with the DNC. We have the opportunity to be a model for nation and the world. We can demonstrate how free speech can flourish alongside public safety and the safety of our president. To be that model that I know the City can be, we must recognize and protect the act of camping as protest. I assert that Occupy Charlotte's physical occupation is protected by the First Amendment's guarantee of free speech and free assembly. Overnight occupying is not camping for recreation. It is camping as a demonstration. Camping as demonstration is free speech, not a public nuisance. Because camping is demonstration as free speech and free assembly, Councilmembers, it is your duty to protect it and insure that there is a public space where it can be practiced. This is especially



important given the fact that the DNC has reserved every public park for the three weeks before, during, and after the DNC. This free speech assembly at 600 E. Trade Street is important, therefore, for not just Occupy Charlotte but for anyone and everyone who wants to exercise their free speech during the DNC. And we consider ourselves stewards of free speech and free assembly because of that. I am a participant of Occupy Charlotte but not speaking for Occupy Charlotte. Also, over the last several decades there has been a national and city-wide trend of privatizing space, and we need to balance this trend by protecting spaces for free speech and free assembly, particularly in our downtown. The overnight occupiers that occupy Charlotte have made extreme sacrifices for what they do. They're not doing it for fun; they're doing it because they are demonstrating for our rights. They symbolize millions of Americans who wish to petition our government for redressing grievances.

**Laurel Green** said I wasn't sure what I was going to say because I came basically to listen. I support what Scottie just said. I think it's beautiful. I've been really proud to tell my friends and family lately that I'm a resident of Charlotte. I think Charlotte has done an excellent job. The City Council and the CMPD have done so much better than some of the cities in terms of 'what will we do about occupiers.' I think that with the DNC coming up, we have this amazing opportunity to set a model and take a leadership role. No other city has figured out how to do this. I think that Charlotte has the chance to. If the City of Charlotte could work with the members of Occupy Charlotte, create some sort of partnership, dialogues, something – I think that, together, we could work out a way to have this happen so that the DNC and Charlotte becomes a model that other cities can look to. Thanks, and I'm proud; you guys have been doing great; keep it up.

**James Walker** said I am speaking as an individual, though I am an occupier. I've been occupying on the lawn at 600 E. Trade Street since the beginning, and I occupy for many reasons. I occupy to honor my family's service and sacrifice to this country. I occupy because I've been busking outside the Blumenthal Performing Arts Center for over a decade and have talked to persons A and B and listen to their reasons why they will be sleeping on the streets tonight as opposed to sleeping in a shelter. I occupy because you can see me, and thereby can see them, and thereby I am there to tell you why they have chosen to do so. I occupy because I love this City, and I have faith in its ability to be so progressive and have the potential for the Occupy movement, to empower it, to radically see that the City Council could garner a relationship and partnership with activists, that the birth of the Occupy movement would institutionalize the sense of community and community involvement in political/socio-economic change because of the facilitation of the conversation, because of the awareness and the realizations that individual citizens have had. We're all new at this, and this is a new format. Within the occupation, while we have been attempting to sustain ourselves, we've been bogged down with message delivery and have had to deal with matters of exile and porta-johns. Individuals want more action, more radical action. Individuals want more education. Individuals want to hear plans for Occupy Charlotte's presence at the DNC. There will be an occupation presence at the DNC, with tents or without tents. As thousands of citizens who have been preparing for months land, walk, and bus to Charlotte, the chaos that could be has been prepared for in the most direct and intimate ways possible. There will be tents, there will be people looking for services, there will be people looking for places to use the bathroom, there will be people who do not know the City and have no respect for it. I know this City and have a great respect for it. Those people do respect the occupation, the one that is here is the only resource directly addressing their motivation, their activities, their relations with City officials as far as occupation's relations with City officials go. CMPD has been extremely helpful and not just in that they're just doing their jobs. If I get a picketing permit, I'd go to them and ask them as often as possible is everything ok, and I'd feel comfortable doing that. Many people believe in forms of protest that I do not agree with. I believe occupation's input on these matters and the influence of the General Assembly as understood as action across all occupation movements as something that is best for occupation movements. We are not in the vein of opposing the City or its matters; we are in the vein of uplifting and supporting the City and its matters. No matter how it is framed and argued, an argument against the occupation and opposition of the occupation ... (Time expired.)

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## INTERNAL AFFAIRS OVERSIGHT

**Ron Brinson** said I'm here to request an independent review by this body of what started in 2008. It's a simple traffic citation and ultimately resulted in an arrest warrant sworn in clear retribution for the filing of a valid complaint against the offending police officer. I have tried again and again, to no avail, to resolve this issue with CMPD, with the City Manager's office, with the City Attorney's office, and with CMPD Internal Affairs. The results have been a disappointing radio silence. Or the few responses I've gotten are circular at best and shockingly at odds with the facts. I ask that you appoint a competent council to investigate the actions of the police officer in question, the handling of this matter by Internal Affairs, and the City Attorney's office. I ask this body, because the City Manager has failed to respond to my written request to do so. Again, I requested that Mr. Walton, as City Manager and under the authority of the applicable NC State Law, the concurrence of this City Council as set forth in the amended rules of procedure for the Citizens Review Board, so act – as I now believe there's evidence of the criminal abuse of process.

Councilmember Cannon said before the Body acts at all, I'd like for us to get a report back from the City Manager's office as means of record and understanding what might be the case here. Then, in turn, if we need to pursue further action, we do so.

**City Manager, Curt Walton** said I'll be happy to do that.

Mayor Foxx said that's what we will do.

Councilmember Dulin said where was the traffic stop?

Mr. Brinson said it was next to Myers Park High School, Colony Road-Runnymede Road. What I would suggest – I've tried to be respectful and not name names for, obviously, legal reasons. However, if I were asked by the City Council or the City Manager's office to provide supporting documentation, I would be happy and willing to do so. In fact, I think I have provided such information to some of the folks who I just mentioned in my remarks.

Mr. Dulin said as the Mayor said, if you please, we've asked the City Manager to fill in at the very least the Chairman of the Public Safety Committee, Mayor Pro Tem, the very most all of us.

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## ADJOURNMENT

[ Motion was made by Councilmember Barnes, seconded by Councilmember Cannon, and ]  
[ carried unanimously, to adjourn the meeting at 6:45 p.m. ]

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Ashleigh Price, Deputy City Clerk

Length of Meeting: 1 Hour, 36 Minutes  
Minutes Completed: January 20, 2012