

LUNCH BRIEFING

The City Council of the City of Charlotte, NC, convened for a lunch briefing on Monday, January 23, 2012, at 11:55 a.m. in Room 280 in the Charlotte-Mecklenburg Government Center. Council members present were: John Autry, Warren Cooksey, LaWana Mayfield, and Beth Pickering.

City Manager Curt Walton called the meeting to order and then briefed the Council members in attendance on the agenda for the meeting this evening. There were questions and answers about specific agenda items.

The meeting was adjourned at 12:46 p.m.

DINNER BRIEFING

The City Council of the City of Charlotte, North Carolina convened for a Dinner Briefing on Monday, January 23, 2012 at 5:20 p.m. in Room 267 of the Charlotte Mecklenburg Government Center with Mayor Anthony Foxx presiding. Council members present were John Autry, Michael Barnes, Warren Cooksey, Andy Dulin, Claire Fallon, David Howard, Patsy Kinsey, LaWana Mayfield, James Mitchell and Beth Pickering.

ABSENT: Councilmember Patrick Cannon

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ITEM NO. 1: UPDATE ON CITY CODE AMENDMENTS

City Manager, Curt Walton said we have three dinner items tonight. The first, as you know the City Code Amendment is an agenda item on your Agenda for your action tonight. There have been several proposed changes since we presented this two weeks ago so we wanted to give you an opportunity to hear those from the City Attorney, Bob Hagemann, and we will also review those downstairs, but we wanted to give you a change to hear those and address your questions now.

City Attorney, Bob Hagemann, said as you know we presented to you, we being the City Attorney's Office and the Charlotte Mecklenburg Police Department, three proposed ordinances at your Workshop on January 3rd. Council then requested and called a public hearing which was held on January 9th with something like 35 speakers. We have been in dialogue with the ACLU, some local civil rights attorneys, representatives of the Occupy Group and other individuals have been considering and again in dialogue with some of their suggestions and concerns. In your agenda packet that went out on Wednesday, we proposed to you some revisions to the three ordinances. You will recall that the original proposal had amendments to Chapters 2, 15 and 19. The Chapter 2 amendments would have created a mechanism whereby the City Manager could declare an extraordinary event. In the original proposal, all that would have done is authorize the Manager to establish different deadlines for permit applications and processes for awarding permits when we anticipated that the demand be for multiple permits at the same location, and specifically we had in mind parades during the Democratic National Convention as well as access to what I am referring to as a speaker's platform. Chapter 15 ordinance addressed six areas including a prohibition on camping on City property, dealing with Police lines, unauthorized attachment to public and private buildings, noxious substances and obstruction devices. The final ordinances were amendments to Chapter 19 and those consisted of some technical amendments that we have accumulated over the years. Most significantly was a set of prohibited items and activities that would have been triggered in regards to any public assembly, festival or picket. We went back and looked at the comments and feedback and we propose the following changes. We have taken everything out of Chapter 19 other than the technical changes and I am not hearing anything that is controversial or in dispute regarding what remains in Chapter 19. The previous provision on Chapter 15 dealing with camping and noxious substances, we made one substantive change that came out of the public hearing. We heard a comment and a concern that there are some legitimate needs for temporary shelters like canopies for a pure first amendment activities, demonstrations, for example, in the middle of the summer in the hot sun and we've put in some clarifying language that the prohibition would not apply to those kinds of activities. We have narrowed it down and tightened it up to try to address that

concern. The most significant changes were to take the Chapter 2, extraordinary event concept and bring out from had been in Chapter 19, to list the prohibited activities and items and marry those two together. What that does, is it scales back the activation of those restrictions from previously any public assembly, festival or demonstration, regardless of the size or the character and it would only activate those ordinance provisions upon the declaration of an extraordinary event. To give you a sense of what we anticipate that being, in conversations with the Police Chief and the City Manager, as we look forward across the calendar, in all likelihood it is a tool that if adopted would be used for Speed Street, the Fourth of July, and the DNC, and the New Year's Eve Celebration. Those are the four that we have identified right now that would likely qualify and be declared as extraordinary events.

Councilmember Mitchell said I got a call today about this CIAA. Can you make reference, will this have any impact on the CIAA Basketball Tournament?

Mr. Walton said not in my opinion. We have a good history with the CIAA and they have never indicated that we need anything like this, so I would not anticipate that.

Mr. Hagemann said there is one other new provision that I want to highlight and bring to your attention, and again this goes to the list of prohibited items and the concerns raised by some that it may be vague, that it may give law enforcement too much discretion, will innocent activity be caught up or swept up in those provisions. We've built into this draft an affirmative defense to prosecution. Admittedly, it is not a defense that protects somebody from being arrested, but if they are arrested through the judicial process, they can defend themselves by demonstrating that they were engaged in or on their way to or from an activity in which the person would legitimately use the device in question, that they possessed it for that purpose and that they did not use the object as a weapon or to injury another person or damage property. Again, we are trying, to the best extent we can, while still leaving effective tools in the hands of law enforcement, we are trying to ease the concerns that it will be misused or that innocent activity will be swept up in the regulations.

Councilmember Barnes said in Section 1529 regarding police lines and barricades, should we make reference to officers of CMPD or other deputized individuals? Won't there be folks here from around the country for the DNC, for example, who aren't sworn officers of CMPD, but may be in their homes towns. Should we made an exception and say that these other deputized individuals are authorized to establish police lines, or is that not necessary?

Mark Newbold CMPD Attorney said I think it is necessary, based on the State Legislation. Once that legislation came into effect for the limited time period that we would use other officers, they would have the same powers that our officers do pursuant to that law.

Mr. Barnes said would they be defined as officers of the Charlotte Mecklenburg Police Department for purposes of the ordinance?

Mr. Newbold said I think they would.

Mr. Barnes said and the statute, in other words are the two consistent?

Mr. Newbold said I think they are.

Mr. Barnes said would you just confirm that for me?

Mr. Newbold said absolutely.

Councilmember Dulin said along those lines with all the other sworn officers that will be coming to assist us during the convention, who do they report to and who is going to hold them accountable, but before that, who is going to train them as to what we do and what we don't do in Charlotte and who will hold them accountable if one of them steps outside of where he or she should be?

Mr. Newbold said for purposes of command and assignment, report to our Chief of Police. There are plans in place right now and the tentative plan is to have most of our training rolled out to our

officers no later than March. That training will also be rolled out to any out of state or officers that are not part of our current department that are coming in. The legislation also requires training for specific items such as use of force. There are plans that CMPD has in place to roll out significant training for everybody that is coming to this town.

Mr. Dulin said we've sent for a number of Presidential Electoral cycles, 85 cops to Washington, DC at the inaugural expense so that is fine and as far as I know our guys behaved themselves very well, while they were up there. I'm sure they are very busy. These folks that come into Charlotte are going to be too busy to do anything other than work, but do we know how many are coming in. Along the lines of what Mr. Barnes said, I'm concerned and we want to make sure the stuff we do is going places where we've never been before as a City and I want to make sure other folks understand that we expect them to behave themselves

Deputy Chief Medlock said we are bringing several hundred officers from out of jurisdiction, both across North Carolina and from out of state. The majority of officers that we will bring in will be from North Carolina. They will be expected to adhere to our policies, our procedures and our rules of conduct while they are here and they will adhere to our chain of command as well. As we said, truly with the schedule that we have planned for all of those that are involved, they are either going to be working or glad to be sleeping.

Mr. Barnes said Mr. Hagemann, this applies to 15 Section 2 and it is in each of the changes and it says the ordinance is effective upon adoption. I haven't had a chance to discuss this with my colleagues, but it seems to be that we should put a time certain on that because I think what we want to avoid is setting up a scene where people are being surprised by enforcement. Could you give us your thoughts? I had thought about February 1st as a date.

Mr. Hagemann said I am aware of some conversation among Council members about a delay of the effective date in particular with regard to the no camping prohibition. Staff is not opposed to that. I think there would be a concern if it is significantly far out in the future, but I will let the Chief or Deputy Chief speak for themselves. From conversations I've been involved in something in the vicinity of February 1st would not be a problem.

Councilmember Howard said we heard some talk about the fact that considering there are folks already in the act of camping, is there not a grandfathering situation? How do you address what we heard from people who are already in the act of it and how can it now be illegal.

Mr. Hagemann said specifically I am aware of an allegation today that an application of a law elective that would be in violation of the prohibition on retroactive laws. That is not true. Retroactive laws are laws that punish past conduct. If that law were put in effect there would be no use of it to punish past conduct, it would be prospective, and just like any other law that comes along and changes and makes what was previously lawful activity, either regulated or prohibited activity, that is not an ex post fac-to law. There is no legal concern in terms of grandfathering or retroactivity with regard to camping.

Mr. Howard said tell me how do we deal with this enforcement so that we don't offend? What I'm saying is that we know that there are people who want to make a big deal about this so are we talking to them ahead of time, are we negotiating, what are we doing to make sure that the best that we can that we head off something that is dangerous for everybody, including the officers. That is what I'm trying to say.

Chief Monroe, CMPD said I believe it is all about how we approach it, if and when the decision is made to pass the law. Our understanding is that we want to, based on whatever date Council sets, that will be the date that the law is actually in effect and everyone would be aware that that law is now in effect. I think with that will come a series of discussions with the group, advising them and making them aware of the law and make sure there is an understanding of what the law actually encompasses, and then with that looking to provide a date in which we are looking to possibly enforce the law. Even with that, having further discussions to make sure there are no circumstances out there beyond an individual's control that would prohibit them from obeying that particular law. I think it is a continuous process that we would look to experience up until the point where we could minimize the effect as much as possible as it relates to who may voluntarily comply with the law as well as those who may seek to not voluntarily comply with it.

Mr. Howard said when we get into this conversation on camera, Bob you did a really good job last time of explaining what it was and what it was not. If I'm reading this right they could still show up every day and protest in that same spot, they would just have to go home at night.

Mr. Hagemann said Mr. Howard, they don't actually even have to go home at night. The ordinance prohibits using the property for sleeping purposes.

Mr. Howard said that is what I meant so wherever they go, it is just not there. My point is if you will spend some time talking about that tonight, I think that will be helpful for the general public because people have made up in their minds what it is and what is not. Something else I would like to be made clear tonight. Because we heard the presentation up stairs last time, there were some of the horror stories from other big events, the reason why the backpacks and the reason why the box cutters are part of this, we heard in detail and some it may not be best for TV, but I think the public needs to know that there are some safety risks, not to just the general public, but to our sworn officers as well and that is why we are doing this. It is not just to take a backpack, it is because of what people have done in other places. What we are doing is trying to learn from best practices and I think it would be worth taking the time tonight to actually have that same discussion as that was really good information. Considering the legal costs for litigation, are we anticipating that already and we know that in other cities this is part of the game. You pass the rules, you get sued. Are we prepared for that and are we anticipating extra costs for that?

Mr. Walton said we expect that after the DNC. I think every city has encountered that so it would be very unusual if we don't.

Councilmember Fallon said why aren't the ordinances we have now adequate to handle what the problem will be?

Mr. Hagemann said I will invite the Chief to weigh in as well. As we indicated when we presented this to you on the 3rd, after being awarded the DNC, the Police Department and the Police Attorney's Office and my office undertook a review of the City Code to try to think through what we may not have anticipated in the past that is likely coming with the DNC. What you have before you is what came out of that process. I don't think it is to be viewed as any kind of criticism or judgment on what we had in the past. We are just facing something completely new for this city in the DNC, and not only the DNC but what CMPD will tell you is just a significant increase in the number and nature of protests and some of the tactics that have been used around the world by those intent on harm.

Ms. Fallon said so those are not adequate? These are a re-enforcement and an addition?

Mr. Hagemann said these are tools that the Police Department believe are necessary and will be effective in minimizing the disruption and harm to this community.

Councilmember Kinsey said we talked about when this might go into effect and how it would affect the people who are now camping on the lawn at City Hall. I see those I guess as two different things. I know originally we said that this would go into effect immediately. I think that is find, but I will support at least some short grace period for the people who are on the lawn at City Hall, just so they can remove their belongings. I wouldn't support a very long one necessarily, but I certainly think if we pass this tonight we should allow some grace period for the campers on the lawn at City Hall.

Mayor Foxx said we will have time for more discussion downstairs.

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ITEM NO. 2: CHARLOTTE LIBERTY WALK

City Manager, Curt Walton, said the May 20th Society has developed a concept for a Charlotte Liberty Walk in the downtown area that they wanted to present to us. It involves our right-of-

way, our sidewalks, therefore it would involve us. Tony Zeiss is to represent the Society and to present the concept of the project.

Tony Zeiss, Central Piedmont Community College, said this an exciting thing and it is an opportunity for us to develop a relatively low costs, but high ended program for Charlotte. For years we have been trying to figure out how to recapture Charlotte's rich Colonial History, and matter of fact, you might not know this, but in 1881 the US Congress dubbed Charlotte as the Creative Liberty because of that rich history. When the Mayor took the Chamber trip up to Boston he appealed the ... and said what can we do to help our visitors to the DNC in particular, and visitors in general learn more about Charlotte. What can we showcase? So Scott Syfert, as you may know, Pam's son, and Charles..... and I immediately said let's recapture our history. We began to talk with the Mayor and other folks in the community and said let's put together something that all are going to be very proud of. In case you have some real technical historic questions, I've brought with us tonight Coronel Thomas Polk, who was one of the key founders of the City of Charlotte. He is here to answer any questions you may have. He happens to be the key leader of the Mecklenburg Historical Association Docents and they are the ones once the project is put together, they will be the ones to promote it and act as rein-actors for Center City whenever they want these sorts of programs. Also with me tonight is Michael Smith, Center City, Roy Alexander, who has been the Project Manager on this wonderful project, Dan Nance who put this together. He is from Charlotte and he is a nationally recognized historic painter and we are very pleased that he is here. We want to show you a 10-minute video that explains the historic fashion and then we have a few slides.

Mr. Zeiss said if you've been to Boston, you know there is a Boston Freedom Trail and you follow the little red line and of course they still have Paul Revere's House and some things, which we don't have, but we can capture the spirit of this great cradle of Liberty City simply by using your smart phones. When you go to each of these sites, there may be only a brass plaque there, but you can get a depiction of what actually happened there. This is what we've done in those 18 months and we are proposing to you tonight and yet we will come back in a more formal fashion later. I might mention that Ron Kimble has been a driving force. He has been wonderful, he and all of your City staff have been absolutely fantastic. You have a draft of the walking map in front of you. This can get larger as time goes on, but we want to start with 15 historical sites of the colonial era only. Regarding the tour markers, the good news is that most of them are already there. We are only going to have to purchase four out of the 15. We are going to talk about some content, while you've already seen the mobile application, then we will move on to the budget which Mr. Kimble will talk to you about and the proposed partnership and next steps.

Deputy City Manager, Ron Kimble, said we've been working for a little while because it is all about how you put together the partnership shares. We have a proposal for you and we are not asking for you to take any action tonight. It is a proposal to you and if you like what you see we would like to bring it back to you at your February 13th Council meeting. What we've done is met with CRVA, met with Charlotte Center City Partners, we've met with the Arts and Science Council, Central Piedmont Community College with the May 20th Society and our proposal after we've also done some engineering work on this to try and make sure that the costs are reasonable, that we know that it can be built for this, we know this can be accomplished within the budget that we are bringing forward. I'd like to compliment Liz Babson with C-DOT, who has been instrumental in scoping this out, Jim Keanon with Engineering and Property Management has also been participating. Dan Silo in Planning because what we wanted to do is bring you something that we thought would work if you chose to go this route. We have a total budget for installing the pavement stones, getting the new plaques and the new signage in place, printing brochures, getting out of the gate, looking at some of the applications of \$130,000 and what we are doing is bringing forward a proposal that \$60,000 of this would be funded from existing tourism capacity that the City holds on its side of the ledger from the first 3% hotel/motel tax. Another \$30,000 that the Charlotte Center City Partners would go to their Board to see if they would be in board for the Arts and Science Council to go to its board and see if another half share of \$30,000 could be brought to the table. It would make all of our commitments contingent upon everybody being in and then the May 20th Society has agreed to a \$10,000 private funding raising to add the final bit of money to get to the \$130,000 total investment. You always ask and we always ask about ongoing costs, what does this take to

maintain. It is in our right-of-way. It would be owned by the City of Charlotte because it is in our right-of-way and there will be some minor annual maintenance costs that would have to be absorbed within the budget of the Center City pot of money that we have allocated for maintenance in the Center City. There would be an initial major printing of brochures that could be used for this particular effort in the Charlotte Liberty Walk, but occasionally we would have to print brochures when those ran out so there would be an occasional, not every year, but an occasional \$2,500 per allotment for 25,000 brochures to be restocked for the Charlotte Liberty Walk. The CRVA has agreed that they would see if their funds could be paid for that particular replenishment of the brochure.

Councilmember Mayfield said what is the new MecDec Stone and how is that different from the three additional historic markers?

Mr. Zeiss said as we worked on this we figured out that there is one really flagrantly missing piece and that is the most important piece of this whole Colonial history of Charlotte and it is that particular stone. That is Spirit Square. Almost everything, if you look at the map, happened right around Spirit Square where you can see that. The May 20th Society in particular said they needed to do more than a plaque there, we need to put this little granite market so you can read from here instead of reading all the way on the floor.

Mr. Kimble said that is kind of the center piece of the May 20th Society and why we have the history that we have. Their \$10,000 that they are raising pays for all of the first two, and a portion of number three on this map and a portion of number four. They are contributing funds to this cause in order to bring about all the things you see on the screen here. That is why we thought it was important for private fund raising.

Councilmember Dulin said I'm alright with the new MecDec Stone. Anybody that hasn't been down there on May 20th, they need to come to the square on May 20th. It is a fabulous piece and it is just a great day every year, the re-enactors are there, James Jacks on his horse, they shoot the cannon off and it is great. I'm alright with the stone, but where we have we have the re-enactment every year there next to the saucer in front of the Bank of America Building we also have other events there too. There is a Farmer's Market there. Is this going to be in the middle of that open area, pushed back a little bit. I'm okay with the stone, but I'm concerned that it is going to disrupt other things that happen there.

Mr. Zeiss said no, I don't think it will. As best I recall, you know where the big sphere is, it is a little bit back behind that. I'm sure that they've through where the placement should go so it doesn't impede traffic or people.

Mr. Dulin said that height would be an impediment to the Farmer's Market, setting up tables, etc. back in the back would actually be a safety deal.

Mr. Zeiss said so noted.

Councilmember Kinsey said the plaque that we have for the Mecklenburg Declaration of Independence, I hate calling it MecDec, that is in the center of the square, correct?

Mr. Zeiss said the stone they are talking about is. It is right in the middle of the street. You don't run out and look at it for obvious reasons.

Ms. Kinsey said I just wanted to make sure that is going to stay and then we will have a new Mecklenburg Declaration of Independence. Most people know that I'm a descendant of a signer, so this is important to me.

Councilmember Cooksey said I'm glad Ms. Kinsey brought that up because that was actually something I spoke with Jim Schumacher about before he left but given that the City's long-term plans for Trade and Tryon which preclude ever closing it for an event again, has there been any conversation about removing that medallion there and placing it somewhere so folks would be able to see it? The plan is eventually for streetcar traffic to go through Trade so unless you are shutting down the Streetcar, you wouldn't be able to shut down Trade and Tryon so people can

see that. I have a photograph of it, but I would like for people to always be able to see it, even when we shop shutting down Trade and Tryon.

Mr. Zeiss said Colonel Polk has been working on that very topic. It is coming out and it we'll keep it preserved in a very appropriate place.

Councilmember Howard said I know you have the qr codes where people could actually use their cell phones. Is this on the brochure so people can scan the code and actually pull up where they are?

Mr. Kimble said yes.

Mr. Zeiss said each hotel will have the brochures of course for visitors and we hope to have a video of what to do in Charlotte and this will be permanent piece of that in your hotel room.

Mr. Kimble said cultural tourism is on the rise nationally and it is an important part of our tourism platform.

Ms. Mayfield said you are going through the walk and it is set to give the full history of each of the locations and the individuals. When we get to the part where Queen Charlotte Sophia, how far in her history is it going? It is only as far as coming to Charlotte or when she traveled across the land and getting her heritage because that is a big part of the City of Charlotte. A lot of people in Charlotte don't recognize the full history of Queen Charlotte Sophia.

Mr. Zeiss said we would love to give the full history, and we will get that in there as much as you can which is about 1 ½ minutes. Our researchers say that if you go longer than 1 ½ minutes they quit watching. You are right to bring that up because she had a very rich history, lots of children and lots of dogs.

Mayor Foxx said I didn't see in the budget anything around the development of the actual media that will be used on these smart phones. How is that being accomplished?

Unidentified speaker said The May 20th Society is funding in part. The content will be provided, both the originally existing and we're also going to pair up with the other historical societies to try to get the most accurate depictions that we can. The great thing about applications is that you can always modify that. It is not like a traditional film where once it is in the can you're done. We can change things if we have to, bring it down, upload it and continue maintenance on the other.

Mr. Zeiss said there are other items that we could have put as part of the budget, like Central Piedmont. Roy Alexander is one our key administrators and he has been the Project Manager on this for some time. I've been working on it a long time, we are just doing that because we want to be good community partners. The budget is probably a little bigger if you start adding that in, plus this element, and I do know that Scott Syfert, who by the way is ill tonight, or he would be here doing this. Scott has already been working on a grant and I believe he has already had one anonymous donor to help with the video part of the smart phone.

Mr. Kimble said the May 20th Society is leading that fund raising effort to enhance and make better what can come of the Charlotte Liberty Walk so that is another way in which the private sector is coming to the table. The Next Steps – If you are in agreement to schedule this for Council Action on your February 13, 2012 Council meeting, and again the action would be to consider the \$60,000 coming out of the Tourism Fund contingent upon the funding from the other partners. Charlotte Center City Partners will be the lead entity to implement this. We will be overseeing all of the construction, our folks from C-DOT and Engineering, the construction will occur from February to July 2012, if all the groups are in agreement to move forward and we hope to have the Charlotte Liberty Walk installed, operational and ready to go by July 31, 2012.

Mayor Foxx said I think it is obviously a big part of the City's history and we haven't really been known as a City that does as much as we probably could to preserve our history. There is a lot more history to tell about Charlotte, but I think this is a huge important step for us.

Mr. Cooksey said as a member of the May 20th Society Board of Directors, I content that if you'd like to be a private donor to help with this, I can certainly help you with that.

Mayor Foxx said funny that you said that because I was just going to tell you if you wanted to be a donor to the DNC.

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ITEM NO. 3: ECONOMIC IMPACT STUDY OF SPORTS IN THE CHARLOTTE REGION

City Manager, Curt Walton said Charlotte Regional Sports Commission has commissioned a study on the economic impact of professional and amateur sports in our region. The study is not done yet, but we wanted to give you an overview of the study and what the categories are. We would recommend this be referred to the Economic Development Committee when the report is complete in a few weeks.

Jeff Beaver, Executive Director, Charlotte Regional Sports Commission said several months ago I was called into Marcus Smith's office and he posed an interesting question to me. He said Jeff, when was the last time we had an economic impact study on sports done in Charlotte. I had to do a little research. I've only been on the job 12 years and it was done before my time. It is obviously something that is needed. Luckily I was able to come up with some great partners to help make this happen and even luckier, we were able to enlist the help of one of the permanent sports and business economists in the nation as well as in our area. He has been a Charlotte Faculty Member since 1978, he is Professor of Financial Economics for the Belk College of Business and he is the Director of the Babson Capita ... in Charlotte economic forecast, please welcome John Connaughton.

John Connaughton, Professor of Economics Belk College of Business, UNC-Charlotte, said I was real interested in what they had to say. I've been for 30 years and I did not know that about Mecklenburg County so I'm pretty impressed with that. I was contracted to do an economic impact on professional and amateur sports in the Metropolitan area and in doing it so far I've found some rather interesting things. We are not going to present the entire study today, or we are not going to present the results of the study. We are still kind of tweaking it, but we are going to give you an idea of what to expect in this study.

Mr. Connaughton used PowerPoint for his presentation to the Council. (A hard copy is on file in the City Clerk's office.) It was prepared by me and sponsored by a number of folks, but directly by the Charlotte Sports Commission and a lot of the teams and things that you would think of on board. The biggest thing the sponsors provide is really good information about the size of the organization. No, we are not going to tell you how many people the Bobcats have and how much they make, or the Panthers or anything like, we are going to hide all that in the way that we edit the study. We still haven't made a final decision, but right now it looks like we are going to do the six counties of the MSA which is centered around Charlotte and all the counties that actually touch Charlotte, except for Lancaster County which just barely touches Charlotte out there by 521. All the rest of them are part of the governments statistical MSA through the Charlotte area. Quite frankly that is where most of the economic activity for sports takes place in this community.

The first question you ask is why do we do these studies, and as Jeff mentioned when he was asked when was the last time one was done, actually one was done in the 1990's, but it wasn't specifically on Charlotte. It was done for the State of North Carolina. The main reason we do this is because sports is a pretty big business in the area. It wasn't always the case, but it has certainly turned out to be a very large business in the area and rather than have a bunch of opinions running around as to how big sports or how important sports is to the community, we really like to have those facts. I think we made better decisions, both as individuals in the community and as elected members of the community, if we actually know what the numbers are

and know the size of it is and what the different components of it are. It helps in our decision making and it also helps us understand our local economic structure. I have a slide a little later that talks about some studies I've done recently. One we did was a Motor Sports Study a couple times for North Carolina, but also for the Charlotte area as well and the results were somewhat surprising and it helped us understand how big and how important that sector is to our community in terms of the jobs it creates, but also in terms of the quality of jobs. I remember from that study we found out that the average wage in that industry was about twice what the average wage is in the area so that was kind of eye opening, plus the number of people who are employed and in that case pushing 20,000 people in the local area that are employed in that industry. It also helps us understand the industry linkages, such as the supplier chain network, not only, here you have some funds that are involved in this industry, but who else benefits from it. Where do they spend their dollars, who do they buy from that helps produce this industry?

We've done Motor Sports twice, once in 2003 and in 2006, and we also did the Charlotte Film and Video Industry Study in 2008 which was instrumental in helping understand the size of that industry in Charlotte and the findings for that I think were surprising, not only to a lot of folks, but also to the people that were involved in that industry. As it turns out Charlotte is one of the largest film and video industry centers in the country in terms of employment. It is surprising how many things that operate in that kind of area are located here in Charlotte and people don't think about it. How many people think about ESPN as being located here? How many people think of Speed Channel as being part of this and the production facilities, etc. and NASCAR media group.

We are going to break this into four different components and the reason we get to do this is we've got to add in the information so that you don't know what the Bobcats made or how many people they have. It is a lot of information and it would be hard to break that out. We are going to have four different components. We are going to take a look at regular schedule sports teams, those teams that play regular league schedules, such as major professional teams, Bobcats, Panthers, the minor league teams, the Knights and the Checkers and the major College Revenue Sports that occur in Basketball at UNC-Charlotte, Davidson and Johnson C. Smith. Those are the major ones that provide regularly scheduled activities that charge admission, sell concession, etc. have donations, have radio contracts, etc. We are going to group those all together and talk about that as one major component and we will get our numbers for that and I'll tell you what those numbers are going to be in a second. Then we have the irregular sports events and they will be broken out such as Charlotte Motor Speedway, College Football Championship/Bowl Games, Belk Bowl, ACC Championship, College Basketball Tournaments, CIAA which is here on a regular basis and the NCAA which comes occasionally and the Golf Tournaments, in this case the Wells Fargo Championship that is held in May and it has been held for several years and will be held in 2014 at which point in time we are not sure what it going to happen.

Councilmember Howard said is this regional? What came to mind is when you said golf tournament was the new Chiquita Tournament which is out of Charlotte. Are we looking at regional numbers or are we looking at Charlotte?

Mr. Connaughton said good question, yes we are looking at regional numbers and if it had occurred in 2011 it would be in there, but this is not a projection, as you will see in a minute, this is actual fact. We've collected the data, we've gotten into the people's books even as uncomfortable as it has been for some of the sponsors. We know what the numbers are. We can't put a projected thing in there, we've got actual hard numbers. This was how big this industry was in 2011. It is not a guess, it is not an estimate, it is not projection, it is the industry.

Mr. Connaughton continued this PowerPoint presentation with the last slide on Page 4 and said Youth sports Events and tournaments are things like soccer, traveling teams, etc. not the actual activity when they play just a regular week-end game, but when they bring a tournament here and they bring 100 teams from out of town. That is when you get the real impact, when people come from out of town, stay in a hotel, eat at restaurants, got 20 kids roaming around with their parents and spending money like it is no tomorrow. We are going to take a look at that and the number of tournaments and events like this will cover two of three typewritten pages. It is surprising how much takes place. Almost every week-end something is going on here from May to October.

Councilmember Mayfield said looking at the sporting events did you also include the soccer championship that we had?

Mr. Connaughton said it's in there, the Gold Cup Tournament, the two games. We will show you the kind of analysis we made to make sure we didn't miss something and it always a problem with this that you miss something, but we are trying to correct everything.

He continued with the PowerPoint with slides on Page 5 and said the fourth component is the Sports Networks and Video Production. I mentioned these already, but ESPN, NASCAR media Group, which is an enormous operation, RayCom Sports, and SPEED TV also enormous and growing as well as it turns out. They now actually have competition. There is a new SPEED type channel called Speed Velocity that is out there and doing car stuff as well. It has been so successful that they are now sponsoring some competition. Study Products – We are going to provide you Output by Organization Type so those four organization types that we talked about, we are going to provide you the output. That is the dollar value of their economic activity in 2011. We are going to provide you with the Employment by Organizational Type so can get the employment numbers and in addition to that, we are going to provide a detailed Supplier Chain information both on the revenue and employment side for all those entities that are touched by these sports activities. So we will take a look at the real estate industry, banking industry, etc. that are touched by these organizations and what we call these spin off jobs that take place. We will identify all of those and give you essentially one great big number that will say Sports in the Charlotte Metro Area is responsible for this dollar of spending, and these many jobs, both in terms of direct and what we call the indirect or induced jobs that gets spun off as a result of that activity. We use an input/output based model IMPLAN software. This is the best system that is out there. If you do federal government contract, this is what you have to use if you are doing an impact study, you've got to use IMPLAN or the government provided competitor for that which is RIMS II. These are the only two that you use and these are where the multipliers come from for either understanding or where the spin off activity takes place. These are big models and the government builds a national one every five years and these are regional ones that are developed through this software process.

One of the problems and one of the reasons why we do this and why it is so expensive to do this is that you can't go look up in a book like you can, how many banks are in Mecklenburg County and how many employees do they have. Right here in the computer I can get that in five seconds, not a problem. The problem with some industries that we recognize as nice industries and nice concepts of industries is no secondary data service. The government does not collect data on these. There is no industry definition as we think of the Sports Industry because some of the stuff that is done in colleges that crops up as part of government education or the government sector. Some of it is private and some of it in other areas as well so this one covers about 10 or 12 different parts of what we call the North American Industrial Classification System Codes so what we got to do is direct surveying approach of these sports organization. We can't go out and estimate them, we actually got to go out and get the direct numbers from these people. We use direct surveys, we get stuff from the Sports Commission, we've got interviews and talk to people that are in your industry, your competitive, etc. we try to identify all of the players at the company specific level. That is why this thing takes time and it took longer than I expected to get all of the information back. In addition we go out and look for stuff that is not there. We use these proprietary data sources, private data sources, Reference USA, Dunn and Bradstreet. We are going to do SIC or North American Industrial Classification Searches, try to find organizations out there that are involved in the sports area. We also cross check, and this is important, every data source that we get because Dunn and Bradstreet and Reference USA have employment and output estimates on these firms that we are looking at. We cross check to make sure they are in the range that the secondary data services provide for these companies so they are not out there blowing their own horn. We check it out and double check each of our data, so we are pretty confident that the data that will go into this are reliable and accurate, the best that we can come up with.

As I said when we do this we provide you with a direct activity, that is kind of the first round on site activity that takes place. That is the tickets, the concession, the parking, etc. and it also includes the offsite activity of the people engage in when they attend these events. We know and

the reason we encourage tournaments like the NCAA and the CIAA to come here is because we know that it increases the downtown traffic during that period of time and people spend money. One of the things I have discovered over my years and years and years of looking at this stuff is that people get stupid when they go to these things and they spend a lot more money than they should, but that is good for us. In addition to that we look at the indirect effects, the supply chain. Who else is not directly related, it is not part of the game, but also gets benefits. In case of going to a Bobcats game there was a little bit of beer sold there the last time I checked, so the beer suppliers, hot dogs suppliers, the program suppliers, all the people that provide the food, they are affected by that and it goes on and on, people that print the tickets and different things like that are all affected. The induced impact we also measure and that is the unrelated activity. People who are not involved in either selling things through the Bobcats or involved directly in producing the Bobcat game, but nevertheless because they are employees at the Bobcats and employees of the supply chain who over jobs through this activity, they have income and they in turn go around and spend the way everybody spends their income in buying different things around the community. There are additional what we called induced jobs that are not directly related to the activity that are also supported by this activity by these teams being there. You add them up at the end of the day and you've got the total.

Councilmember Mitchell said to that point when you think about the NBA season going from 82 games to 66, do you have an estimate of the negative impact it will have on the City?

Mr. Connaughton said no, we did not do a negative impact for that. We just used their 2011 numbers and I'll be honest with you, just to be safe we made an adjustment for that fact because now we know we got 10 years and they are going to be here every fall. We made an adjustment for the Bobcats but that is the only adjustment we made in any of the data was for the strike. What the impact is, it is kind of unclear because they went to a 66 game schedule, but the problem with that schedule is that while you get most of the games in you don't get the stupid spending associated with them because they come so quickly together that it doesn't become as big an event as going to a Bobcat game once a week is.

Councilmember Dulin said I let stupid go one time, but I can't let it go twice. You are talking about guests to our City, but at a Bobcat game you are talking about me because I'm down there spending \$20 bills like they are falling out of the sky trying to make my children happen.

Mr. Connaughton said I wasn't referring to the Bobcats game on site. I was referring to what they do afterwards and before when they are making an evening of it.

Mr. Dulin said we are inviting those folks to come though sir.

Mr. Connaughton said I'm sorry if I offended anyone. He continued his PowerPoint with the last slide on page 7- Next Steps and said we are about two weeks away from that and then we will have those results. As I understand it, Jeff, you are probably better to handle this than I am. We are going to have a press conference and so we invite everybody here to that press conference to try to release the results. When I engaged in this I really didn't have a big expectation of what the number is and I have been surprised by the size of the activity. I've been surprised by the number. This is kind of a comparison and you just think about this in terms of what you know, just the parts of the sports activity in this City that you know about and I will tell you that 30 years ago I went back and I got information on Charlotte Sports in 1980. We had two NASCAR races, they had no companion Saturday events, nothing going on on Friday, no dirt track, no drag race, just two Sunday races. They had the Charlotte O's that played in that old Crocket Park, which burned down, but it was still there in 1980. If I remember correctly you could buy a 10-ticket packet for \$20 or something along those lines. We had the UNC-Charlotte Basketball and a couple other small activities and the total attendance for the year at sporting events in Charlotte in 1980 was less than a half million people. We all know that the Panthers, Bobcats, etc. draw more than that just on their own and the Speedway now has three week-ends, not two and they have Saturday companion races and they have two other tracks out there that are doing a lot of business as well during the week and the NASCAR races for the dirt track and they have two major activities out there at Z Max Drag Way that are independent of the Speedway events. I think what we will find that in 30 years you would be hard pressed to see why any other industry, and I will say, including banking, in this community, that has grown as rapidly as sports has

grown in the last 30 years and become such a big component of the City's economy. I think it will be quite surprising. I'm really looking forward to about two weeks from now when I can let the cat out of the bag.

Mayor Foxx said I want to thank you for being here tonight. Your analysis have been helpful to us and film and television industries in general forecast that we get every quarter so I want to let you know how much we appreciate that.

Councilmember Barnes said will your results include any data or have we thought about how to actually leverage whatever we get out of the data to add other types of sports, amateur sports, baseball, tennis or whatever we get?

Mr. Kimble said yes, amateur sports is on your economic development focus area plan already, and has been for the last number of years and we want this report referred to committee so that they can do that digging and that kind of looking at some of the opportunities or exactly what do you want to do with this report. What does it mean? That is the reason we are asking for it.

Mr. Connaughton said it is the fact versus opinion and it will give you a sense as to how big that is now and the kinds of money that gets spent. One of the things I didn't mention in here, we didn't just survey the organizations, we also surveyed the fans that go to these games to find out how much they spend when they go to the games, how much the Panther fans spend tailgating, how much the Bobcats spend afterwards and before the game and how much these families spend while they are here attending youth sporting events during the summer and fall.

Mr. Howard said I was fascinated about what you said earlier about the film production industry around sports. How do we compete with the teams to build that capacity along with what we've heard from Ronnie Bryant about the film industry? It seems like there is some capacity there that we ought to be capitalizing on?

Mr. Kimble said there is cross pollination going on as we speak between the film industry and those sports production facilities. The film industry is also on your Economic Development Focus Area Plan to see how we might be able to step up efforts.

Mr. Howard said I just thought about it from the sports production angle.

Mr. Kimble said they are using each other's facilities now.

Mr. Connaughton said I found that out when we did that film study in 2009 for the 2008 year and as it turns out the NASCAR Media Group and their production facilities here changed the game if you will in terms of what is available here to attract film and TV shows and lots of other things. The facilities they've got are a tremendous ability to cross pollinate between a lot of the other players.

Mr. Howard said with the impacts, I was wondering did you actually get a chance to figure out how much the down town venues were, the impact of what we are getting from stadium?

Mr. Connaughton said not specifically, no, one of the problems with that is you wind up with a number that somebody can say, Oh, that is the Bobcats, Panthers in check and they can do those kind of backwards math and figure it out, get proprietary information and I had to sign confidentially non-disclosure agreements with all of these major players so this data did not come out. The firms have the option of asking an individual study on their own data if they so choose. Right now we've got one that has decided to do that and that will be released, but so far only one has decided to do that.

Councilmember Mitchell said it would be helpful too in the study, talking about the sponsorship it takes to do the professional sports and amateur sports and I think sometimes that gets lots. We looks at how many suites in the Bobcats Area and we've looked at newer arena and newer models that the corporate suite sell, so I think it will help us understand the magnitude of sponsorship that the community support these.

Mr. Connaughton said absolutely and again, one of the things I hope these studies do, particularly studies that are done on the historical data, it allows us to separate facts from opinion and we get a good handle and we can make better decisions because we've got the facts in front of us that allow us to make the best decisions that we can.

Mr. Mitchell said the City Manager made a referral to ED.

Mayor Foxx said I have no objection to that and I don't think anyone else does. You have amateur sports in there but I think you ought to just have sports – period. Take the report and help us know what we need to do with it.

Mr. Dulin said those of us who didn't make the noon meeting. I've got to agenda items that I'd like to pull.

Mr. Walton said you will need to do that downstairs.

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BUSINESS MEETING

The Council reconvened in the Meeting Chamber of the Charlotte Mecklenburg Government Center at 6:43 p.m. with Mayor Anthony Foxx presiding. Council members present were John Autry, Michael Barnes, Warren Cooksey, Andy Dulin, Claire Fallon, David Howard, Patsy Kinsey, LaWana Mayfield, James Mitchell and Beth Pickering.

ABSENT UNTIL NOTED: Councilmember Patrick Cannon

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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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CITIZENS' FORUM

Background Check and Employment Discrimination

Rayfield Taylor, 3311 Rillet Court, said I wanted to use this opportunity to bring attention to a social epidemic that I believe is being seen a lot here in Charlotte and nationally as well. It is causing a lot of people, such as myself to disenfranchised when it comes down to trying to obtain employment and that is conducting criminal background checks on a potential applicant. What happens is a lot of times when you have people that have broken the law, collected misdemeanors or felonies along the way and have done their time in jail or prison, they seek re-entry back into society, they are usually shut out at the door because people will choose not to hire people who have a criminal background. This creates almost no alternatives at all except for more crime or seeking public assistance in the form of welfare, food stamps or some type of aid. The reason I know this so well is because within the last several months I have applied at various companies in the manufacturing sector and have completed aptitude tests, met with the managers and went through several phases of questions and passed, only to be denied because of my criminal background, even though I have 20 years of experience in the manufacturing industry with companies such as Biltmore, Freightliner. I am healthy and willing to work but for some reason I am not employable. It is affecting more than just me, thousands of people and I guess a lot of people would say the same thing, but unfortunately most of the ones that it affects, they are able to communicate their issues. When we try to figure out what are some of the factors that create more crime here in Charlotte or create more of the dangerous neighborhoods or whatever the case may be, not being able to obtain a job has got to be number one on the list. I don't know if there is anything you can do, because I guess it is up to each individual employer's right to hire who they want to, but also remember if it is done unchecked, and if nobody regulates that it can easily turn into a form of discrimination. What better way to do it than to do it in a way that is backed up legally.

Mayor Foxx said one thing I would like for you to do and get someone from staff to do is to put you in touch with the Center for Community Transitions which has had a very good success rate at getting people who do have criminal backgrounds into employment. I would like to see if someone can help you get connected to that. Thank you and I appreciate you coming and sharing your story.

Unlawful Arrest

Malgorzata Zytkow, 9216 Willowglen Terrace said I am here to speak on behalf of my son, Michael Zytkow. He was at the City Council meeting on DNC ordinances and as a mother I was shocked that my son was treated this way. As a citizen of the United States I am amazed that something like this could happen in this country. When my husband and I moved here from Poland several years ago we had a (inaudible) When we left Poland people were scared to speak against the government for the fear of harass. I never expected that would see the same situation here. We are proud to have a son that is deeply concerned about this country and active in the political life. We asked Michael to speak his mind and question authority. He has always done so peacefully, and his speech in front of you last week was no exception. Michael has never been arrested before. He has been an exceptional citizen. He graduated from Wake Forest University. (Inaudible) He taught high school history for America. We are proud of his involvement with Occupy Charlotte and I could not imagine that his arrest has to do with 18 seconds his speech went over. More likely it had to do with the content of his speech and the fact that you wanted to make an example out of him. The Mayor likes to remind us about the word (inaudible) to address the public. Why are you calling for their arrest behind closed doors. I see this as a use of power and the oppression of free speech. I just wonder how many people are now afraid to speak freely before the Council because I'm scared right now that I exceed three minutes and will be arrested for the (inaudible) I expect an apology for arresting my son and apologies of the citizens of Charlotte for your behavior and abuse of power.

Debra Shackelford, 7303 Falkirk Place, said I'm here before you speaking out against the arrest of my son-in-law Michael Zytkow. On Monday, January 9 2012 he was arrested at the City Council meeting. His crime was apparently speaking 18 seconds over the three-minute limit. It seems more likely that he was actually arrested for what he said. It is also ironic that he was arrested while his expressing his views against laws that would limit our freedom of expression. After Mike spoke for three minutes, the Mayor signaled the Police to apprehend him. He never once resisted and left peacefully. He was also never given the opportunity to simply leave the building. Instead he was taken out of the Chamber, pressed against the wall and arrested. The arresting officer told him twice that he should have kept quiet. He was also told he was being charged with disrupting a public meeting. Mr. Barnes, who happens to represent Mike's District, witnessed the arrest and did nothing. Mike was taken to jail, treated like a criminal and told he was actually being charged with disorderly conduct. After an hour after Mike had spoken and as he sat in jail, an elderly gentleman was addressing the Council. The man spoke over the three minute limit without realizing it and instead of being arrested the man was given an extra two minutes. This was of course long after almost everyone in the audience had left. The rule seems to only apply to those criticizing their local officials. There were several individuals that night who spoke a number of second beyond the three minute limit in order to finish their point. Mike was not even the most disruptive individual in attendance, which leads me to question again why was he treated so severely. Mike spoke with an Assistant District Attorney who explained that it was up to the individual police officer to interpret whether his behavior was disorderly and worthy of arrest. Allowing the police to interpret the law and selectively enforce it are the very things that Mike was speaking against when he was arrested. I also expect an apology for arresting Mike and an apology for the citizens of Charlotte for your behavior and abuse of power.

Councilmember Cannon arrived at 6:52 p.m.

Desiree Shackelford, 8507 Quarry Road, said I am Michael Zytkow's finance. We have been together for 9 years since our days at Independence High School and we have a 3-year old son. The night of Michael's arrest was an incredibly stressful time. I was at work and I spent hours trying to get a hold of him on the phone. I had no idea what was happening to him. I had to

scramble to make arrangements for someone to watch our son, go down to the jail, and turn around and get up at 5:00 a.m. for work. I would just ask how any of you would feel if one of your spouses was arrested, jailed and treated like a criminal? I feel that those responsible need to be held accountable. The arresting officer, the Mayor, the City Council owe Michael an apology. They need to apologize for arresting someone without cause, to apologize for giving someone a criminal record for the time spent in jail, for the time and energy spent on legally fighting this charge, and for the effect it has had on our entire family. In the big picture you need to apologize to those who are now scared to approach the Council because of instances like this and for embarrassing and tarnishing our local democracy. The City Council had an opportunity to stand up for their constituents in their time of need and chose not to. In my view, violence is complicity. You all seem to have forgotten that if it wasn't for brave individuals standing up and challenging authority as in the civil rights movement, many of you would not have the opportunity to be elected. We have entrusted you to govern our city, that is a great responsibility.

Taxi Cab

Nasiff Majeed, 5401 Rupert Lane said on June 14, 2011 Mr. Kadiye Abdirahman had his taxi driver permit revoked by the Passenger Vehicle for Hire Manager. On May 20, 2011, Mr. Kadiye was involved in an incident with a female undercover CMPD officer after leaving a Mosque in the Central Avenue area. After not yielding, because he had the right of way (to the officer), Mr. Kadiye proceeded on Central Avenue. Both parties later came to a stop light and the female undercover officer rolled down her window and stated to Mr. Kadiye, "f_ _k you N_ _er". He replied, "f_ _k you b_ _ch." Unknowingly to Mr. Abdirhaman, the female officer was part of a prostitution sting operation in the area. Subsequently he was arrested at a nearby gas station for soliciting prostitution by two uniform Charlotte Police Officers. He was released and scheduled to stand trial for soliciting prostitution on September 7th. He appeared before the PVH Board for appeal of his permit revocation but he was told to wait for the court date. In actuality, he did not commit a crime nor did he ever plead guilty to soliciting prostitution. On his September 7th court date Mr. Kadiye's case was withdrawn by the court system. It was evident that the charges were trumped up for the PVH Manager to revoke Mr. Kadiye's permit by making a finding of criminal conduct independent of the justice system, that is problematic. This man has been unemployed for over 7 months and his loss of employment was unjustly based on false criminal charges and was dismissed by the Mecklenburg County Court System. He is the sole provided for his family and this has caused extreme financial hardship on his family. This is the most serious predicament inasmuch as the taxi business is this man's only income. I urge you in light of the circumstances to do right and direct the PVH department to reissue Mr. Kadiye's taxi permit. He is a hard working man and he is an honest man, he is a family man and we are destroying his livelihood unjustly. Helping him in this situation is the right thing. Mr. Mayor, I'm counting on you. Council I'm counting on you. I want you to do right and give this man his permit. He is out of work and has no means of employment and taxi cab business is his livelihood. Put yourself in their situation and give this man justice.

Mayor Foxx said Mr. Manager can we have a report on this situation as I think it does merit getting some feedback.

City Manager, Curt Walton said we will be glad to do that Mayor.

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AWARDS AND RECOGNITION

ITEM NO. 4: NATIONAL MENTORING MONTH RECOGNITION

Mayor Foxx said the month of January is National Mentoring Month and tonight we have with us Lotticia M. Mack, Senior Program Director of High School Initiatives at the YMCA of Greater Charlotte who will receive a proclamation recognizing this month as National Mentoring Month, an opportunity to raise public awareness of the importance of mentoring to recognize the dedicated individuals who serve as mentors and to encourage more citizens to build a brighter future for Charlotte's youth through mentoring. Mayor Foxx asked Councilmember Mayfield to read the proclamation. Mayor Foxx said we also have members of the Mayor's Mentoring Alliance in the audience, including Youth Developing Initiative and Dee Ranking.

Lotticia M. Mack said on behalf of the YMCA of Greater Charlotte and Y Achievers Program I would like to thank you for the proclamation and like you said, January is National Mentoring Month and we are looking forward to having people within Charlotte to take on the role of being mentors and mentor our youth because they definitely need all of you.

Mayor Foxx said for those of you who are watching we are in need of 6,000 mentors in Charlotte for kids across our community and if you want to know more go to the City Website, www.charmeck.org and look up the Mayor's Mentoring Alliance.

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CONSENT AGENDA

Mayor Foxx said Item Nos. 18, 21 and 22 have been pulled by Council. Item 37-K has a speaker and Item Nos. 37-J, N, O and P have been pulled by staff and settled.

[Motion was made by Councilmember Barnes, seconded by Councilmember Howard, and]
[carried unanimously, to approve the Consent Agenda as presented with the exception of Item]
[Nos. 18, 21, 22, 37-K and 37-J, N, O and P.]

The following items were approved:

15. Contract to the lowest bidder, Blythe Construction, Inc. in the amount of \$4,204,466.47 for resurfacing contract FY2012-A.

Summary of Bids

Blythe Construction, Inc.	\$4,204,466.47
Blythe Bros. Asphalt	\$4,497,758.34
Rea Contracting	\$4,833,236.80
Ferebee Corporation	\$5,486,411.12

16. Contract to the lowest bidder, Blythe Development Company in the amount of \$645,382.50 for the North Hoskins Road Sidewalk.

Summary of Bids

Blythe Development Company	\$645,382.50
United Construction, Inc.	\$698,819.00
OnSite Development, LLC	\$707,654.85
Bullseye Construction, Inc.	\$718,197.48
Country Boy Landscaping, Inc.	\$761,989.66
Carolina Cajun Concrete, Inc.	\$773,328.89
W M Warr & Sons, Inc.	\$779,551.24
J W Grand, Inc.	\$779,794.31
Ferebee Corporation	\$793,179.75
Blythe construction, Inc.	\$953,928.89

17. (A) Approve the following contracts for tree pruning services:
1. AAA Tree Experts, Inc., up to \$100,000.
2. Arboguard, Inc. dba Arboguard Tree Specialists, up to \$100,000.
3. E. Schneider Enterprise dba Schneider Tree Care, up to \$100,000.
4. The Davey Tree Expert Company, up to \$100,000.
(B) Authorize the City Manager to approve one renewal to each of the above contracts for a combined renewal total of \$400,000.

19. Contract to the lowest bidder, Weathergard, Inc. in the amount of \$455,800 for Police Headquarters roof replacement.

Summary of Bids

Weathergard, Inc.	\$455,800.00
Mecklenburg Roofing, Inc.	\$483,509.00

Interstate Roofing, Inc.	\$487,200.00
Davco Roofing & She3t Metal, Inc.	\$538,500.00

20. Payment up to \$292,000 to Pictometry International Corp. for Geospatial Aerial Imagery Package 2012.
23. Three-year contract with Waste Management in the amount of \$959,7006 for the hauling of waste from the terminal to the Airport Recycling Center.
24. Agreement with Duke Energy in the amount not to exceed \$305,815.06 for the relocation of an existing power distribution line in conflict with the Airport Entrance Road Bridge project.
25. Contract to the following companies to provide centrifuge preventative maintenance and repair services at Mallard Creek and McAlpine Creek Wastewater Treatment Facilities for a combined estimated amount of \$1,322,460:
 Decanter Machine, Inc. (\$455,280)
 Centrifuge and Pump Services, Corp. (\$867,180)
26. (A) Purchase of laboratory supplies, equipment and chemicals, as authorized by the previously bid or "piggybacking" exception of G.S. 143-129(g); (B) Unit price contract with Thermo Fisher Scientific for the purchase of lab supplies in the amount of \$300,000 for the term of two year, and (C) Authorize the City Manager to extend the contract for two years with possible price adjustments at the time of renewal as authorized by the contract.
27. Contract to the lowest bidder, R. H. Price Company in the amount of \$451,765,60 for construction of larger water lines along North Poplar Street.

Summary of Bids

R. H. Price, Inc.	\$ 451,765.70
Davis Grading, Inc.	\$ 556,797.75
B.R.S., Inc.	\$ 716,801.80
Blythe Development Company	\$ 805,409.00
Sanders Utility Construction	\$ 842,278.80
Dellinger, Inc.	\$ 948,773.10
State Utility Contractors, Inc.	\$ 961,239.40
Gilbert Engineering Company	\$1,052,679.87

28. Engineering Services contract with Mahnaz, Inc. in the amount of \$300,000 for the water main replacement program.
29. (A) Purchase of parts as authorize by the sole source purchasing exception of G.S. 143-129 (e)(6), (B) Contract for bus parts to Cummins Atlantic, Inc. for the estimated annual amount of \$475,000, and (C) authorize the City Manager to exercise two additional, annual options at \$475,000 per year. The total estimated amount is \$1,425,000 for all three years.
30. (A) Authorize the City Manager to enter into a three-year contract with Trapeze, Inc. for maintenance services for the software system that provides automatic vehicle location (AVL) functions for buses; for a total amount of \$603,720 (at \$102,140 annually), and (B) authorize the City Manager to exercise two additional, annual options at \$201,240 per year.
31. (A) Authorize the City Manager to accept the 2011 Assistance to Firefighters Grant award of \$80,000, and (B) Budget Ordinance No. 4818-X appropriating \$80,000 in Assistance to Firefighters Grant funding.

The ordinance is recorded in full in Ordinance Book 57, at Page 510.

32. Resolution of Intent to abandon a residual portion of Independence Boulevard and Pecan Avenue, and (B) Set public hearing for February 27, 2012.

The resolution is recorded in full in Resolution Book 43, at Page 480.

33. (A) Resolution authorizing the refund of property taxes assessed through clerical or assessor error in the amount of \$43,062.38, and (B) Resolution authorizing the refund of business privilege license payments made in the amount of \$472.45.

The resolutions are recorded in full in Resolution Book 43, at Page 481-482 and 483-484.

34. (A) Authorize the City manager to enter into a memorandum of understanding with Mecklenburg county's Department of Social Services (DSS) allowing the city to provide senior citizen housing rehabilitation services in an amount of \$150,000. (B) Authorize the City Manager to enter into a memorandum of understanding with DSS allowing the City to provide tenant-based rental assistance for up to 35 households in an amount up to \$150,000.

35. (A) Sale of city-owned real property (043-011-07) located at 6336 Carver Boulevard, Charlotte to Donald Young for \$45,000, and (B) Authorize the City Manager to execute the sale documents for this transaction.

36. Resolution approving an extension to the ground lease with Crown Castle and a sublease to AT & T for antenna and ground space at 8700 South Boulevard.

The resolution is recorded in full in Resolution Book 43, at Page 485-586.

- 37-A. Acquisition of 1.423 acres in fee simple at 4517 McKee Road from K & P Development, LLC for \$195,000 for Fire Station #9 Expansion, Parcel #1.

- 37-B. Acquisition of 4.465 acres in Sanitary Sewer Easement, plus 2.266 acres in Temporary Construction Easement at 2465 Mecklenburg Avenue from Charlotte Country Clue for \$1,080,572 for Briar Creek Relief Sewer, Phase II, Parcel #37.

- 37-C. Acquisition of 256 square feet in Fee Simple, plus 2,279 square feet in Storm Drainage Easement, plus 4,236 square feet in Slope Easement, plus 522 square feet in Temporary Construction Easement at 7305 Balancing Rock Court from Charles Montgomery and wife, Barbara Mack Montgomery for \$23,575 for City Boulevard Extension, Phase III, Parcel #19.

- 37-D. Acquisition of 1.42 acres at 8010 Tuckasegee Road from Angela L. Corti for \$111,000 for Airport Master Plan Land Acquisition.

- 37-E. Resolution for condemnation of 223 square feet in Sanitary Sewer Easement at 5128 Rocky River Road from Eric R. Alfred and wife, Pamela E. Alfred and any other parties of interest for \$100 for 2009 Annexation – Hood Road North Sanitary Sewer Improvements, Parcel #75.1.

The resolution is recorded in full in Resolution Book 43, at Page 487.

- 37-F. Resolution of condemnation of 133 square feet in Temporary construction Easement at 2021 Bay Street from Ayeesha Z. Jahi and any other parties of interest for \$300 for Bay and Pecan Intersection Improvements, Parcel #7.

The resolution is recorded in full in Resolution Book 43, at Page 488.

- 37-G. Resolution of condemnation of 1,816 square feet in Sidewalk and Utility Easement, plus 44 square feet in Utility Easement, plus 36 square feet in UE, TCE and SUE overlap, plus 2,690 square feet in Temporary Construction Easement at 2518 Beatties Ford Road from

McDonald's Corporation and any other parties of interest for \$17,550 for Beatties Ford Road Business Corridor Improvements, Parcel #23.

The resolution is recorded in full in Resolution Book 43, at Page 489.

- 37-H. Resolution of condemnation of 834 square feet in Sidewalk and Utility Easement, plus 13 square feet in Utility Easement, plus 1,641 square feet in Temporary construction Easement at 2415 Beatties Ford Road from James K. Fowler and wife, Eugenia Fowler and any other parties of interest for \$9,775 for Beatties ford Road Business corridor Improvements, Parcel #28.

The resolution is recorded in full in Resolution Book 43, at Page 490.

- 37-I. Resolution of condemnation of 45 square feet in Existing Right-of-way, plus 1,755 square feet in Sidewalk and Utility Easement, plus 933 square feet in Temporary Construction Easement at 2249 Beatties Ford Road from First States Investors 4100A, LLC and any other parties of interest for \$14,500 for Beatties Ford Road Business Corridor Improvements, Parcel #31.

The resolution is recorded in full in Resolution Book 43, at Page 491.

- 37-L. Resolution of condemnation of 656 square feet in Temporary Construction Easement at 525 McDonald Avenue from Boyd P. Falls and wife, Maxine G. Falls and any other parties of interest for \$1,975 for McDonald Avenue Sidewalk, Parcel #27.

The resolution is recorded in full in Resolution Book 43, at Page 493.

- 37-M. Resolution of condemnation of 334 square feet in Temporary construction Easement at 421 McDonald Avenue from Boyd P. Falls and wife, Maxine G. Falls and any other parties of interest for \$1,075 for McDonald Avenue Sidewalk, Parcel #35.

The resolution is recorded in full in Resolution Book 43, at Page 494.

- 37-Q. Resolution of condemnation of 12,758 square feet in Existing Right-of-Way, plus 501 square feet in Storm Drainage Easement, plus 2,185 square feet in Sidewalk and Utility easement, plus 34 square feet in Utility Easement, plus 9,589 square feet in Temporary Construction Easement at 5520 Nations Ford Road from Trustees of Adams Metropolitan African Methodist Episcopal Church and any other parties of interest for \$4,275 for Nations Ford Road Sidewalk/Bike Lane, Parcel #20.

The resolution is recorded in full in Resolution Book 43, at Page 495.

ITEM NO. 37-K: RESOLUTION OF CONDEMNATION OF 216 SQUARE FEET IN SIDEWALK AND UTILITY EASEMENT, PLUS 456 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT AT 613 MCDONALD AVENUE FROM BOYD P. FALLS AND WIFE, MAXINE G. FALLS AND ANY OTHER PARTIES OF INTEREST FOR \$2,275 FOR MCDONALD AVENUE SIDEWALK, PARCEL #22.

Councilmember Dulin said Mr. Falls has left the building, but we had a nice conversation and Patsy and I discussed it a little bit and he is going to move on with the process as we've laid it out for him.

Mayor Foxx said so we can approve this item.

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

The resolution is recorded in full in Resolution Book 43, at Page 492.

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ITEM NO. 6: CITY MANAGER'S REPORT

City Manager, Curt Walton, said he had nothing to report.

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ITEM NO. 7: (A) ORDINANCE NO. 4813 AMENDING CHAPTER 15 OF THE CITY CODE (NO CAMPING ON CITY PROPERTY AND OTHER PROHIBITED CONDUCT; (B) ORDINANCE NO. 4814 AMENDING CHAPTER 15 OF THE CITY CODE (EXTRAORDINARY EVENTS) AND (C) ORDINANCE NO. 4815 AMENDING CHAPTER 19 OF THE CITY CODE (TECHNICAL CHANGES TO THE PICKETING AND PUBLIC ASSEMBLY ORDINANCES).

Mayor Foxx said these are the ordinances that have been discussed in various forms over the last several weeks. A couple of observations that I would like to make at the outset, number one, I have watched as the issue around the Occupy movement across the country has occurred and I think this City has done an incredible job of working with those who are demonstrating and respecting the lines there. I think to this point, as some of the speakers said during the hearing, that is to be commended. This demonstrations coincides with a set of procedures and policies that have been under review as a result of our getting the Democratic National Convention here and that is what precipitated the review that has led to these amendments. As we've gone through that the public hearing process has yielded some changes from the voices of the people who came and spoke. I thought that perhaps tonight we would start out with hearing from Bob Hagemann about specifically what those changes have been and maybe start our conversation there and then get into some debate on the policy.

City Attorney, Bob Hagemann said let me begin by point out what the goal of this effort was. It was two-fold, number one to provide law enforcement the tools that it needs to protect the public safety and number two, to respect and protect the first amendment rights of our citizens and visitors. There is a balance to be struck, our goal is to achieve both of those objectives and we don't find them to be mutually exclusive. What these proposals don't do, and I mentioned this at the end of the public hearing on January 9th. Under Charlotte's ordinances today any citizen has a right to exercise their first amendment rights on City controlled traditional public forum. Those are the public sidewalks and the limited number of park like properties that are under the City's control. Those rights may be exercised any day of the day or night, any day of the week, any day of the year without the need to get permission from the government. There is nothing about this proposal that changes that. There is nothing about the proposal that will change that during the Democratic National Convention.

Mayor, as you indicated, we came forward with the Charlotte Mecklenburg Police Department on January 3rd with proposed ordinances, a public hearing was held on the 9th of January, staff has reviewed the comments and input made, not only at the public hearing, but from off-line conversations we've had with the North Carolina Chapter of the American Civil Liberties Union, a variety of local attorneys, civil rights attorneys, representatives from Occupy Charlotte and others. As a result of that consideration on Wednesday with your agenda packet we proposed revisions to the ordinance. As a reminder the original proposal consisted of three ordinances, amendment to Chapter 2, Chapter 15 and Chapter 19 of the City Code. The Chapter 2 proposal would have created a mechanism whereby the City Manager could declare an extraordinary event. The only impact of such a deviation under the original proposal was to give the Manager the ability to set different application deadlines for certain permits and to establish a process for issuing permits when there were multiple requests for the same location and the same time. In the context of the DNC we anticipated that that would apply to parades in what we expect will be a designated parade route and also for speakers rights at what we are calling a speakers platform.

The Chapter 15 proposal would prohibit six areas of conduct that are not currently regulated or prohibited. First is camping on City owned property. It is provision dealing with obstruction devices, one that would prohibit bonfires on City property, another that would prohibit noxious substances and the uses thereof, an additional provision that would authorize the establishment of

police lines and make it unlawful to cross those lines and finally prohibition on unauthorized attachments to public and private buildings.

The final ordinance were proposed amendments to Chapter 19 which contains the City's picketing and public assembly ordinances. A number of those were technical in nature. The ones that were substantive would prohibit certain identified and defined conduct and the possession of certain material that at the end of my comments, I will ask Deputy Police Chief Harold Medlock to speak to.

Again, as a result of the comments, we've come forward with three revised ordinances. We've done away with any changes to Chapter 2. The Chapter 19, Picketing and Public Assembly Ordinance right now is left with nothing but what I would describe as technical amendments. A list of prohibited conduct and prohibited items has been moved out of Chapter 19. That leaves two ordinances directed Chapter 15. The first one is identical with one exception to what was proposed initially. That is the one dealing with camping and the other activities. The proposed change is in reaction to a comment made at the public hearing, and it is a clarification that the prohibition does not extend to temporary shelters such as canopies that are used in the context of a first amendment activity, for example, to provide shelter from the sun. The most significant change is, the combining of the extraordinary event provision dealing with permitting and the list of prohibited items and conduct. In the original draft those items would have been invoked at any public assembly, festival or demonstration or picket anywhere in the City. A number of comments made the point that that was too expensive, that those restrictions were not needed for the vast majority of public assemblies and demonstrations where there was no history of any kind of danger or threat of harm in the future and in consultation with the Police Department and Police Chief, we agree. What this proposal does is limit the triggering of those regulations only to extraordinary events and declaring an extraordinary event under the current proposal, the Manager would have to identify or determine the time period and the geographical location, the boundaries of the extraordinary event and only upon doing so would those regulations kick in. It is our intent and we fully expect those separations would be made in sufficient time ahead of the event, such that we can widely publicize the fact that an extraordinary event has been declared and that the regulations would be in play. In speaking with the Chief and the City Manager, it is anticipated, based on what our past experience is that that declaration is likely to occur over the next 12 months for Speed Street, the Fourth of July Celebration, the Democratic National Convention and the New Year's Eve Celebration.

The final change was an attempt to respond to legitimate concerns that the regulations as drafted might affect wholly innocent conduct. What we have built into the ordinance is an affirmative defense. There are provisions that essentially say it is an affirmative defense to prosecution if one can demonstrate that they possessed the prohibited item for a legitimate reason and they were going to or coming from the place where they would legitimately use the item and the item was not used illegally or to harm another person. Mayor, that is my description of the changes and the process that got us here. Again, as indicated I think the Council and the audience would benefit from some comments from Deputy Chief Harold Medlock.

Deputy Chief Medlock said I want to share with you some detailed information about some of the prohibited items that are on the extraordinary event ordinance to further explain why we felt it was important to include these as we move forward into the coming event this year. In and of themselves and by themselves and by an individual carrying any one of these things in any one day of the year does not cause concern. When you bring hundreds and perhaps thousands of demonstrators that may be caught up with folks who want to conduct criminal activity these items begin to cause us great concern for the safety of those folks who are peacefully demonstrating, the folks who are observing the demonstrations or the event and the Police officers that would be protecting those that are involved in the activity. I want to share with you some experiences that we've learned and why we've recommended these items.

In C-1 in Extraordinary Event, you will see that we recommend a bar, chain, shaft, staff, cable, wire, lumber or plastic pipe be included in the items that would be prohibited. If you can imagine a four-foot length of steel cable being used as a weapon or striking instrument could cause some serious damage to folks that would be involved in an event. A bar of course, any kind of a metal rod or rebar, that kind of thing would be considered a problem. A staff, which is not considered a walking cane, but a staff is something someone would use perhaps for hiking

that might be 6 or 7 feet long, would not necessarily be appropriate in a large crowd situation. Plastic pipe, believe it not can be used to secret rebar and other objects inside. Plastic pipe doesn't seem like it would be that dangerous to an individual, but when you reinforce it with either wood, concrete or metal pipe it becomes quite dangerous to folks in a crowd. Containers or objects that might be of sufficient weight to cause serious damage, such as a projectile, it can anything from a bottle filled with rocks to a can of soda that has been shaken to the extent that if it is thrown, it strikes someone, the can would then explode. Aerosol containers, spray guns and soaker devices are used to house urine and other noxious substances to spray folks that are in the crowd or spray police officers. Paint guns, etching material, spray paint containers, liquid paint or markers, anything that is not water soluble could be used with a match to create some type of a flammable discharge devise, basically a flame thrower. Backpacks, duffle bags, satchels, coolers and other items such as this are frequently used to carry bricks and rocks. They are used, for the lack of a better description, we have in the 2008 Democratic National Convention, folks walked in port-a-johns that were supplied by the City of Denver, filled up plastic bags with feces and then filled up their backpacks and satchels with those bags to be used to throw at attendees and police officers who were trying to protect those folks. Sharp or bladed objects, just recently in a protest out west, one of the large cities there had several officers who were holding a police line while folks were peacefully demonstrating, but the one thing that did occur there is a female's arm came through the crowd, came through the first line of demonstrators who were facing off with the police officers, used a box cutter to cut the backs of 3 or 4 officers hands and inflicted some pretty serious damage to tendons and nerves on the backs of hands. Of course ice picks and axes kind of stand for themselves. We don't think those are a good idea to have in a large crowd situation. Hammers used to break car windows and plate glass windows, crowbars are used to of course break windows but also to pry open doors that are locked so that properties can be entered and damaged. also used as striking objects against individuals. Pepper spray and mace and other types of those items, again recently in major protests in major cities similar to Charlotte, there were officers that were holding a line and an individual came up, sprayed those officers with pepper spray and those officers were taken out of commission and had to be decontaminated as well as some folks that were in the front lines of the protest. We don't discourage anyone from carrying pepper spray or mace to protect themselves. We don't think it is a very good idea and we don't encourage and we don't support the idea that someone would be carrying those kinds of items during a demonstration or a large crowd situation. Body armor such as shields and helmets, protective pads and gas masks, while some would argue that they carry those to protect themselves against the police, the simple fact is those masks are used as an offensive weapon against police officers. In Vancouver during the hockey riots, late in the summer we had individuals who showed up with riot helmets, their own helmets, motorcycle helmets and homemade wooden shields that they had prepared to use against police officers later in the night as the event unfolded in Vancouver. Masks or scarf's are currently prohibited in the City of Charlotte and we included this as we have with everything else to insure that folks understand what it is that is allowed and not allowed in these types of events. We wanted to be very clear for folks who attend these events what is allowed and what is not allowed. Of course police scanners, allow folks to understand and know that police transmissions or policy traffic and then folks use those to counter our movements as we go about trying to keep peace in the City. Rocks, bottles, bricks again we have several instances going back to both conventions in 2008 where stashes of these items were found by police officers before they were used, but they were strategically located and then there were folks that had those items with them and used them against peaceful demonstrators as well as police officers in those conventions. Any kind of slingshot or device that would be able to hurl objects a long distance would be prohibited and of course fireworks. In 2007 we experienced at the Fourth of July Celebration, what I witnessed that night on Tryon Street was sure to cause some serious damage to a lot of kids that were on the sidewalk at the square when some very, very large fireworks were thrown at their feet. I was sure that we were going to have some damage or injuries to folks that night and it a pretty terrifying situation to see those kinds of explosions occur right in the middle of large crowds of young people. Folks think that dogs are your typical kind of animal, but some of the conventions and some of the protests dealt with very, very large snakes, very exotic animals and some dangerous dogs have been brought to the events.

These are a few of the items and a few of the explanations that I wanted to share with you. I do want to share one instance from the Republican National Convention in 2008 where a group of protestors fully armored themselves with helmets, gas masks and dismantled a very large

aluminum road sign, shut down a four-lane road and attacked a group of police officers. They used the road sign as a shield and the officers were finally able to repel that attack which is on video, by using their pepper ball less lethal device at their feet and the folks finally backed off, but it was a very tense, very dangerous situation for those few officers that were backed against a wall. During that particular attack there were cars that were damage, that were people that were stopped and terrified and we are trying to prevent that kind of activity here in Charlotte in September.

Mayor Foxx said I think your presentation comes from a question Mr. Howard asked at the Dinner Meeting. Mr. Howard, do you want to follow-up?

Council member Howard said when we first heard all of the things you shared, and you talked about people putting their hands with cement into the pipes and you talked about people willing to put themselves on which you call a tripod to hurt themselves in order to be disruptive, we heard a lot of disturbing things a couple weeks ago when we first started down this path. I thought it was important for the public to know that this is not playful and it is actually very disturbing to me and most of my colleagues will tell you, I don't normally talk like this, but it was very disturbing that you guys laughed when you heard what he said. People got hurt in other places and I have sat here and actually tried to figure out which one is more important to me. Free speech, which I believe in wholeheartedly as an American and safety, and in this situation, I'll be honest with you, I'm concerned about the safety and not just the police officers, but it seems like a number of you that I've talked to are actually in this for the right reason, but then there are a lot of people that are not. These rules will protect you just as much as they will protect anybody else. What do you do when people are willing to hurt themselves in order to be disruptive? There are not a lot of options that you have. You do your best to change the rules, to address those and what you heard from the Police tonight, and I'm talking to the public and TV world as much as anybody, you heard why this is a problem. When people come in for no other reason than to be disruptive, when they chain themselves together just to stop traffic, what else do you do as leaders? You have to take those types of threat seriously and for that reason I do plan to support this because safety has to come first as far as I'm concerned.

Mayor Foxx said I came tonight wanting to talk about a few issues and I've got a couple of folks who want to speak so I'm just going to sort of lay out the issues that I want to hear more response from on the staff end. There has been conversation about if this is passed tonight having a delayed or sort of a grace period and the practical impact of a grass period. There has been discussion of a sunset and discussion of the impact of that. I did hear some very pointed concerns about the impact on our homeless population and I'd like to know the staff's thinking on that subject. I've also read a few comments about the process by which we would declare an extraordinary event and whether the trigger for that the City Manager currently would have that ability, whether the Council discussion has as much of a direct accountability to the public as we might want. I think it is a question, not an answer, but I think it is something we ought to be talking about tonight. I'm sure that will come.

Council member Fallon said the ordinances you have now and the rules and the laws on the books, you don't feel adequate to handle what is to come?

Deputy Chief Medlock said no ma'am. When we received the bid for the Convention one of the very first things we did was begin our research of local ordinances and state laws as well. Based on what we do have, we've never had any kind of an event like this and we reached out to cities that are similar in size and also cities who have hosted large events such as the Contention and we got their input, their ordinances and we realized pretty quickly that we were inadequate in our local ordinances to work with an event such as this.

Ms. Fallon said so this is strengthening what you have and adding what you feel you need to be able to make safety for the public and the police?

Deputy Chief Medlock said yes ma'am.

[Motion was made by Councilmember Barnes to approve A, B and C and make the changes]
[effective January 30, 2012. Council member Cooksey seconded the motion.]

Mr. Barnes said I'd also like to make a couple of points, the first one of which is that for the folks who have been a little frustrated with us in this process, we've been trying to be responsive as possible to your concerns and you've seen that in some of the adjustments that have been made since you all were first here. There are people who would have of course liked to see an environment where there are no rules, where there is no law and people can do whatever they want to do, but we have all taken an oath to protect this city, the people of this city and obviously we have an interest in protecting the property of this city and private owners in the city. As I have reviewed the ordinance changes, I've talked to our City Attorney and I feel comfortable that we are not violating people's constitutional rights. I think we have made a very firm and fair effort to actually avoid violating the constitutional rights and I said this to someone earlier today, but a lot of the people to whom these changes will apply aren't in the room tonight. There are people who mean you no good, they mean us no good, they mean this city no good and they want to disrupt and destroy and I hope you can understand. I know there are folks who won't but the fact of the matter is it is our job to do what we can to protect Charlotte and the people of this city.

Council member Autry said I have a question about the officers being given the ability to determine intent. What are we going to be doing to provide training for officers on how to conduct themselves under these new ordinances?

Deputy Chief Medlock said we will do, particularly for this event, for the new ordinances, a substantial amount of training, not just for our police officers, but for our Police Commanders, our Supervisors and then specifically for those officers who come from outside agencies to assist us. Those officers will go through every bit of training on the new ordinances, CMPD's policies and procedures and will fall within our chain of command and unless they pass through those courses they won't serve here during the Democratic National Convention.

Council member Mayfield said for me this was a difficult decision mainly because of the work that I have previously done in the community as a community advocate and upholding and believing in our rights to free speech, but I also recognize that there are rules and regulations and guidelines and that as an elected official we are entrusted to think of and to realize the big picture. That is how to keep our officers protected, how to keep our citizens protected because too often we have seen where people who do not have good intentions coming into a space as a pass through and then the local community is left with the impact of destruction. We have an opportunity to do something amazing in Charlotte and to show something a little different. I believe that with our discussions and listening to the community we've been able to create a compromise that still creates that safety we need as well as protect our people and let people know that their voices are not being shunted and they are going to be heard. I would like to ask if we have an opportunity to look at possibly, instead of just the City Manager being able to declare the extraordinary event to also include the Mayor so that we have two voices coming to that table to determine what can be looking forward as far as what can be considered an extraordinary event. I would like to make that as a friendly amendment to the motion.

Mr. Barnes said the concern I have is that under our form of government, it is the City Manager's job to provide direct instruction to our staff and I trust that this particular Mayor is smart enough and sighted enough to know how to use certain powers that we may grant to him. My concern is that in the future that may not be the case. I have had a number of years of conversations with Manager Walton and I trust his judgment and I feel comfortable that he will be as on top of the DNC as he has been in the prep process for the DNC, so I'm reluctant to actually accept the amendment, Ms. Mayfield, because I think it makes the extraordinary event piece more political than it should be. Right now it is, at least as proposed, up to an official who we hire to make that decision. If we are going to make it political I would think we would make it a Council decision, not just in the Mayor's office, but for those reasons I'm reluctant to accept it as a friendly amendment. If it is forced upon me I'll have to vote accordingly.

Mayor Foxx said I think that is a no.

Council member Kinsey said I would agree with Council member Barnes. Actually I think if we are talking about an extraordinary event we're going to know ahead of time and the Manager is going to come to this body and at least let us know what he is thinking or what he is going to do.

I think we will know and at that point can have a conversation with him if we need to. I would suggest that we go ahead with the motion that is on the floor and that is what I will support.

Council member Cooksey said I can't put it any better than that.

Mr. Autry said I also trust Mr. Walton's decision making process in such as an event, but just as we don't know who might follow the current Mayor, we also don't know who will follow Mr. Walton so it does seem like that there should be some sort of balance between the public input from the Council and the City Manager to come together to declare such an extraordinary event.

Mr. Cooksey said I will respond to that. The Manager's authority is basically delegated to him from the Council in the first place. I'm comfortable leaving the ordinance as written knowing that if a future Manager oversteps his bounds, a responsive Council will say wait a minute, how we do that and yank that authority. To bake it in from the beginning, I think whether it is the Mayor or the Council, creates that potential tension in the future that Council members Barnes and Kinsey spoke of where each application of the extraordinary event becomes a concern of what political implication might this have this time around. I think if we look at some of the things we delegate to the Manager, we ultimate or future Councils, the Council in general ultimately has the control over it and the fact that it is not a trigger each time means that it would be exercised very judiciously and a future Council that has a problem with a future Manager's call would treat it as the extra special consideration that it should be rather than the routine part that could get derailed.

Mayor Foxx said do we anticipate there being spontaneous events that become extraordinary events? Will we always know that it is a Fourth of July or convention or something else or do we anticipate there being situations where something happens and there is an extraordinary event?

City Manager, Curt Walton said I think it is certainly possible that there could be unforeseen events. Hopefully the four that are outlined would be the four that we would foresee for the next 12 months, but I don't know where the line between this and emergency declaration of powers that you already have come together. I guess it is possible, but I can't foresee what that would be or can't define what that might be.

Mr. Howard said I actually asked that questions of the City Attorney upstairs and the way he explained it to me was that what we are talking about is getting in front of problems and what you have is the state of emergency or the state of emergency declaration, what you can do, which is normally in response to something. I think in your situation you have the right to do that.

Council member Dulin said I'd like to have some conversation among us with the January 30th date. I'd like to work it out here in public rather than somewhere else. We need to talk about time, and I don't know all that we need to talk about, but I'm in favor of a date and you picked the 30th Mr. Barnes and that is okay with me. I don't even know what day of the week that is.

Mr. Barnes said it is next Monday.

Mr. Dulin said let's talk about next Monday a little bit and what we would anticipate happening. For instance I would anticipate the Occupy Charlotte folks, although they have in my opinion, worn out the yard at Old City Hall, they have done so peaceably and I credit them for that. That doesn't come easily, that comes with them getting together and saying hey guys, we're going to do this peaceably. I would hope that they will see that this Council has listened because the ordinance changed substantially in numbers of ways since the 9th of January and we heard about that tonight. I would hope that they would see and respond to the motion, the second and the vote that is going to happen here tonight that the 30th where I would hope things stay peaceable also. Maybe we can talk about a withdrawal of camp in a peaceable manner, so I'd like to talk about that a little bit Mayor.

Mr. Howard said I asked that same question of the Chief upstairs and maybe it would be worth having either Curt or Chief Monroe actually respond.

Chief Rodney Monroe, CMPD, said what we possibly would foresee, depending upon your vote tonight is the establishment of a particular date and along with that would come the expectation that additional conversations need to be had to insure that everyone fully understands what the law actually means and what the requirements of individuals that would be deemed now to be in violation of that law. We then expect to again make sure that no-one would be unduly inconvenienced because of the fact this new law was established and there are some additional assistance that may be needed with individuals that we will look to and support them in that particular area. We will look to set a date beyond that January 30th date where we would look to assist anyone that may need our assistance. Our hope would be that we would be met with a voluntary compliance with that new ordinance, however should the need be or should someone continue to be in violation then quite naturally they would be arrested for that violation.

Council member Pickering said I'm not sure exactly where we are but I appreciate everything that has been said here tonight and I appreciate what Ms. Mayfield said. This is a very difficult vote for me personally because we are weighing the balance between freedom of speech and public safety. If I had my druthers, I would allow the folks to stay until the DNC and then be moved to wherever ... determine the protest area would be and then beyond that I would like to see a permanent free speech protest area designated for the City of Charlotte. We just celebrated Dr. King's birthday and this is what Dr. King was all about. However, having said all of that and it comes from the heart I think you can tell, our job here is to keep this City safe. I have the utmost respect for the Chief of Police and he spoke to us a little earlier and I appreciate the time he took for this, hearing our concerns. So I'm struggling, but I wanted to get that idea out there of even being a leader in embracing political protest as an identity for Charlotte. That may not happen tonight but I thought that was an interesting idea that is worth putting out there and maybe having future discussions about.

Council member Cannon said I just want to make sure I'm clear, even after the 30th, should this pass, people can still show up anytime during the day, anytime during the night at the current location where we've seen camping per se. Am I correct in assuming that?

Mr. Hagemann said that is correct and that is a very important point to make tonight. That is consistent with part of what I said earlier, which is that the current ordinances allow first amendment activity demonstrating and protesting on City controlled traditional public forum property, which are the sidewalks and a limited number of City controlled properties, one of which is the Old City Hall Lawn. There is nothing about this proposal that would change, or prohibit or limit the time of day or night in which individuals can exercise their first amendment rights. This proposal, and we are talking specifically about the camping provision, while it would prohibit camping, sleeping and activities consistent with that, it does not regulate or limit expressive activity.

Mr. Cannon said based upon just what I heard a moment ago I wanted to make sure that we were clear about that just so it is well understood that with Dr. King being about non-violence, being about peaceful demonstrations and being supportive of political protests that we in no way are finding ourselves to be in a position to be doing something contrary to it. I will simply say that it is my hope that we will move this forward, but at the same time that our Community Relations Department, have been very much engaged in this process for a very long time. I want to take a moment to thank them and I would hope that they will stay engaged in the process with those persons that have been more than willing to work with them that have been on the Old City Hall Lawn, toward moving forward toward a date that they feel that they want to lead by, which by the way there was some talk even prior to this of some members of the movement who had suggested that they were going to be looking to leave earlier rather than where we are today in talking about even designating the 30th for a date. It was said earlier that there are some people who have been working really well with City Hall, with Police and I want to comment you for doing that because you didn't have to do it and we appreciate you being here and sharing your voices with us. I know we really haven't finished the point on whether we are going to have the Manager or the Council to be engaged in the discussion about extraordinary events but it is my thought that with this being a Council/Manager form of government inasmuch as I too have all the confidence in Manager Walton, I certainly want to make sure that in the future whether it is Mr. Walton as Manager or you as Mayor or someone else that the Council will still engage in that and there could be some level of some discrepancy about who interprets what to be

extraordinary or not. If that is the case I would suggest asking Mr. Barnes to amend the motion to allow the Council be a part of that or at least the Manager be able to come with a recommendation to the City Council as his office does right now on suggesting on what might be an extraordinary event and wanting to move forward to declare it as such.

Ms. Kinsey said I think goes back to what I said originally, I don't think we are going to have that many extraordinary events and I think the Manager will keep us posted, but remember the Council will be replaced probably before the Manager will be. All of us will not be sitting around this dais in a few years so I still think it should be the Manager's responsibility and to bring it to us and inform us is fine, but I don't think we need to be in on the decision.

Mayor Foxx said I know this Manager well enough to know that he will do that.

Mr. Autry said I would like to hear a little more detail about the lottery process. There has been a lot of confusion about what that means and if that means that some people would not have the opportunity to use the facility that is going to be set up for this speaking activity. Could we have some clarification on that please?

Mr. Hagemann said what we contemplate is something similar that has been done in previous convention cities. For both parades and time behind the microphone provided by the city in what I'm calling a speaker's platform, we have to come up with some method of allocating that time that is fair because it is quite possible, if not likely, that more groups and individuals want to access those resources than we can accommodate during the course of the DNC. What we contemplate doing is setting a standing application deadline for any group that wants to parade during the DNC, and for any individual that want to access the speakers platform and the microphone. We will publicize that well in advance as well as we can, receive applications and then do a lottery process which insures that the decision making is not based on attempting to favor any particular individual or point of view, to assign those times and location. Now, in fact somebody yelled out from the audience that sometimes this speaker's area is referred to as a free speech zone. The implication or suggestion, which is false, is that is the only place where you can exercise your first amendment rights within the City. As I indicated previously, currently all the sidewalks and city controlled properties, park like properties throughout the city are available today, will be available tomorrow, will be available the day after this ordinances passes, if the council approves it and will be available during the DNC without the need to get prior approval or permission from the government. Accessing the speaker's flat form is the choice of those individuals who wish to access that, subject to being selected through the lottery.

Mr. Howard said I was wondering if we could now get the City Attorney to respond to the questions you had earlier?

Mayor Foxx said we do have a grace period that is under consideration, based on Mr. Barnes' motion. What, if any impact to a 7-day grace period?

Mr. Hagemann said my answer is framed in consultation with the City Manager and the Police Chief, I don't think anybody on staff would have an objection to delaying the effective date until January 30th.

Mayor Foxx said there has been additional conversation about a sunset on this ordinance and there hasn't been a motion made to that effect and I don't know if there will be, but what if any impact to perhaps a year effective date of this ordinance with some review built into it by the Public Safety Committee in advance of the sunset date?

Mr. Walton said no objection if that is Council's preference. A year would do it and I think we need to at least get through the full federal election cycle, through inauguration, so at least a year.

Mayor Foxx said there has been conversation and in fact a lot of speakers who came and talked about the impact of this ordinance on the homeless population and I think our Deputy Police Chief Medlock has some insight into that so I'd like to invite you to share that.

Deputy Chief Medlock said the ordinances really have no affect on our homeless population. Anyone who has spent time in Charlotte and seen the work that CMPD does with our homeless population knows that in most cases virtually all cases, we are dispatched or we encounter a homeless individual sleeping on public property our first goal is to get that person to a shelter. Very seldom when an officer offers a ride or referral to a shelter and more often it is a ride to a shelter, they are hardly ever turned down and we try to never leave anyone on the street. There have been instances where we have found makeshift shelters for folks to get them through a very difficult night. There are occasions where we've encountered homeless people who perhaps have an arrest warrant out for them and of course we have to take that action, but more often than not, we give that homeless person a ride or we try to find them a suitable shelter. In some cases the individual just wants to walk off and certainly we will let them do that. There is very little issue in Charlotte with people sleeping on public property. Most of the issue is private property and we only take enforcement action on private property when we are contacted by the property owner, a manager or someone who has authority to act on that property and again we use the same methods in trying to find that individual a place to stay for the night or we offer just to let them leave, providing there is no other criminal activity involved.

Mayor Foxx said there has been discussion on the sunset, but no motion on it, but I think at a minimum it would be good to have a review of this ordinance probably sometime in the late fall at the one year point. Can we have a friendly amendment on that?

Mr. Barnes said with the advice that the Manager gave, I would suggest that it would be as soon as possible after the next Presidential Inauguration. In other words that would be the 20th of January 2013, as soon as practical after that.

Ms. Kinsey said I will make that as a friendly amendment.

Mr. Barnes said I will accept that.

Mr. Autry said are you talking a review or are we talking sunset clause?

Mr. Barnes said review by the Public Safety Committee.

Mr. Autry said I would put forth then that we entertain a friendly amendment to have a sunset of these ordinances on January 20, 2013.

Mr. Barnes said Mr. Autry I thought about that and after we adjusted the ordinances from the proposal we saw January 20th I feel comfortable that what we may pass tonight won't necessarily need to be sunset because as Charlotte continues to grow, we may in fact need these ordinance changes on the books anyway. There is talk about World Cup activity, there is talk about a lot of large scale events that may be coming to the City and some folks have talked about the Olympics. With that in mind I think it would be a good idea to actually keep these ordinances in place with that review a year from now and also keep in mind that any future Council could tweak them, amend them, repeal them anyway.

Mayor Foxx said we've had a good robust discussion of this and I'll say a couple things in closing. A lot of times people come down and speak to us and interface with us and walk away with the view that they had an impact, but I can point to several items that are contained in the package we have in front of us tonight that have been impacted by the results of the public hearing. I'll tell you about another one we haven't discussed. A couple weeks ago some citizens had some concerns about the way the three minute rule was depicted on the City Website and since that meeting I have gone to the City Attorney and asked him to take a look at it and see if we can clean that language up so that it is very clear how the three minute rule works for citizens in the future. While that is not in front of us tonight I expect that it will be in front of us at some point, subject to the four-hour rule obviously, that we observe as Council. I say that to say that I have a deep and abiding respect for the citizens' right to come and speak to their government and that is exactly what many of you have done. While there may be some who think that I have content disagreements with you or the Council has content disagreements with you, I would caution you to think that on this end of the dais we have to think about what if someone came in front of us that had views that we absolutely disagreed with. We still have to protect their right to speak, but we also have to protect the right of the public to expect public safety and order in

our community. That balance is very difficult to strike and we are trying to do the best we can, but what I want to express to you is that you shouldn't read into any of what we are doing as a content concern because it is not. From my opinion it is really based on trying to be fair, not only to people with whom I agree, but people with whom I disagree. That is what our first amendment is really all about.

The vote was taken on the motion, including the friendly amendments and was recorded as follows:

YEAS: Council members Barnes, Cannon, Cooksey, Dulin, Fallon, Howard, Kinsey, Mayfield, Mitchell and Pickering.

NAYS: Council member Autry.

The ordinances are recorded in full in Ordinance Book 57, at Page 498-507.

The Council took a five-minute recess at this time.

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BUSINESS

ITEM NO. 8: MULTIFAMILY SOLID WASTE COLLECTION SERVICE OPTIONS; AUTHORIZE THE CITY MANAGER TO EXECUTE CONTRACTS WITH SOLID WASTE HAULERS FOR REIMBURSEMENT OF SUPPLEMENTAL WASTE LANDFILL DISPOSAL FEES IF THE CITY IS NOT ABLE TO OBTAIN A STAY OF A DECEMBER 14, 2011 JUDGMENT AGAINST THE CITY BY FEBRUARY 2, 2012.

[Motion was made by Council member Howard, seconded by Councilmember Mitchell, to]
[approve the subject authorization.]

Council member Howard said I am still concerned about the open endedness, and how we deal with added expense that could happen. Could you share what your thoughts are at least affects on this budget year?

City Manager, Curt Walton said I think in this next period while the appeal is being contemplated we don't have an option so we are going to have to go forward and prepare as if we are going to provide this as the judge ordered. If we win the appeal then the impact is no different than on the budget right now. What the impact long-term could be, we won't know if we lose our appeal, until the number of complexes that would choose the second pick-up would be identified and we would know the landfill cost. We know the fixed costs is \$80,000, but the additional landfill costs will be six figures, but we are not sure how high. We should know within 30 days or so which avenue we are taking.

Council member Barnes I wanted to ask the Attorney for clarification. Mr. Howard your question may have been wrapped into what I'm going to asks, but I recall that when we first heard the presentation I asked whether we could essentially stop providing a supplemental pick-up because it struck me that the judge's order essentially required us to do something that we don't have to do. My question to the Attorney at that time was whether we could simply not provide the supplemental service. Were you answering that question just then or is that another question?

Mr. Hagemann said you put your finger on the problem with the order as we read it. It affirmatively directs the city to begin by February 2nd to offer supplemental to other contractors. Our concern with the wording of the order, there are some legal aspects of it, but the practical, which is also legal is that it is unclear whether the intent of the order sets an outer date. In other words we have to begin by February 2nd and it doesn't say anything and it is unclear as to whether there is an expectation from the court that we will continue it and if so for what period of time. Our concern is that if we discontinue in the face of this order would we be called back before the Judge with a possible contempt motion. That is one concern with the wording of the order. The other concern is, having found discrimination and we are going to challenge the

finding in appeal as well, but having found discrimination, in our view we think that the City Council should have the right to choose which policy they then pursue that is not discriminatory. The order directs that you offer supplemental to all haulers. It strikes us that a logical and obvious alternative that would also be non-discriminatory is to offer it to none. That is the policy choice that we believe has been taken away from this Council. If we are successful in getting a stay by February 2nd, that means that we can continue under the current program and through your normal budget process and policy review you can look at your options. If we are unsuccessful getting a stay from the Court of Appeals, we have no choice for risk of contempt, but to follow what the judge ordered us to do and this action would give the Manager the authority to do that.

Mr. Barnes said so other than approving the action as written in Item 8, we have no other options?

Mr. Hagemann said I can't think of any good options.

Mr. Barnes said and you said we have sought a stay and we have appealed?

Mr. Hagemann said we have. We went back before the trial judge and asked for a stay and as you know that is a prerequisite to seeking what is called a writ of supercilious, equivalent of a state from the Court of Appeals. We did that last week and not surprisingly the judge denied that. We will be filing within the next two days, papers in Raleigh with the Court of Appeals, asking for them to enter a stay, hopefully before February 2nd.

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

YEAS: Council members Autry, Barnes, Cannon, Cooksey, Dulin, Fallon, Howard, Kinsey, Mitchell and Pickering.

NAYS: Council member Mayfield.

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ITEM NO. 9: CONTRACT TO THE LOWEST BIDDER, OSCAR RENDA CONTRACTING, INC. IN THE AMOUNT OF \$17,634,280 FOR CONSTRUCTION OF THE BRIAR CREEK RELIEF SEWER PHASE 11.

[Motion was made by Councilmember Cannon, seconded by Councilmember Kinsey, to]
[approve the subject contract.]

Later in the meeting Mr. Cannon withdrew his motion.

Councilmember Mitchell said let me thank you for allowing us to on January 9th to revisit this item to try to reach an SBE goal of 4% and to the viewers out there, this was a \$17 million project, 4% constitute about \$705,000 to spend with the SBE. The current awardee has agreed to only spend \$2.8 and I have to thank Bob Hagemann, Barry Shearin and Nancy Rosario for reaching out to Oscar Renda about trying to increase his participate of 4%. We met with several SBE's who bid on the project, just to try to get to the goal and we were not successful. I think our vote tonight is really approving bad behavior among the general contractor, but unfortunately for us he met the good faith effort of points, so legally we do not have a foot to stand on. I think we should move in a haste pace as we can to revisit the good faith effort and to make sure that we can raise that bar high enough that people would really try to meet the SBE goals. I think it is a sad day for our SBEs when they are struggling to try to find opportunities and we have a \$17 million project that our lowest responsive bidder doesn't even want to comply. He has a history and this is not his first time of not meeting our goals. We just finished the McAlpine Project and the goal then was 1.8% and he only reached 1.08%. Somehow policy makers, we have to put in place not to allow these situations to occur that is having a negative impact to our SBE firms. We looked at every way we could hope to get SBE participation as well as keeping it low. I think he is playing a business game with us because if we rebid this project, the next lowest bidder came in at \$21 million. None of us want to use taxpayer dollars to spend an additional \$3.9 million. This is a tough one for me but I know how I'm going to vote, but I think more important we need move fast on the good faith effort.

Councilmember Barnes said I echo many of Mr. Mitchell's concerns and the reason I'm going to vote against it is because the next lowest bidder is almost \$4 million higher than this one and I recognize that it seems somewhat counter intuitive to do so, but I'm going to see several change orders coming and they are eventually get to the \$21 million. Further, my fear, as was the case with another one of these contracts that we turned down last year, if we reject the bid, they are going to rebid and make their bid about \$3 million or \$4 million higher, but because I try to do what I believe is right, despite that risk I'm going to vote against the action.

Councilmember Cannon said I was one of those along with Councilmember Mitchell that had pulled this and spoke to it when it came up a week or so ago. I had made the motion on this to move approval but I'm withdrawing my motion and will leave that up to someone else as I will be voting no against this.

[Motion was made by Councilmember Cooksey, seconded by Councilmember Dulin, to]
[approve the subject contract.]

Councilmember Cooksey said I think it is not good business practice to chastise a firm for following our procedure. That is what this company did. We can have our differences about procedure and we can look into it, but they did what we have asked and they should not be criticized for it.

Mr. Mitchell said are you saying they followed procedure on reaching the SBE goal of they followed procedure in good faith effort?

Mr. Cooksey said on working with the program which has both a goal component and a good faith effort component, both of which have been approved by the previous Council because we are two months old, but both approved by Council and they did what Council expected them to do which was either meet the SBE goal or hit the right point target on good faith effort. That is what they did.

Mr. Mitchell said thanks for the clarification.

Mr. Cannon said who established the goal of 4%?

Barry Shearin, Chief Engineer, Utilities, said really in conjunction with our Department, Utilities and with the Small Business Office, we go through and do an estimate of the entire project and then we pull out those items that are believed to be subcontract opportunities, then they are looked at by a group of staff that work on SBE to determine how much is an opportunity for the available SBEs and that is how that number is calculated.

Mr. Cannon said so a goal was established of 4% and that is what we asked for so it sounds to me Mr. Cooksey that they didn't meet it, not with 2.59%.

Councilmember Kinsey said I plan to support this, but I think we need to know that if it fails where do we go next and what has to happen and how much more is that going to cost us in time and money. I think I know part of the answer, but Mr. Shearin will be better at answering that. If this fails Mr. Shearin, what happens next?

Mr. Shearin said at that point, presuming that the motion is to reject all of the bids and rebid the project then we would go forward putting the project back on the street for re-advertisement for a 30 to 45 day window at which all the bidders or additional bidders are open to rebidding the project. I think, as you've said, then the only caveat is now the price has all been exposed of all the bidders so it is hard to say exactly how the bids will come in the second time.

Ms. Kinsey said they go up.

Mr. Shearin said that is one of the actions that could happen with that much difference between the first and second low.

Mr. Cooksey said I appreciate the reminder that I need to speak very clearly when I explain a position. We have two components for this program, an SBE target goal and a good faith effort component and the requirement of the bidding company is to meet either one or the other. Yes, this company did not meet the SBE goal as the Mayor Pro Tem noted, but they did meet the Council required good faith effort to show they had tried to meet it. That is what we expect of them, either meet the goal or the good faith effort. They've done one of those and we should allow it.

Mr. Cannon said we addressed this way back in the day because good faith at one point simply meant or could mean that I could literally call you, pick up the phone and dial your number and if you didn't answer, I put forth the good faith effort. You could have been at lunch or you could have been anywhere, but the effort was set forth. It is incumbent upon me to really go beyond the expectation if I'm really going to be about the good faith effort. If I think that you may have been out of the office at that particular time, then why wouldn't I just call back later that day or a couple days afterwards. I wouldn't make that call largely in part because if I'm just merely trying to say that I meet the good faith effort but I'm not really trying to meet the good faith effort, then I don't make that call back to you. I go with my one attempt and leave it at that. We're trying to get beyond that and I think that is the issue Mr. Mitchell was pointing at, and with what is out there now we want to continue to encourage this good faith effort as best we can and I think staff has been doing that along the way. I applaud them for that, but I have to tell you, we have some people who just today are not trying to allow people to be a part of opportunity and we have to be doing all we can to make sure they understand that we want them to be about that opportunity, even if they don't want to try to go that route.

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

YEAS: Council members Autry, Cooksey, Dulin, Howard, Kinsey, and Mayfield.

NAYS: Council members Barnes, Cannon, Fallon, Mitchell and Pickering.

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ITEM NO. 10: (A) CONTRACT AMENDMENTS WITH CAROLINA WATER SERVICE, INC./BRADFIELD FARMS WATER COMPANY TO INCREASE THE PURCHASE PRICE FOR WATER AND SEWER SYSTEMS IN MECKLENBURG AND CABARRUS COUNTIES BY \$925,000; (B) CONTRACT AMENDMENT WITH CAROLINA WATER SERVICE, INC./BRADFIELD FARMS WATER COMPANY FOR THE PURCHASE OF WOODBURY SEWER SYSTEM TO ACKNOWLEDGE THAT SEWER CAPACITY FEES PREVIOUSLY PAID TO BRADFIELD FARMS WATER COMPANY ARE CREDITED TO THE WOODBURY SUBDIVISION OWNER IN LIEU OF PAYMENT OF FUTURE SEWER CAPACITY FEES.

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

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ITEM NO. 11: (A) CONTRACT BETWEEN THE CITY OF CHARLOTTE, THE NORTH CAROLINA DEPARTMENT OF COMMERCE AND MARBACH AMERICA, INC. FOR \$50,000 ONE NORTH CAROLINA FUND GRANT FROM THE STATE TO MARBACH; (B) BUDGET ORDINANCE NO. 4816-X APPROPRIATING \$50,000 FROM THE NC DEPARTMENT OF COMMERCE ONE NORTH CAROLINA FUND TO MARBACH; (C) APPROVE THE CITY SHARE OF A BUSINESS INVESTMENT GRANT TO MARBACH FOR A TOTAL ESTIMATED AMOUNT OF \$28,081 OVER THREE YEARS (TOTAL CITY/COUNTY GRANT ESTIMATED AT \$80,556.

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

The ordinance is recorded in full in Ordinance Book 57, at Page 508.

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ITEM NO. 12: CONCLUSION OF THE CONSENT AGENDA

**ITEM NO. 18: THREE-YEAR LANDSCAPE MAINTENANCE CONTRACTS
TOTALING \$2,218,898.84 WITH THE FOLLOWING:**

1. Southern Shade Tree Company, Inc.	\$314,391.48
2. Southern Shade Tree Company, Inc.	\$195,854.36
3. Southern Shade Tree Company, Inc.	\$ 28,883.71
4. Accolade Designs	\$153,660.00
5. Accolade Designs	\$ 97,560.00
6. Roundtree Companies, LLC	\$245,744.93
7. Roundtree Companies, LLC	\$122,004.00
8. Roundtree Companies, LLC	\$ 76,510.80
9. The Byrd's Group, Inc.	\$186,433.92
10. The Byrd's Group, Inc.	\$175,588.32
11. The Byrd's Group, Inc.	\$186,276.84
12. Caddell Turf Management, Inc.	\$ 54,054.00
13. A-1 Services and John Todd Landscaping	\$155,052.00
14. Edward's Landscape Co., Inc.	\$131,988.48
15. TruGreen Landcare, LLC	\$ 94,896.00

Councilmember Fallon said are they responsible for pulling up vines that are legally there?

City Manager, Curt Walton, said no ma'am.

Ms. Fallon said and how often do they ... the area?

Mr. Walton said they are on various schedules over the growing season.

John Lojko, Engineering and Property Management said depending on the contract itself it could be once a week or once every two weeks.

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

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ITEM NO. 21: (A) AUTHORIZE THE CITY TO APPLY FOR A GRANT OF \$200,000 FROM THE NORTH CAROLINA CLEAN WATER MANAGEMENT TRUST FUND TO FUND 50% OF THE CONSTRUCTION COST OF THE SHADOWLAKE POND WATER QUALITY ENHANCEMENT PROJECT; (B) AUTHORIZE THE CITY TO APPLY FOR A GRANT OF \$600,000 FROM THE NCCWMTF TO FUND 50% OF THE CONSTRUCTION COST OF THE WILSON POND WATER QUALITY ENHANCEMENT PROJECT; (C) AUTHORIZE THE CITY TO ACCEPT THE NCCWMTF GRANT IF AWARDED, AND (D) ADOPT BUDGET ORDINANCE NO. 4817-X APPROPRIATING UP TO \$800,000 IN GRANT FUNDS IF AWARDED.

Councilmember Dulin said this is another use of City money to retrofit a damn and a privately owned pond and without any skin in the game from the pond owner and I'm opposed to that so I will be voting no.

[Motion was made by Councilmember Howard, seconded by Councilmember Kinsey, to]
[approve A, B, C and D. The vote was recorded as follows:]

YEAS: Council members Autry, Barnes, Cannon, Cooksey, Fallon, Howard, Kinsey, Mayfield, Mitchell and Pickering.

NAYS: Council member Dulin.

The ordinance is recorded in full in Ordinance Book 57, at Page 509.

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ITEM NO. 22: CONTRACT EXTENSION WITH EJ SERVICES, INC. (DOING BUSINESS AS BALANCE STAFFING SERVICES) IN THE AMOUNT OF \$500,000 FOR TEMPORARY PERSONNEL SERVICES.

[Motion was made by Councilmember Pickering, seconded by Councilmember Mitchell, and]
[carried unanimously, that Councilmember Cannon be recuse from voting on this item.]

Councilmember Dulin said this is the Airport Parking and anybody that has been to the Airport knows that it needs to be upgrading and we are indeed upgrading it. Mr. Orr, I do want to make sure, does the upgrade of this equipment include new cashier huts? Those things are so old the windows are cloudy.

Aviation Director, Jerry Orr said yes sir, we are installing those now, but that is not under this contract. This is just a staffing contract.

Mr. Dulin said in our write-up is says installation of new parking revenue control system is currently underway and will be completed by June. The new system will substantially reduce the need for temporary personnel. I circled that this week-end and clearly didn't read it very well, but when will the new parking revenue control systems be in place. I haven't been out there is more than a month.

Mr. Orr said in June.

Mr. Dulin said that is including the new huts?

Mr. Orr said yes sir.

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

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ITEM NO. 13: APPOINTMENTS TO BOARDS AND COMMISSIONS

A. Privatization/Competition Advisory Committee The following nominees were considered for three appointments for two-year terms beginning March 2, 2012:

Emma Allen, nominated by Councilmember Howard
Steven Bock, nominated by Councilmember Dulin
Robert Diamond, nominated by Council members Cooksey, Dulin and Mayfield
Randall S. Miller, nominated by Council members, Autry, Barnes, Cannon, Cooksey, Fallon, Howard, Kinsey, Mayfield, Mitchell and Pickering.
Heather Myers, nominated by Councilmember Autry
Katherine Payerle nominated by Council members Kinsey, Mitchell and Pickering
Eric Sieckmann, nominated by Council members Dulin and Fallon
Owen Sutkowski, nominated by Council members Autry and Cannon
Brigit Taylor nominated by Council Members Barnes, Fallon, Mayfield, Mitchell and Pickering.
Alexander Vuchnich, nominated by Councilmember Cooksey
Adrian Woolcock, nominated by Council members Barnes, Cannon and Howard
Julian Wright nominated by Council member Kinsey

Result of the first ballot were as follows:

Emma Allen, 7 votes – Council members Autry, Cannon, Fallon, Howard, Kinsey, Mayfield and Mitchell
Steven Bock, 1 vote – Councilmember Dulin

Robert Diamond, 4 votes – Council members Autry, Cooksey, Dulin and Mayfield.
Heather Myers, 0 votes
Katherine Payerle, 3 votes – Council members Kinsey, Pickering and Mitchell
Eric Sieckmann, 2 votes – Council members Cooksey and Fallon
Owen Sutkowski, 3 votes – Council members Autry, Cannon and Mayfield.
Brigit Taylor, 4 votes – Council members Barnes, Fallon, Mitchell and Pickering.
Alexander Vuchnich, 3 votes – Council members Cannon, Cooksey and Dulin
Adrian Woolcock, 2 votes – Barnes and Pickering
Julian Wright, 1 vote – Councilmember Kinsey.

Ms. Allen was appointed.

A second ballot was taken on Robert Diamond, Katherine Payerle, Owen Sutkowski, Brigit Taylor and Alexander Vuchnich and was recorded as follows:

Robert Diamond, 2 votes – Council members Cooksey and Dulin
Katherine Payerle, 3 votes – Council members Kinsey, Mitchell and Pickering.
Owen Sutkowski, 3 votes – Council members Autry, Cannon and Mayfield
Brigit Taylor, 6 votes – Council members Barnes, Fallon, Kinsey, Mayfield, Mitchell and Pickering.
Alexander Vuchnich, 3 votes – Council members, Cannon, Cooksey and Dulin.

Ms. Taylor was appointed.

A third ballot was taken on Robert Diamond, Katherine Payerle, Owen Sutkowski and Alexander Vuchnich and recorded as follows:

Robert Diamond, 3 votes – Council members Cooksey, Dulin and Mayfield.
Katherine Payerle, 4 votes – Council members Barnes, Kinsey, Mitchell and Pickering.
Owen Sutkowski 3 votes – Council members Autry, Cannon and Mayfield.
Alexander Vuchnich, 0 votes

Councilmember Cooksey said he was supporting Robert Diamond because to my knowledge he hasn't had an opportunity to serve on a Citizens' Committee before. Ms. Payerle serves on the Citizens Transit Advisory Group and Mr. Sutkowski has served on this Committee in the past. That is the reason I keep voting for Robert Diamond, is to give him an opportunity to serve on this.

Councilmember Kinsey said the reason I'm supporting Katherine Payerle is that we just elected the first female and we need another female so I would ask you to support her.

A fourth ballot was taken on Robert Diamond, Katherine Payerle and Owen Sutkowski and recorded as follows:

Robert Diamond, 3 votes – Council members Cooksey, Dulin and Mayfield
Katherine Payerle, 6 votes – Council members Barnes, Fallon, Howard, Kinsey, Mitchell and Pickering.
Owen Sutkowski, 0 votes

Ms. Payerle was appointed.

B. Zoning Board of Adjustment The following nominees were considered by one three-year appointment:

Paul Arena, nominated by Councilmember Autry
Jennifer Coble, nominated by Council members Barnes, Cannon, Fallon, Howard, Kinsey, Mayfield, Mitchell and Pickering.
Mark Loflin, nominated by Council members Cooksey and Dulin

Results of the first ballot were recorded as follows:

Paul Arena, 1 vote – Councilmember Autry
Jennifer Coble, 8 votes – Council members Barnes, Cannon, Fallon, Howard, Kinsey, Mayfield, Mitchell and Pickering.
Mark Loflin, 2 votes – Council members Cooksey and Dulin.

Ms. Coble was appointed.

The following nominees were considered for two appointments for three-year terms beginning January 31, 2012 for alternate members:

Paul Arena, nominated by Council members Barnes, Cannon, Cooksey, Dulin, Fallon, Mayfield, Mitchell and Pickering.
Jennifer Coble, nominated by council members Autry, Cooksey, Dulin and Mayfield.
Rod Garvin, nominated by Councilmember Howard
Mark Loflin nominated by Council members Barnes, Cannon, Fallon, Howard, Kinsey, Mitchell and Pickering.
Lloyd Scher, nominated by Council members Autry and Kinsey.

Results of the first ballot were recorded as follows:

Paul Arena, 8 votes – Council members Autry, Barnes, Cooksey, Dulin, Fallon, Mayfield, Mitchell and Pickering.
Jennifer Coble, 4 votes – Council members Autry, Cannon, Cooksey and Mayfield.
Rod Garvin, 1 vote – Councilmember Howard
Mark Loflin, 7 votes – Council members, Barnes, Cannon, Fallon, Howard, Kinsey, Mitchell and Pickering.
Lloyd Scher, 1 vote – Councilmember Kinsey

Mr. Arena and Mr. Loflin were appointed.

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ITEM NO. 14: MAYOR AND COUNCIL TOPICS

Councilmember Mitchell said the Men Who Care Globally are having an appreciation breakfast Saturday, January 28th at Johnson C. Smith University. Please come out as it is a way of showing our appreciation for all the great work you have done in our community as Men Who Care Globally. It is free on the campus of Johnson C. Smith and breakfast starts at 8:30.

Secondly, this is for the citizens in District 2, my Annual Intelligent Leadership Conference will be scheduled Saturday, February 18th from 9:00 a.m. to 2:00 p.m. Please call 704-336-4947 to attend the Tenth Annual Intelligent Leadership Conference for District 2 citizens.

Mayor Foxx said let me thank the staff for a lot of hard work on these ordinances that we've been through. Curt, you and your team and Bob Hagemann and yours. I know it has taken a lot of time and a lot of energy and a lot of working with folks in the community and while everyone doesn't always appreciate the work you do, I think it is occasionally helpful for us to recognize that.

Councilmember Kinsey said I very much appreciate our Police Department being with us tonight. I really do appreciate it.

Councilmember Autry said they do a stellar job everyday and every night, everyday of the year and we certainly appreciate the work you do.

The meeting was adjourned at 8:36 p.m.

Ashleigh Price, Deputy City Clerk