

The City Council of the City of Charlotte, North Carolina convened for a Dinner Briefing on Monday, February 24, 2014 at 5:17 p.m. in Room 267 of the Charlotte Mecklenburg Government Center with Mayor Patrick Cannon presiding. Councilmembers present were Al Austin, John Autry, Michael Barnes, Claire Fallon, Patsy Kinsey, Vi Lyles, LaWana Mayfield, Greg Phipps and Kenny Smith.

Absent: Councilmember Ed Driggs

Absent Until Noted: Councilmember David Howard

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

Mayor Cannon said are there any consent items from the members of the body at this stage that need to be pulled please.

Councilmember Kinsey said I would like to pull item number 8 and I'm doing this because I think it's an important honor for the City and we should know about it. I'm sorry it's not 8. I've already talked about eight. Item No. 26 and like I said, it's an important honor for the City and I think that we should observe it as such.

Mayor Cannon said I think that's right. It's about partnerships. Councilmember Smith, 25 by Councilman Smith.

Councilmember Smith said no questions just observation.

Councilmember Mayfield said I actually have a couple of them and of course my modern technology is not working with me so one of them would be number 15, 31, 33 and 36.

Mayor Cannon said any other to be pulled?

Mayor Pro Tem Barnes said I just wanted to comment to the Manager and to the Council that I had pulled about six or seven items but over the course of a few days, Ms. Wall got me answers to each of them and I really appreciate her efforts and the staff folks who responded to her so I have two items to pull thanks to that.

Mayor Cannon said thanks for saving us some time. Thank you Ms. Wall. Any others to be pulled? Okay, I hear none and we'll have those researched and we'll come back to them towards the end of the dinner meeting.

### **ITEM NO. 2: REAL ESTATE ACQUISITION AND CONDEMNATION PROCESS**

Mayor Cannon said our first item for discussion is real estate acquisition and condemnation process. There's 20 minutes allotted for this. I don't know that we need it all but that's what we have and staff resources will be Brad Branham and Jeb Blackwell.

**Ron Carlee, City Manager** said this is part of our ongoing background presentations to do some level setting with the Council on our real estate process. We'll try to keep this relatively brief. Tony Korolos I think is going to kick it off followed by Brad Branham.

**Tony Korolos, Real Estate Division Manager, Engineering and Property Management Department** said my colleague Brad Branham, Assistant City Attorney and I would like to thank you for giving us the opportunity to present to you the real estate acquisition and condemnation process. There are three main reasons we feel that presenting this process to you tonight is beneficial and important. The first reason is the length of time the acquisition process typically takes. It will take up to 40 weeks per parcel to be acquired for any single project and it is important to go through the different steps in this process efficiently and diligently in order to protect owners' rights. The second reason this process, we feel is important, is the City has to provide just compensation to property owners and this is a constitutional right protected by the Fifth Amendment. Therefore, the City and my division specifically will go into great length of time and effort to ensure the citizens of this city are treated fairly. As you will see throughout

the presentation, there are tools in place to ensure that this goal is achieved. The third reason this process is important is ensuring collaboration and engagement with property owners to ensure that the property owners' voice is heard and their concerns have been addressed.

You might ask how many of these acquisitions Real Estate City staff will get involved in. The City will acquire about 2,000 parcels per year. Please understand that these acquisitions are not all for parcels. The acquisitions can range from a few square feet of right of use, what is normally defined as easement or it can be multiple acres of home ownership. Before we get into the process, you may ask why the City acquires property. Well every time the City builds a road, installs a sewer line, provides sidewalks, constructs storm drainage systems, builds fire stations or police stations, the city will have to acquire real estate. Does the City take full ownership of these parcels that we discussed earlier you may ask. The answer is no. The city will acquire different types of property interests. On many occasions the City will not acquire full interest in a property but rather a right to use a property for a specific purpose defined as permanent easement. Alternatively, the City will acquire a right to use for a specific period of time, defined as temporary easement which is typical for construction easement for example, two years, 12 months; it's a temporary period of time. In some instances, the City will acquire and pay for full ownership of parcels and that's very typical for fire station, police stations where we need multiple acres of land to put the fire station or police station there.

So now what is the actual process and what does it entail? The process typically starts after the project design is complete and before construction contract phase begins. The range of this process, as I have discussed, is 28 up to 40 weeks and there are different phases that would make up the 40 weeks. Initial contact phase will take four weeks; negotiation phase will take 12 weeks; appraisal phase will take 12 weeks, and Council agenda phase, six weeks; and the closing and the condemnation phase will take six weeks as well. What I would like to focus on first is the first three phases as you consume and demand most of the time which is the initial contact phase and the negotiation phase and the appraisal phase. In the initial contact phase, which typically takes up to four weeks, the real estate division will work with outside real estate broker's firm that specializes in right-of-way acquisitions to start the communication process with property owners. Within this crucial four week period, the real estate agents will send letters, make phone calls and will do personal visits to establish contact and a relationship with the property owners.

#### **Councilmember David Howard arrived at 5:26pm**

Mr. Korolos said in case a property could not be located we send them a certified letter as a final means of notifying the property owner with the process as well as the condemnation process. Once a relationship and contact has been established in the first four weeks, then comes the next phase which is very intense, which is the negotiation phase. This phase, as I mentioned, is very intense. It is a lot of contact between the parcel owners and the real estate agent and there real estate division and the most important thing to remember is the real estate brokers are working in a collaborative manner to discuss the design of the project and its impact and many times we redesign the project based on the input from the owners. Also the brokers are working to explain to the property owner the different options. They have the option to donate if they would like, however, the most important is its being explained to them that they are due just compensation. In many instances the compensation might not be monetary compensation but rather working with the property owner to plant trees or moving a driveway. If the compensation amount is monetary and staff thinks based on the tax and market data, that a property will be less than \$10,000, the staff will make an offer to the owner. This process, I repeat, is collaborative and the negotiation of value is taking place based on this information and based on this data. In addition, staff will consider a justifiable counteroffer; sometimes the owner will come back with a different number. As we work diligently to balance between safeguarding taxpayer's funds and rights for the owner to negotiate. Sometimes the offer gets accepted; sometimes we don't get accepted. However, if the property is over \$10,000, there are three points where we are required to do an appraisal. If the property we think is going to be over \$10,000, we are required to do a formal appraisal. Or if the owner asks us to do an appraisal, we are obliged to do an appraisal, or thirdly, if we think the property is going through condemnation, or not able to get in touch with the owner, then we also have to do an appraisal. So again, the appraisal process is very complicated, it's very intense. We go through our review process. The appraisal typically is 40-50 pages in length and we outsource that to about 10 different companies in the city that specialize in right-of-way acquisitions.

We also encourage property owners to obtain their own appraisal which helps emphasize the collaborative and the continuous dialogue with the property owner and many times we find it is helpful for the owner to have their own appraisal. We have our own appraisal and then we try to reconcile before we move forward and be in a happy place, if you will. In some instances, despite all parties' efforts, and their best intentions, the negotiations over compensation do not succeed, or there is a defect in the title that needs to be cleared through the condemnation process, or staff is not able to establish communication with the property owner. Under any of those circumstances, we are forced to transition from an acquisition settlement process into a condemnation process or a condemnation phase, if you will. Mr. Mayor and Councilmembers, the process may not be perfect, but one thing I can assure you of is that we here in the real estate staff, we spare no effort to protect owners' right of just compensation as well as a continuous dialogue to hear their point of view and consider their point of view. Now I would like to turn it to my colleague Brad Branham to present to you the condemnation process.

**Brad Branham, Assistant City Attorney** said I am the City's condemnation attorney. I am going to be speaking to you as Tony said tonight a little bit about the details concerning the City's condemnation process and how that actually works in function. I have come before the Council before to speak about the City's condemnation process and when you have a topic this fascinating, you assume you will be called for an encore so I am happy to be with you again tonight. My goals for this evening are simply to shed a little light on the realities about how the condemnation process actually works and impacts our citizens and also hopefully to dispel some of the myths about the negativity concerning the process itself. The most important thing that you need to know, and Tony has touched on this tonight, is that every time the City acquires a piece of property, regardless of it's for a small project, a large project or anything in between, each one of these acquisitions is driven by a very specific project deadline, a schedule that says the City must acquire the properties it needs to effectuate that project by a certain date. If we reach that date and for whatever reason we're not able to acquire even one of the parcels that we need, or the rights to a parcel that we need, then the City faces the consequences of jeopardizing its project or potentially even facing some financial consequences as a result. Therefore, when we reach that condemnation or project deadline, the City really must decide whether or not to put its project at risk or to use condemnation in order to acquire the rights that it needs. As I'm shooting all the way through the PowerPoint presentation again, I can tell you that the most important thing I think to understand about that deadline is that we approach it with the mindset that it's our goal to protect our project. We don't want to condemn anyone unless we have to but in those cases, the choice becomes, safeguard the project or put it at risk. I believe that in the eyes of the property owner, the average person who goes through this process, they see this deadline, this condemnation deadline, as a cliff that they are approaching very quickly and they fear that as they hit it, they will fall off that cliff and the very next day all of the negotiations are going to stop; they are going to be forced to expend significant legal fees in the process and they will very likely find themselves in trial within days. It's my belief, and I think reality backs this up, that these are simple myths about the process. In reality, I believe that condemnation is much more of a bridge than a cliff. It actually is the process that allows the city to move beyond that project deadline, acquire the properties that we need, or the rights to those properties that we need, so that our project is safe, but then also on the alternative side to permit the property owner and the city to continue our negotiations and that's really what I want to focus on tonight because in my mind, its condemnation that actually provides us in many cases the time we need with the citizen to work out the agreements that we all hope we will be able to reach.

We can look at this tonight focusing on three primary areas. First the process of condemnation that we actually go through, the benefits, and I'm talking about the benefits to the property owner, and finally the results; what are we actually seeing in process by going through this. When we start with the process, everything begins with you. The date that you approve as a Council any condemnation starts the ball rolling. But that is not in fact the date where the City actually gains access or rights to the property. Generally speaking, it takes about six weeks from the date that Council approves a condemnation before the legal documents are filed which actually gives the City the right to either use or beyond or own that property in question. The great thing about that six weeks is that, not only are we preparing the documents and getting ourselves ready to do what we need to do to condemn, but we are utilizing that process both in Tony's department and through my office to continue our negotiations with those owners and in many cases, in certain projects, we have seen extremely high rates of success in settling cases with property owners between the time that Council approves it, but before we've actually filed

the condemnations. So when we have those situations where people believe just another week, two weeks and we will be able to settle this, condemnation often gives us that time while still safeguarding the project.

The next big point on the timeline is one year. That second greatest fear that I think property owners have is that condemnation equals attorneys' fees and as an attorney myself, I don't want to harp on that too much; but it's important to note that the fear that property owners have that they must hire an attorney immediately, condemnation is very unique in this situation because unlike most civil lawsuits, property owners are given in the vast majority of the condemnations filed by the City, 12 full months before they are ever required to file any kind of legal response to condemnation documents. The great thing about that is that each property owner is given the right to hold off on hiring an attorney if they don't want to or if they chose not to. We utilize that time instead to talk directly with the property owners or with their legal counsel if they so choose, trying to reach a settlement and because that deadline of the project is no longer hanging over our heads and in jeopardy, both sides are much free to utilize that time effectively.

Finally, two years, the last and greatest fear perhaps for most people in condemnation is that they will be in front of a judge and a jury within days. Most people don't want that. The fact of the matter is it is generally two full years from the time that condemnation is started before any property owner would ever have to go to trial in those cases. And, as you will see shortly, it is a very very small percentage of people that ever opt for that option and you will see, I believe, that is because we have had such an effective rate of success in settling these cases without ever having to go through those legal proceedings. So, I think that the fear that people have with time very much is not true and does not come to pass once they get into the process and see how much time is provided at each step in the condemnation process. In fact, I like to say the condemnation gives us the gift of time that we need when that project deadline keeps us from having it pre-condemnation.

So let me talk to you a little bit about the benefits beyond time. We know that we get to have our negotiations ongoing and that's very effective especially without that deadline. But there are several other very specific benefits that the property owners have in condemnation. The first thing is that they get access immediately on the date of condemnation to the appraised value. Those funds are deposited at the exact same time that we file our condemnation paperwork with the Clerk of Court. Every property owner has the right to go and withdraw those funds immediately the same day. So although we may continue to negotiate a final price that we can agree on, the vast majority of the amount that we have purchased or acquired or taken, is available to them instantly. So they don't have to wait for those funds. Third, every single property owner or citizen who goes through this process has direct access to myself, not that I'm so spectacular to deal with but we put this up there because it's important to note that...yes Mr. Mayor?

Mayor Cannon said I have Councilman Phipps please.

Councilmember Phipps said you just indicated that the property owner would have direct, immediate access to those funds. So by virtue of the fact that he chose to take a portion of those funds, that doesn't really tie him to that amount.

Mr. Branham said that's an excellent question and the answer is yes, that's exactly right. What happens is they are allowed to get those funds irregardless of what the final agreement may or may not be. Whether they go all the way through a trial and let a judge or a jury determine it or we settle the case with that property owner down the road, taking it out doesn't prejudice them from whatever may happen after the fact. What it does is it allows them to get access to those funds so that the vast majority of what is owed to them, they have it available to them and don't have to wait. They can then get more as we negotiate down the road.

Back to the PowerPoint now again direct access to the condemnation attorney regardless of representation and that's the important part that I want to stress. We provide ourselves, myself specifically, make myself available to every property owner regardless of whether or not they decide to hire an attorney and we negotiate with everyone exactly the same providing them that access so that they are not required to expend legal fees in that long process that we talked about if they chose not to do so. It's important to do that because we don't want to put anyone in a situation where they must hire legal counsel if they chose not to. So we are always happy to deal

directly with an attorney or a representative, or the individual themselves. And next, and I think probably most effective, is mediation. Mediation is a court mandated settlement conference overseen by a trained professional that sits down with the City and the property owner and helps us try to settle our affairs with them. This is a non-binding settlement conference which means that any settlements that come out of these conferences are not forced on the property owner but rather they are voluntarily agreed to and as you will see again in one second; this has been an extremely effective tool for the City and the citizen to reach these agreements. For those property owners, which you will see again, is a very small percentage who do not end up settling their cases with use throughout this process, utilizing any one of these tools, they have the right to have a day in court. They can go in front of a judge or a jury of their peers, their choice, and let that body or entity determine how much they should be paid and this would only happen after an extended amount of time and after we have gone through all of these processes to try and help them reach an agreement with us.

So how is all this actually working in process? We can look at a couple of quick results and see.

Councilmember Howard said back to the slide before that. How much of that is actually required? Do they have to go through all those steps?

Mr. Branham said absolutely not.

Mr. Howard said do they have to go through mediation, is that a requirement?

Mr. Branham said they are only required to go through mediation if we are nearing the point where a trial would happen. The court wants you to go through that process in order to try and give people the ability to settle cases without a trial. But no one is required early on to go through that process. In practice, mediation probably would not happen for anywhere from three to eight to nine months after the filing of our original documents. So, as long as we're negotiating, we can settle many many cases without ever even having to go through that process. But if we make it that far, it is an extremely effective tool to help us settle it without having that property owner having to go to court.

Mr. Howard said I just want to make sure the property owner didn't have to wait a year. They can file anytime they want.

Mr. Branham said they can file immediately if they choose. That's an excellent point because property owners are given the right to wait or the right to move; and if they move, all of this can be expedited and moved up very quickly.

So back to our results; the first result I want to share with you is over the past approximately two years, 65% of the condemnations that the City has filed have settled without ever even going to mediation. I point this out to show that the majority of cases that we are dealing with in condemnation are being resolved without ever going through a legal proceeding, no mediation, no trial, nothing and the majority are still settling because we are utilizing that time and we're getting stuff done.

Of the cases that make it to mediation, just of those who go to mediation, three out of four are reaching voluntary nonbinding settlements that the property owner walks out of mediation saying that are now happy with the amount of compensation they're going to receive and we get those cases resolved. But the best that I think, the most important number is this last one. 98% over the past approximate two years of the condemnations that we have filed with the City; 98% have settled without going to trial. The flip side of that is that only 2% of the people that we condemn feel before trial that we're not able to reach a settlement that they can be happy with; only 2%. But for those 2% who do chose to go to trial and have their day in court, the law provides even additional protections for those people. Any additional money they get, they can gain interest awarded by the Court on that additional money and that's their payoff for waiting for that money. The second, they can also recover some of the costs that they have had to expend to go to court. So it is for those people to not discourage them if they would like their day in court. We can see through the process that all along the way in each step, the majority of these cases are not just settling but reaching voluntary agreements.

Councilmember Fallon said I'm slightly confused. You said that they could get and use money before it was settled. Now you just said they get interest on the money if they come to a settlement with you on the money that they couldn't use. Can they use it or can't they use it?

Mr. Branham said that's a great point of clarification that I should make now. Originally we appraise properties to figure out exactly what the value appears to be. That money is deposited with the court immediately the same day that we file condemnation. The property owner can go to the court that same day and withdraw that money, the appraised value. But if they still don't agree that that's the final value, we go through this legal process to determine, either by settlement or by court ordered mediation, what the final real value is going to be. It's that initial amount plus whatever gets added. If whatever gets added, if it happens at court, is over what the original appraisal is, they get that plus interest on that additional amount.

Ms. Fallon said and if it's less?

Mr. Branham said if its less, which is a fairly rare case because quite frankly, if the City has an appraisal, we won't argue that its less than that appraisal, but if it is, the City, they won't get any interest on any additional money but they will have gotten what the appraised value is already in the process.

Ms. Fallon said in other words, they don't have to give back anything.

Mr. Branham said they will not be giving back any in those situations.

Ms. Fallon said thank you.

Mr. Brahman said thank you ma'am. So as we can look at these results that we've seen, included with some of the protections that are provided for those people who want to use the full process, I think we can see, first and foremost, that the numbers clearly show the process is working, but not just for the City, but for the citizens as well. I think this is the case because we have always and will continue to focus our condemnation process and procedures on two primary goals. First, in every case we want to safeguard taxpayer funds, treat that money with respect. But also, and equally as important, we want to ensure that every property owner receives just compensation for any property interest, or in total, that we affect or take. It's my belief and my opinion, that these two things go hand-in-hand and if done properly, we can ensure that the City will never pay more than it should but that the property owners themselves will receive everything that they're owed. If that's the goal that we achieve, I believe we've been successful in this process. That being said, I will open it back up to any questions that the Council may have for myself and Tony and I will thank you again for your attention.

Mayor Cannon said thank you so much for your presentation.

Councilmember Mayfield said well it really isn't a question. I would like to say thank you for the presentation and for full disclosure. When there is a discussion of condemnation and the resident comes forward, it's still our responsibility, and I do need to make sure that their concerns are heard. But I appreciate the fact of you explaining this and when within the next week or so I'm quite sure I'm going to question the condemnation, but for me it's really to make sure that the entire community has opportunity to understand what our process is. So when we're sitting at the dais and there's an opportunity for conversation, it's just another way to make sure that we have as much transparency in the process as possible, so thank you for going over this explanation for us this evening.

Mr. Branham said you're quite welcome and as it should be.

Councilmember Phipps said is there as part of the negotiation process, is there an amount, a percentage over the appraised value that the City would be willing to negotiate with customer, maybe 5-10% above the appraised value, or does that have to be supported by appraisal?

Mr. Branham said this may be a two part answer and I will let Tony address that answer with regard to the real estate acquisition phase and I will add anything regarding the condemnation process to that.

Mr. Korolos said there is no set percentage, per se, five or 10 or 15. There is no set percentage. We use information whether its tax information, whether it's comps in the area for recent sales and we use the opinion of professional brokers in the area. Based on all this information, which is all opinion, we establish a value if it's less than \$10,000. But it's a negotiation, so the property owner will come with value based on their research. We'll come with our value based on our research and we'll try to meet in the middle somewhere, in a happy place if you will. Does that answer the question?

Mr. Branham said the only thing I will add to that is the philosophy that I take, and I know the real estate department takes, is that our goal is not to deal so much with percentages but to pay the property owner what they're owed. In some cases, that may be pretty close to where our appraisals are, but there are unique cases where, quite frankly, something comes up which changes the mind of both our valuations, our appraisers and in those cases we don't want to be married to those percentages; our goal needs to always be focused on those two goals that I talked about, never paying more than the City should, but always paying what is owed, and that can vary beyond those percentages.

Mayor Cannon said thank you very much, I appreciate the presentation. That would have been our one and only item so if we can address consent items that Councilmembers Kinsey, Smith and Mayfield asked for explanation on, that would be great.

### **ITEM NO. 3: ANSWERS TO MAYOR AN COUNCIL CONSENT ITEM QUESTIONS**

**Ann Wall, Assistant City Manager** said I'll go through the items that the Council had pulled. Item number 15 regarding the Police Asset Forfeiture Appropriation, this is an appropriation of the forfeiture funds. It is not a purchase of the digital crime scene software or program. What will happen is once the funds are appropriated, the police department will go through our request for a proposal process. They will identify possible vendors and possible options and when they are ready to make a selection, they will bring that back to the City Council for their approval.

Councilmember Mayfield said and just for clarification sake, the reason I asked the question is, even though we will be moving forward with releasing these dollars, I want to make sure, because unfortunately the current process is just a very time consuming and inefficient process, I really want to make that we're really looking at the best option for the City of Charlotte moving forward not just for the next year or two, so thank you for getting that information.

Ms. Wall said thank you. Councilmember Smith pulled Item number 25. Ms. Kinsey pulled Item number 26.

Ms. Kinsey said I just wanted to pull 26 to say something about it downstairs.

Ms. Wall said Councilmember Mayfield had a question regarding Item Number 31, the Airport Bus Purchase. Just to clarify, this is not a piggyback. This is a purchase under a cooperative purchasing agreement which is a provision allowed in North Carolina purchasing law and the City has used that manner to purchase vehicles in the past.

Ms. Mayfield said thank you.

Ms. Wall said there was also pulling Item No. 33 and 36 for discussion tonight at the Council meeting and finally Councilmember Phipps had raised a question regarding the Clean Water Revolving Fund Application and why it is that the City didn't get it. It's a ranking system. We didn't achieve enough points and we're hoping to reformulate the project and make it more competitive in the process the next time. Thank you.

Mayor Cannon said are there any comments or questions? Is there anything else because if not, we do have an item that we can address for closed session rather than having to keep you all after hours tonight, but it looks likes Councilman Phipps does have something before we get to that.

Councilmember Phipps said at the business meeting this evening I intend to request that we defer public comment on the Prosperity Hucks Area Plan and allow the Transportation and Planning Committee to continue to discuss the plan. I have been in contact with a number of residents of the Prosperity Hucks area who have questions about the plan and its impact on them and the

neighbor. As a matter of fact, I was at an early morning meeting this morning and met with 17 individuals, including the Pastor of Mallard Creek Church over there. These residents have not been able to arrange their schedule to meet here tonight and have asked that we defer the public comment on the plan so that they can attend and speak at a future date. Hopefully, it won't be too long stretched out. A delay will allow staff to meet with this group of residents and to try to address any remaining issues; so I would respectfully request that Council would go along with this tonight.

Mayor Cannon said you mean defer it.

Mr. Phipps said defer it.

Mayor Cannon said would that be to the next business meeting?

Mr. Phipps said we're working on that. Hopefully it will be then, so we are planning to meet hopefully next week with the group prior to then, so we're going to expedite it as soon as we can.

Mayor Cannon said so then at this point you just want to defer in general.

Mr. Phipps said right.

Mayor Cannon said without putting any time constraints or timelines on it. Is there any opposition to that? There is opposition?

Councilmember Howard said question, what about the residents [inaudible] ....

Mr. Phipps said we've been in contact with them throughout the day and there were three of them that really signed up. Well two of them were at this morning's meeting and one of them I've got hold of on the phone this afternoon and told them of our intentions.

Mayor Cannon said if there's no opposition then we'll go ahead and allow that deferral to take place and bring it back when the proper time comes to do that.

**ITEM NO. 4: CLOSED SESSION**

<p>Motion was made by Councilmember Barnes and seconded by Councilmember Fallon and carried unanimously pursuant to North Carolina General Statutes Section 143-318.11(a) (3) to go into closed session to consult with attorneys employed or retained by the City in order to preserve the attorney-client privilege and to consider and give instructions to the attorneys concerning the handling or settlement of the Airport Noise Lawsuits listed in Attachment 1 in our agendas.</p>
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The open session recessed at 5:58 p.m.

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The Council reconvened in the Meeting Chamber of the Charlotte-Mecklenburg Government Center at 6:47 p.m. for their Business Meeting with Mayor Patrick Cannon presiding. Councilmembers present were Al Austin, John Autry, Michael Barnes, Claire Fallon, David L. Howard, Patsy Kinsey, Vi Lyles, LaWana Mayfield, Greg Phipps and Kenny Smith.

Absent: Councilmember Driggs

**INVOCATION AND PLEDGE OF ALLEGIANCE**

Councilmember Smith led the Council in the Invocation. Councilmember Howard led the Pledge of Allegiance to the Flag.

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## **AWARDS AND RECOGNITIONS**

Mayor Cannon said this week for the City of Charlotte is one where we have a big event going on. The CIAA Tournament happens to be here in the City this week. It's been a huge economic generator for our community, some \$29M in direct spending, some \$47M in indirect spending and we are indeed happy to have the tournament back here again. A lot of great things will be going on this week. You don't want to miss the opportunity to go out there and hang out with the fans at the convention centers. There's going to be something everyone to engage in. But I'd like to recognize Councilman Al Austin for a proclamation to be read.

Councilmember Austin said members of Council and members of the audience, its truly going to be an exciting week so I have the proclamation here and it says.

**WHEREAS**, the Central Intercollegiate Athletic Association (CIAA) Men's and Women's Basketball will celebrate its 69<sup>th</sup> annual tournament; and

**WHEREAS**, the CIAA is expected to generate approximately one million dollars in scholarship funds for member colleges and universities in 2014; and

**WHEREAS**, the City of Charlotte will host the CIAA for a ninth year with 22 games and tens of thousands of fans and guests expected to attend over a five day period; and

**WHEREAS**, this tournament provides an opportunity for the CIAA family to come to Charlotte to reunite with classmates, alumni, and friends in the vibrant atmosphere of Uptown Charlotte; and

**WHEREAS**, Charlotte is proud to be the CIAA Tournament Host City to showcase our world-class customer service and southern hospitality; and

**WHEREAS**, the CIAA tournament provides a positive impact for the City of Charlotte through economic benefits to hotels, restaurants, rental companies, services, entertainment venues and temporary employment:

**NOW, THEREFORE**, I, Patrick D. Cannon, Mayor of Charlotte, do hereby proclaim February 25 – March 1, 2014 as

### **"CIAA WEEK"**

Mayor Cannon said thank you Councilman Austin. In as much as it will do Charlotte well and hopefully even the CIAA, the biggest winners in this will be the students; the student athletes, those who are in need of scholastic dollars in order for them to receive a higher education. So, inasmuch as we can continue to be about trying to promote higher education, let's certainly do so through both the public sector, private sector, non-profits and even faith-based as best we can to help someone to achieve their dreams. Thank you all so much for your indulgence. We really appreciate it.

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### **CITIZENS' FORUM**

Mayor Cannon said this will now take us to the Citizens' Forum. We have several speakers here tonight.

#### **Charlotte Black Film Festival**

**Tommy Nichols, Woodvale Place** said I am founder of the Charlotte Black Film Festival and for the last four years we have been empowering, equipping and promoting the Charlotte Arts community as well as the local filmmakers of color. We think it's very important to have a vibrant growing arts community as well as a growing film community of diversity and so we've been doing that and over the last four years, we have been working very very hard to grow it and so Thursday through Friday, we have over 24 films we are going to screen. Workshops, panel

discussions, networking and so I'm here to do a personal invite to you guys. We want to welcome you to our fourth annual event as well as ask you for your support in what we're doing.

Mayor Cannon said thank you Mr. Nichols—appreciate the invitation.

Councilmember Howard said I just wondering if you emailed that information to us already.

Mr. Nichols said I have not but I can. This guide details everything from A to Z, that I can e-mail to everyone.

Mayor Cannon said Mr. Nichols you can call to make sure you have the proper address (704) 336-3184 to get that information. Thank you.

### **National Hook-Up of Black Women, Inc. Annual Meeting**

**Patricia Lee, 520 Northwest Corel Bells, Ct., Concord** said I am the founder and president of the National Black Women, Queen City Chapter. I would like to take this opportunity to thank you for allowing me to give you some information on our organization. The National Hook-Up of Black Women Incorporated was founded in 1974 by Dr. Arnita Young Boswell. Dr. Boswell with other Black women, legislators and community leaders met to discuss and develop strategies for empowering black women and their families. What began as a small group of dedicated women almost forty years ago has blossomed into a strong national non-profit organization. We have 21 affiliate chapters throughout the state with our newest chapter being Atlanta, Georgia, Danville, Virginia and Louisville, Kentucky. Our programs are but not limited to domestic violence, illiteracy.

Our mission is to provide the tools and resources to combat this epic epidemic at the ground level. We plan to put a book in every home and support parents as the child's first and most important teacher. We plan to increase literacy and promote a child's successful transition into the educational school system through outreach and increase the awareness of parents about the importance of reading readiness for children, birth through five years of age. Collectively, our chapters have placed over 25,000 books in the hands of our young. This endeavor is supported by our Annual Reading for Life Program which is supported by our 21 Chapters. The National Hook-Up of Black Women Inc. is dedicated to continuing to foster and promote a literate nation. The Queen City Chapter of the National Hook-Up of Black Women was established in 2009. Since its inception, the Queen City Chapter has partnered with My Sister's House, Friendship Missionary Baptist Church, NC Human Trafficking, Northridge Middle School, Carolina Refugee Resettlement Agency, Democracy NC and the League of Women Voters, just to name a few of our collaborations. Our chapter initiated a teen overcoming pressure where we conduct regular workshops on teen dating violence, human trafficking, cyber-bullying both negative and the positive influence of peer pressure. We have presented these programs at Jonahville Zion AME Church, China Grove AME Church and various community organizations. Thank you for allowing me to give you a little information of who we are and what we do.

**Beverly Foster 2221 Rozzelles Ferry Rd.** said I just wanted to quickly put our organization into a historical perspective. Dr. Arnita Young Boswell was the daughter of the late Whitney Young Sr. and the sister of the late Whitney Young Jr. and also just wanted to let you know that this is the 39<sup>th</sup> meeting and Charlotte has been honored to be selected as the host city.

### **Update on the Catawba River District**

Mayor Cannon do we have Robb Little and Burt Phillips here? We do indeed and they are both on the executive board of the Charlotte based non-profit organization and would like to share a little bit of information about their annual update to the Mayor and Council.

**Burt Phillips, P.O. Box 680486** said I am Vice President of The Catawba River District. Thank you for your time tonight and your consideration. The Catawba River District is a regional organization, non-profit that was started six years ago to advance sustainability water quality, economic and community development in the area straddling the Catawba River that includes much of northwest Charlotte and the U.S. White Water Center Park are in this area. Also a new CMUD water treatment plant is in this area. Belmont and now significant portions of Mount

Holly are in this area too and as you know key parts of our watershed areas that include much of the great recreational amenities for this area. This land is really rich to Charlotte and to the region for many reason, but ... has it challenges...economically, education standpoint and environmental challenges. The Catawba River District should advance from an economic and environmental water quality standpoint. As we started this, we ran into a tough economy so fiscal development became very difficult as you might imagine. What was great on the other hand was we have education constituents including UNC Charlotte's Stem Center, the Gaston County Schools and CMS Schools who got what we were doing. They have become part of the Catawba River District and are now a formative part of our programs. Robb Little will tell you more about what we are doing today to advance this and I would like to say that this council endorsed the Catawba River District two years ago as did Belmont and Mount Holly. So we are here to report and keep you apprised of what we are doing.

**Robb Little, P.O. Box 680486** said tonight we really would like to thank you and the City of Charlotte for your continued support particularly through the partnerships that we share City officers and other affiliated groups. Here are some specific upcoming events and initiatives we'd like to share with you. First up, the ultimate Schoolyard Garden at the Southern Spring Home and Garden Show, this was on display this weekend and it will also be on display this weekend—Friday, Saturday and Sunday. The display garden supports and illustrates school based achievements in stem educations—science, technology, engineering and math as well as collaborative hands on learning and I know Ms. Mayfield and Ms. Lyles were out and we appreciate your kind comments about our display. We are obviously very proud of it. Thank you very much. We are also coordinator of the Green Teacher Network. We are a cornerstone leader in this newly established team which hosts quarterly workshops on gardening and grants an experiential component to children's' curriculums exposing students to the outdoors. And the third thing that we have upcoming of interest is the Piedmont Natural Gas Eco Footprint Challenge. We are administering this for the second straight year and it's another hands on learning competition for our area schools. I've got a copy of our 2013 annual report and our 2014 plan of work that I'm going to leave for you to pass out. Thank you all for your support.

Mayor Cannon said very well and thank you so much for your presentation. I also want thank Councilwomen Lyles and Mayfield for being on hand and being very supportive, representing the body accordingly. Thank you all so much for that. Thanks gentlemen.

### **Juvenile Delinquency**

Mayor Cannon said Ms. Newsome would like to introduce a non-profit program to help reduce the number of juveniles in the court system and increase high school graduation rates.

**Genesia Newsome, 8644 Coralbell Lane,** said I'm the founder of New Way Foundation which was founded in 2011. We started with 10 young men in 2011 and in 2012 and 2013, we actually grew and actually service over 100 youth. We started with just ...tutoring and mentoring to the children in the community from kindergarten to 12<sup>th</sup> grade and we actually had our first academic summer camp last year also which we serviced 20 summer campers. What we did was sat back, realized what it is that we can do to actually reach the youth in the community. That's where Upward Youth Academy comes in place; Upward stands for revitalizing our at risk youth. What it is is a quasi-military academic youth academy which services at risk youth from 16 to 18 years. If they are tied up in a juvenile court system, that they have the possibility of dropping out of school or if their parents feel that they are just out of control, they need a structured environment. What it is is a 20 week residential military academy, residential, where we also have 32 weeks post residential. It's based off of military values so we have 74 components which is academic acceleration, vocational skills, life skills, health and hygiene, community service, productive citizenship and also physical fitness. Any parent that is notified the court that is not able to handle their child will be required to go through parenting classes and also parent support groups in order for their child to graduate our program. The cadets, they will have an opportunity where they will get their GED through our partnership with Central Piedmont Community College. They will also have an opportunity to do internships if they get their GED early and they will also have the opportunity of taking college courses while they are still within our program. There is one other project that I want to bring to your attention also that we've been working on and it's to bring awareness to suicide and also bullying within our youth. Me personally, I work with a 13 year old who actually committed suicide so it touched me dearly

and it's something that we are really passionate about. What we're trying to do is have two plays, one for suicide and also one for bullying that leads to suicide. We want to have youth ages 13 to 18 to actually help put together the play and also act in the play. So that way other youth can actually see what's not being seen. You can see youth picking on a child on a peer about their sneakers that actually hurt them and lead them to committing suicide but also show our youth that suicide is not temporary, that it's a permanent thing. We are looking to have our performance in September and also have a ... to bring awareness to suicide and also bullying in September and we would like the City of Charlotte to also help participate in this project. Thank you.

Mayor Cannon said how awesome that is. (Applause) Genesis I do have a question. How are you funded per se?

Ms. Newsome said right now I've actually been applying for federal grants. We've got a 501(c) (3) last year in June. I've actually personally been funding the organization since 2011. That's how passionate I am...I care about these kids and it's just something that I'm real passionate about. Everybody that I have on board, we just want to help these youth to prevent them from going through the same thing that we went through as kids.

Mayor Cannon said well if you ever need a letter of reference, I don't know if there's anybody around this table that probably wouldn't give you that. You certainly will have it from my office.

Councilmember Austin said just quickly if someone wanted to reach you, we've got an audience here, how would they reach you?

Ms. Newsome said you can reach me on office number which is (704) 497-3862 and also my email, which is [gnewsome@newwayfoundation.com](mailto:gnewsome@newwayfoundation.com), our website address [www.newwayfoundation.org](http://www.newwayfoundation.org). Is it okay if I leave my business cards with you?

Mayor Cannon said please you can leave them right here with the Clerk.

### **Accountability of Elected Official**

Mayor Cannon said Mr. Gipson would like to speak about holding elected officials accountable not only on the local level but on the Federal level and don't forget the State.

**Jarrod Gipson, 1921 Willow Haven Lane,** said I'm speaking from the heart today so if I go over the time just let me know. I recently graduated from Fayetteville State University in spring 2013 so definitely a great accomplishment for me and accomplishment for my family and definitely proud to be here and be present in this environment right now. What I wanted to discuss today is accountability, as he mentioned already. This is as far as holding our elected officials accountable on the Federal level, local, State—however you want to put it, just holding us accountable for our actions and I have to really commend Mayor Patrick Cannon because he spoke out against issues that he felt like was affecting the youth and a lot of positions were based on morality which I think that is something that we pretty much lost in politics in today's society. I mean when he protested the Charlotte Area Transit System for posting different ads with alcohol and things he felt like would be self-destructive to the youth, he took that stand and to him it was more about the morality. It wasn't about being politically correct, whether we agree with his stance or not, we have to admit that he was passionate about that. Not only that, but even on a Federal level holding our President accountable for his action and I don't know about anybody else, but me personally, I see a huge difference compared to the criticism of the Bush administration compared to the criticism of the Obama administration and I'm here to just be a reminder that it's not really time to relax too much and get too comfortable. We have to start holding these elected officials accountable and especially with the wars and things going on, we were avid about supporting any effort that we could in order to speak against the war when President Bush was the president, but I feel like we haven't done the same thing with Obama and hold him accountable for his actions and general policies and things of that nature. It doesn't mean that we hate Obama, it just means that we love Obama so much that we want to make that he grows as a president and not just as a president but as an individual. So I come here today to ask us, not even ask I should say, challenge all of us in this room to begin today and from this

day forward to start holding all elected official accountable and I just wanted to say once again that I'm speaking from the heart. I didn't write anything down so it's kind of a little bit hard for me, but I really appreciate you guys giving me time to speak.

### **Rezoning Issue**

Mayor Cannon said Mr. Brown would like to speak about a completed rezoning issue pertaining to the Southeast corner of Steel Creek Road and I-485. He was informed that the rezoning would be for commercial use and not residential use.

**Leighton Brown, 11924 Springpoint Lane** said I represent the people from Clearview Acres which is as you mentioned is in the southeast quadrant of the intersection of I-485 and Steel Creek Road. The master plan for the land use has been changed I believe last August or September to be for multifamily and residential use, and that in our opinion, is not a very good use of the land. By the way, I brought a petition from the people; signed by 12 of the 13 families and we think the 13<sup>th</sup> will join us with that but there is copies for each of you that the Clerk has.

I spoke with our representative, LaWana Mayfield back several weeks ago and she was telling me that this was done with meetings in the community. All of the people about Clearview Acres that I have spoken with, not one received any information that those meetings were being held. Earlier in January of last year, my sister and I visited the Planning Department asking about that, we were planning to sell our property. We still are and we have a contract. They told us it could be rezoned for commercial use. We had our property appraised. The appraiser visited the Planning Commission; he was told and his assessor was told that it could be resold for commercial and yet when we attempt to do it, we were not allowed to because of this change in the planning use of the property and we don't feel it is correct.

We also feel like for the use of this property of multifamily, it's not an ideal situation because of all the traffic that is out there. I'm sure you're all aware that this summer, this premium outlet mall will be opening, which is directly across the street. Traffic is going to increase tremendously. At the present time, traffic is there 24 hours a day and it just has become not an ideal place to live and to want to put more residents in the area out there, in our opinion, is not a very good idea. Also, in the four quadrants, three of them are presently zoned for commercial; directly across I-485 is a distribution center being built right now across the street from it there's a little strip mall.

Mayor Cannon said Mr. Brown I have to get you to wrap up. That's your time.

Mr. Brown said I didn't realize that I didn't have that much time but we ask that you consider changing this classification for our properties so that we can use it for the highest and best use of the land.

Councilmember Howard said just to make sure that I'm clear, which quadrant are you talking about? You're talking about where the new sign went up for the BoJangles and the gas station on that side of 485?

Mr. Brown said on that side yes sir.

Mr. Howard said so you're neighborhood that is between...

Mr. Brown said between that and 485. It's that property. It's residential at the current time but because of all of the development that has taken place, it's just not an ideal situation; not an ideal place for residential use.

Mayor Cannon said thank you very much sir, appreciate your feedback.

### **Google.com/Fiber**

Mayor Cannon said he'd like to introduce a new internet service provider and ask for the Council's support.

**Malcolm Zapata, 932 E. Woodlawn Road,** said I'm here representing the young community of the Charlotte region requesting your leadership to deploy Google Fiber in the Queen City. Mr. Cannon, you recently issued a press release indicating that you and your fellow City Council members are currently in discussions with Google about bringing Google's fiber optic network to Charlotte. We are here to encourage the City to work with Google and support their efforts to bring this technology to the Queen City; thus, strengthening our position in the national economy and attracting the next wave of technology entrepreneurs here in Charlotte, North Carolina.

On March 24<sup>th</sup>, we would like to revisit this topic and bring along supporters to the meeting. In only four short days, we have already assembled a Facebook interest group specifically for this topic with over 800 members who are interested in learning more about what is necessary to ensure that Charlotte is chosen as the next city to benefit from this high speed internet technology. We are eager to listen to the results of your discuss in the coming weeks.

Councilmember Phipps said I know Mr. Zapata made reference to he was speaking on behalf of the young community in Charlotte, but I can tell you that more seasoned members of this community, around this dais and the city as a whole are equally excited about this announcement as well.

Mr. Zapata said I'm glad to hear that but I can only speak for the younger community.

#### **CMPD Internal Affairs (Citizens Academy)**

**Thomas Lee Sowers, 1210 Green Oaks Lane, Apt #C** said I'm a Charlotte resident; a citizen of District One. I want to speak about my experiences with CMPD, CMPD oversight. This was a big topic last year and you guys made some good changes. I appreciate that. I would like to also address Citizens' Academy, if I have time for that. I gave the City Clerk handouts. I won't get into the details of my experiences. The handouts should speak for themselves.

I was a victim of an assault and battery on September 24, 2011. CMPD was called on scene that night. Nobody was arrested for assault and battery. It took me six days to have CMPD take a statement from me and two eyewitnesses. That was on September 30<sup>th</sup> after making numerous phone calls to the department. The officer that I spoke with did not relay the events that I explained to him and my two eye witnesses. He fabricated them. He created a situation that did not exist. I went through the CMPD chain of command to have their report corrected. You have four copies of the same police report, different versions. It took me two weeks to get that corrected. This is three weeks after the crime occurred. As you can see, there are the four different versions and I have highlighted the dates so you can see those.

I filed a complaint against the officer that took my statement with CMPD's Internal Affairs. I received their disposition on June 26<sup>th</sup> 2012. You have that disposition as well. CMPD said this incident was unfounded. Why do you have four different copies of a police report for an unfounded, which means it did not exist? On July 3<sup>rd</sup>, I filed an appeal with the Citizens Review Board to have this brought up in front of the CRB. I did not hear anything back from the CRC, Citizens' Relations Committee and I did not hear anything back from the CRB. Since that time, I've learned much about the CRB. I was involved last year with your changes and I appreciate those.

In January of 2013, I applied to CMPD Citizens Academy. I also signed up with two community education workshops which were prerequisites for the CMPD citizens' academy. In March, I was informed that I was denied, not accepted into the Citizen's Academy. I inquired why. I have yet to receive a reason why based on written policy. My understanding is you have to be a convicted felon or convicted of a class one or two misdemeanor within the past three years. That doesn't apply to me. I'm still waiting for an answer for that. I also filed a complaint with Internal Affairs for the events that occurred, officers on scene on September 24, 2011. I'm waiting for an answer from Internal Affairs on that. I'm just here to try to get some answers. It's unfortunate that I have to come in front of City Council to get answers that we pay for as taxpayers as the Citizens of Charlotte. I know I am not the only one that has experienced these circumstances. CMPD has a large portion... Thank you for your time.

Mayor Cannon said Mr. Sowers thank you so much for coming. Mr. Manager, I recall, I know, in the past in having some conversations with this gentleman, I know that the Chairman of Community Safety, Claire Fallon also has had some conversation with him. It's my understanding that he was to have an opportunity to be able to go through the Citizens' Training Academy. If that is incorrect, please make me aware. I'd like to see if we can get a report on just the status of where things are and even a little bit more information in terms of some of the things he has made mention of, so we can have both sides represented through that report if possible please.

**Ron Carlee, City Manager** said yes sir.

Councilmember Fallon said I had spoken to Mr. Sowers and was under my impression that this time you would get a chance to be in it. I spoke to the Chief and have you heard from them at all? Was the new class for March? You said in March because I know that there's spring class that I arranged for you to be able to get into that class, Lee. Because I had discussed it with the Chief and we felt...

Mr. Sowers said I applied in January of 2013. I'm assuming they work on the same schedule. I have not applied back this year and I have not heard back, from anything. I'm still under the impression, the last word I got, and this was from Mark Newbold who is the CMPD Attorney, the last response I got, is my application was denied and that was the final word.

Ms. Fallon said when was that Lee?

Ms. Sowers said I have it in my notes. It was late last year.

Ms. Fallon said no, there's another class coming.

Mr. Sowers said oh, I'm guessing that it would be the same schedule. The applications would be taken in January and a decision would be made in March.

Ms. Fallon said let me find out because I had arranged for it and I would imagine that they would honor their arrangement.

Ms. Sowers said I haven't heard back. I haven't heard anything back and I apologize for having to come in front of City Council, but I appreciate your work and Mayor I appreciate your work and you too Mayor Pro Tem. You took an active involvement in this.

Ms. Fallon said I will follow-through and find out what's going on.

Mayor Cannon said we'll get a response back, but what she states is, what I understood to be the case as well, following up through the process; thank you sir. Alright, Karen Jensen is on the waiting list. Is that it? I'm sorry that was the tenth speaker the last person? Okay I see where you just drew the line on that okay. Well Ms. Jensen it looks like we've gotten to the tenth speaker. Lee would have been the last one of the ten to be able to speak. So we will have to put you back on the docket for the next meeting. Thank you. I'll tell you what because I called your name, if there is no opposition on the dais, I would like for you to come on back down and make your presentation. Thank you for your patience.

**Karen Jensen, 311 Baldwin Avenue** said I will just be brief. I'd like to echo that I've heard a little bit about Lee Sower's story and of course I heard what he just had to say. I also had to come before Council and I came last year; in addition to writing a number of times except for the new members, you should know that I was given a promise that the Police Chief, the Manager, others on the Council would follow up with me about a similar story and no one has. There seems to be a continuous problem with the police department and a failure to react by this body to correct things; police misconduct, refusing to take police reports for crimes committed; no response from Internal Affairs, nobody even interviewed me. What I got was a threat to arrest me or sue me should I try to make a complaint, report a crime or contact anyone here to talk about this. I'm here anyway and I'd like to ask again for an investigation into the police department, the internal affairs, police officers who've made false statements on reports under oath. I've reported this and just got that threat back, no written response, no interview, nothing.

I've never even met with Internal Affairs other than my phone call to or report that was written and sent in one way or another. So after three convictions of criminal acts against me by others, police are still telling people that nobody's done anything. It's very disheartening to have to come here. It really is and to get no response is worse. I would ask if anything has happened since last I spoke if Mr. Manager or someone has any information.

Mayor Cannon said does that conclude your comments then? I'm going to let you get your time in first.

Ms. Jenson said well I'll stop there. I think you personally especially have particular details.

Mayor Cannon said I have forwarded those details through the Manager's office, the Attorney's office, the police department and so if we can get a better update in terms of where things stand to date, that would be great Mr. Manager.

Ms. Jenson said will that be an investigation as well, if I can just use these few more seconds?

Mayor Cannon said I think because you have members as you pointed out that are new to the body, they may want to be brought up to speed in terms of where things are.

Ms. Jenson said I'll happily forward the last information that I sent to the last Council for those who are new.

Mayor Cannon said we'll need to determine where things are. So Mr. Manager if you would be so kind as to get back with us and determine what needs to be what in this particular case, if that investigation is warranted, certainly touch base also with the Chairwoman of public safety so that she can be kept informed to make sure that other members of the body might know what's going on also. Thank you Ms. Jenson.

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#### **ITEM NO. 5: CONSENT AGENDA**

Mayor Cannon said the first consent, Madam Clerk.

**Emily Kunze, Deputy City Clerk** said we have several items that were pulled, number 25 for discussion, number 26 for discussions, number 33 for discussion, number 36 has a speaker, number 54-K has a speaker, 54-L has a speaker, 54-P was deferred and 54-Q was settled.

Motion was made by Councilmember Howard, seconded by Councilmember Lyles to approve unanimously to approve Agenda Items 14 through 54 as presented with the exceptions of item numbers 25, 26, 33, 36, 54-K, 54-L, 54-P and 54-Q.
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#### **ITEM NO. 14: POLICE CITIZEN SATISFACTION SURVEY SERVICES**

(A) Approve a contract with Resource Strategies, Inc. for citizen satisfaction survey services for an initial term of three years, and (B) Authorize the City Manager to approve two additional one-year renewal options with possible price adjustments as authorized by the contract and contingent upon the company's satisfactory performance

#### **ITEM NO. 15: POLICE ASSETS FORFEITURE APPROPRIATION**

Adopt Budge Ordinance No. 5304-X appropriating \$350,000 in assets forfeiture funds for a Digital Crime Scene Management System.

The ordinance is recorded in full in Ordinance Book 58 at page 632.

#### **ITEM NO. 16: EASTWAY-SHEFFIELD NEIGHBORHOOD IMPROVEMENT PROJECT**

Approve change order #1 with Sealand Contractors in the amount of \$410,713.17 for the Eastway-Sheffield Neighborhood Improvement project.



**ITEM NO. 17: FINCHLEY-PURSER/SHAMROCK HILLS NEIGHBORHOOD IMPROVEMENT PROJECT**

Award the low-bid contract of \$1,778,905.16 to D.E. Walker Construction Co. for the Finchley-Purser/Shamrock Hills Neighborhood Improvement project.

SUMMARY OF BIDS

D.E. Walker Construction Co.	\$1,778,920.00
Sealand Contractors Corp.	\$1,935,006.69
United Construction, Inc.	\$1,948,479.50
Ferebee Corporation	\$1,982,324.85
Carolina Cajun Concrete, Inc.	\$2,443,068.10
Blythe Construction, Inc.	\$2,969,934.37
Blythe Development Co.	\$3,944,910.20

**ITEM NO. 18: FIRE LOGISTICS BUILDING ROOF REPLACEMENT PROJECT**

(A)Reject the low-bid contract of \$389,350 from AAR of North Carolina, Inc. for failure to comply with the Small Business Opportunity Program requirements, and (B) Award a contract to the second lowest, responsive bidder, Johnson's Roofing Service, Inc. in the amount of \$434,200 for the Fire Logistics Building Roof Replacement project.

SUMMARY OF BIDS

AAR of North Carolina	\$389,350.00
Johnson's Roofing Service	\$434,200.00
Nations Roof	\$439,000.00
Interstate Roofing Company	\$487,500.00
Mecklenburg Roofing, Inc.	\$507,714.00
Tecta America Carolinas, LLC	\$515,503.00
Weathergard, Inc	\$542,500.00

**ITEM NO. 19: BLUMENTHAL PERFORMING ARTS CENTER SEATING REPLACEMENT**

(A)Approve a contract with Series Seating in the amount of \$820,000 for the fabrication and installation of new fixed seating in the Blumenthal Performing ArtsCenter Belk Theater, (B) Adopt Budget Ordinance No. 5305-X appropriating \$800,000 from fund balance reserve in the Pay-As-You-Go Fund, and (C) Adopt a budget ordinance appropriating an additional \$20,000 in Blumenthal Performing Arts Center funds to Blumenthal Performing Arts Center Seating Replacement Project.

The ordinance is recorded in full in Ordinance Book 58 at page 633.

**ITEM NO. 20: GEENWAY TRAIL SOUTH CEDAR STREET TO WESLEY HEIGHTS**

(A)Approve a 25-year lease for \$1.00 with Mecklenburg County to construct a greenway trail (on PID 07324207 and 07324225) to connect the Wesley Heights community to uptown area at South Cedar Street, near Panthers Stadium, (B) Authorize the City Manager to approve two, five-year extensions for \$1.00 per year with Mecklenburg County, and (C) Authorize the City Manager to execute the lease and any other related documents

**ITEM NO. 21: MECKLENBURG AVENUE TRAFFIC CALMING PROJECT**

Award the low-bid contract of \$222,179.98 to Red Clay Industries, Inc. for the Mecklenburg Avenue Traffic Calming project.

SUMMARY OF BIDS

Red Clay Industries, Inc.	\$222,179.98
W.M. Warr & Son Inc.	\$272,407.30
United Construction, Inc.	\$273,231.20
Carolina Cajun Concrete, Inc.	\$313,267.90

**ITEM NO. 22: GLASSY CREEK STREAM RESTORATION PROJECT**

Award the low-bid contract of \$889,029.31 to Onsite Development, LLC for the Glassy Creek Stream Restoration project.

**SUMMARY OF BIDS**

OnSite Development, LLC	\$889,029.31
Land Mechanic Design, Inc.	\$986,740.63
United Construction, Inc.	\$1,030,127.50
Shamrock Environmental Corp.	\$1,073,277.50
North State Environmental, Inc.	\$1,176,817.99
Eagle Wood, Inc.	\$1,188,604.51
Blythe Development Company	\$1,215,805.00
D.E. Walker Construction	\$1,525,892.05
Sealand Contractors Corp.	\$1,739,311.19

**ITEM NO. 23: WILSON POND WATER QUALITY IMPROVEMENT PROJECT**

Award the low-bid contract of \$959,875.00 to Blythe Development Co. for the Wilson Pond Water Quality Improvement project.

**SUMMARY OF BIDS**

Blythe Development Co.	\$ 959,875.00
Ferebee Corporation	\$1,043,957.08
United Construction	\$1,085,861.25
Hall Contracting Corporation	\$1,819,351.25

**ITEM NO. 24: STORM WATER MAINTENANCE FY204-A**

(A)Award the low-bid contract of\$3,059,610 to Blythe Development Co. for storm water maintenance construction FY2014-A and (B) Authorize the City Manager to approve up to two renewals in the amount not to exceed the original contract amount.

**SUMMARY OF BIDS**

Blythe Development Co.	\$3,059,610.00
OnSite Development, LLC	\$3,320,242.62
Wayne Brothers, Inc.	\$4,035,957.69

**ITEM NO. 27: REPAIRS TO CITY BRIDGES**

Award the low-bid contract of \$1,696,745.06 to Lee Construction for the repairs to city bridges.

**ITEM NO. 28: PRIVATE DEVELOPER FUNDS APPROPRIATION**

Adopt Budget Ordinance 5306-X appropriating \$29,000 in private developer funds for traffic signal improvements

The ordinance is recorded in full in Ordinance Book 58 at page 634.

**ITEM NO. 29: AIRCRAFT MAINTENANCE HANGAR LEASE**

Approve a five-year lease amendment with MESA Airlines, Inc. for an aircraft maintenance hangar in the amount of \$2,539,105.

**ITEM NO. 30: AIRPORT NOISE EXPOSURE MAP UPDATE**

(A)Approve a professional services contract with Landrum & Brown in the amount of \$381,000 to prepare a Federal Aviation Regulation Part 150 Noise Exposure Map Update, and (B) Adopt Budget Ordinance No. 5307-X appropriating \$381,000 from the Airport Discretionary Fund to the Airport Community Investment Fund.

The ordinance is recorded in full in Ordinance Book 5 at page 635.

**ITEM NO. 31: AIRPORT BUS PURCHASE**

(A)Approve the purchase of El Dorado National Transit Buses from a cooperative purchasing contract as authorized by G.S. 143-129(e)(3), and (B) Approve a unit price contract with El Dorado National for the purchase of El Dorado National Transit Buses for the term of one year.

**ITEM NO. 32: AIRPORT BUCKET TRUCK PRUCHASE**

(A)Approve the purchase of one new truck from a cooperative purchasing contracted as authorized by G.S.143-129(e)(3), and (B) approve a unit price contract with Northside Ford for the purchase of one new truck in the total amount of \$115,862.10.

**ITEM NO. 34: AIRPORT REMOTE RENTAL CAR FACILITY DESIGN SERVICES**

(A)Approve a contract for professional design services, in the amount of \$957,438, with Baker LPA Architects, PC, for facility design services and site development, and (B)Adopt Budget Ordinance No. 5309-X appropriating \$957,438 from the Aviation Contract Facility Charge Fund to the Aviation Community Investment Fund.

The ordinance is recorded in full in Ordinance Book 58 at page 637.

**ITEM NO. 35: AIRPORT CHECKED BAGGAGE IN-LINE SYSTEM**

(A)Authorize the establishment of an owner’s contingency in an amount not to exceed \$1,800,000 with Archer Western Construction to fund anticipated change orders for additional construction services as needed for the installation of the Checked Baggage In-Line System (B) Authorize the establishment of an owners contingency in an amount not to exceed \$700,000 with Pteris Global (USA) Inc. to fund anticipated change orders for additional construction services as needed for the installation of the Checked Baggage In-Line System, and (C) Authorize the City Manager to approve and execute change orders to the existing contracts with Archer Western and Pteris Global in an amount not to exceed the owner’s contingencies established in Actions A and B.

**ITEM NO. 37: TRANSIT BUS PARTS**

(A)Approve the purchase of parts as authorized by the sole source exemption of G.S.143-129(e)(6), (B) Award a contract for parts to Gillig Corporation for the estimated annual amount of \$750,000 and (C) Authorize the City Manager to exercise two additional annual one-year renewals at \$750,000 per year.

**ITEM NO. 38: BLUE LINE EXTENSIO PROJECT ADVANCED PUBLIC UTILITY RELOCATIONS CONTRACT AMENDMENT**

Approve contract amendment #1 in the amount of \$500,000 with Blythe Development Company to allow relocation of AT&T conduit.

**ITEM NO. 39: UTILITY SMALL WATER AND SEWER SERVICE CONECTIONS.**

(A)Award a low-bid contract of \$1,399,150.75 to B.R.S. Inc. for installation of drinking water and sanitary sewer service connections throughout Mecklenburg County, and (B) Authorize the City Manager to approve one renewal with price adjustments based on the terms of the contract.

**ITEM NO. 40: UTILITY STREET MAIN EXTENSIONS, CONTRACTS A & B**

Award the low-bid contracts for construction of water and sanitary sewer mains along existing roadways and in easements throughout Mecklenburg County to: Contract A: Dallas 1 Construction, \$1,949,356.95, and; Contract B: Sanders Utility Construction, \$1,979,673.10

SUMMARY OF BIDS

Sanders Utility Construction	\$1,979,673.10
R.H. Price	\$2,027,129.70
State Utility	\$2,170,470.00

**ITEM NO. 41: UTILITY TRAILER**

(A)Award a low-bid, unit price contract to Kraftsman, Inc. for the purchase of heavy duty trailers for a term of three years, and (B) Authorize the City Manager to extend the contract for up to two additional one-year terms with possible price adjustments as authorized by the contract.

SUMMARY OF BIDS

<b>15 Ton Trailers</b>	Kraftsman Inc.	\$13,845.00
	Carolina Trailer Sales	\$14,420.00
	Lee Transport Equipment	\$15,000.00
	James River Equipment	\$19,560.00
<b>20 Ton Trailers</b>	Kraftsman, Inc.	\$14,245.00
	Carolina Trailer Sales	\$15,120.00
	Lee Transport Equipment	\$15,720.00
	James River Equipment	\$19,560.00

**ITEM NO. 42: NC CLEAN WATER REVOLING FUND APPLICATION**

(A) Adopt a resolution authorizing the Charlotte-Mecklenburg Utility Department to apply for a Clean Water State Revolving Fund Loan in an amount not to exceed \$3,500,000 and (B) Authorize the Charlotte-Mecklenburg Utility Director to sign and submit an application to the Clean Water State Revolving Fund Loan Program.

The resolution is recorded in full in Resolution Book 45 at pages 144 to 145.

**ITEM NO. 43: UTILITY LARGE WATER AND SEWER SERVICE CONNECTIONS**

(A) Award a low-bid contract of \$2,499,121.50 with Dallas 1 for installation of drinking water and sanitary sewer service connections throughout Mecklenburg County, and (B) Authorize the City Manager to approve one renewal.

SUMMARY OF BIDS

Dallas 1	\$2,499,121.50
State Utility	\$2,991,617.50
R.H. Price	\$3,435,957.00

**ITEM NO. 44: OFF-STREET SEWER CLEANING VEHICLE**

(A) Approve the purchase of off-street sewer cleaning equipment as authorized by the cooperative purchasing exception as outlined in G.S.143-129(e)(3), and (B) Approve a purchase order with Hi-Vac Corporation for the purchase of one off-street sewer cleaning vehicle.

**ITEM NO. 45: WATER AND SEWER INFRASTRUCTURE INSPECTION SERVICES**

Approve the professional services contract with Pure Technologies LTD for electromagnetic and sonic inspection of water and sewer pipelines

**ITEM NO. 46: VEST WATER TREATMENT PLANT FLOW MONITORING AND CONTROL IMPROVEMENTS**

Award a low-bid contract of \$703,800 with Haren Construction Company for construction of flow monitoring and control improvements at the Vest Water Treatment Plant.

**ITEM NO. 47: CITIZEN SERVICE COMMUNICATION ENHANCEMENTS**

(A) Approve a one-year extension to the contract with True Image Interactive, LLC (Formerly EidoServe, Inc.) in the amount up to \$1,025,000 for the ongoing development support and maintenance of various Citizen Service Communication channels; (B) Authorize the City Manager to approve expenditures for the provision of development and implementation services, and; (C) Authorize the City manager to approve up to two, one-year renewal options for continuing maintenance, support and implementation services with possible price adjustments as authorized by the contract and contingent upon the company's satisfactory performance.

**ITEM NO. 48: BROADBAND TECHNOLOGY OPPORTUNITY PROGRAM EQUIPMENT AND SUPPORT SERVICES**

(A) Approve the purchase of Check Point internet security firewall equipment, software and support from a federal contract as authorized by G.S.143-120(e) (9a) in an amount up to \$342,198.16, and (B) Approve contracts with EC America, Inc., immixGroup, Inc., and the Teneo Group for the purchase of Check Point internet security firewall equipment, software and support for the term of 20 months under General Services Administration Schedule No. GS-35F-0511T, effective June 27, 2007.

**ITEM NO. 49: SYNTHETIC TRANSMISSION FLUID**

(A) Approve a unit price contract with the low bidder Northeast Lubricants for the purchase of transmission fluid for the term of three years, and (B) Authorize the City Manager to extend the contract for up to two additional one-year terms with possible price adjustments as authorized by the contract.

SUMMARY OF BIDS

Northeast Lubricants	\$86,248.50
Dilmar Oil Company	\$86,788.00
Taylor Enterprises	\$86,913.60
Brewer Hendley Oil Company	\$90,772.00

Pugh Oil Company

\$96,450.90

**ITEM NO. 50: REFUND OF PROPERTY AND BUSINESS PRIVILEGE LICENSE TAXES**

(A) Adopt a resolution authorizing the refund of property taxes assessed through clerical or assessor error in the amount of \$4,132.77 and (B) Adopt a resolution authorizing the refund of business privilege license payments in the amount of \$4,953.91.

Resolutions for parts A and B are recorded in Resolution Book 45 at page 146-147.

**ITEM NO. 51: RESOLUTION OF INTENT TO ABANDON A RESIDUAL PORTION OF OLD LANCASTER HIGHWAY.**

(A) Adopt a Resolution of Intent to abandon a residual portion of Old Lancaster Highway, and (B) Set a public hearing for March 24, 2014.

The resolution is recorded in full in Resolution Book 45 at page 148-150.

**ITEM NO. 52: MEETING MINUTES**

Approve the titles, motions and votes reflected in the Clerk's record as the minutes of

- January 21, 2014 Zoning Meeting
- January 27, 2014 Citizens Forum/Business Meeting

**ITEM NO. 53: PROPERTY TRANSACTIONS**

**Sale of City-Owned Property**

(A) Adopt a resolution approving the sale of 3024 Marney Avenue (PID 157-035-18) and, (B) Authorize the City manager to execute the sale documents for this transaction.

The resolution is recorded in full in Resolution Book 45 at page 151.

**ITEM NO. 54: PROPERTY TRANSACTION**

**Acquisitions**

**Item No. 54-A: 3115 Verns Avenue**

Acquisition of .43 acres at 3115 Verns Avenue from Rodney Dellinger for \$189,000 for Airport Master Plan Land Acquisition

**Item No. 54-B: 9331 Dorcas Lane**

Acquisition of 1.67 acres at Dorcas Lane from Distribution Technology, Inc. for \$180m,000 for Airport Master Plan Land Acquisition.

**Item No. 54-C: 8038 Steele Creek Road**

Acquisition of .55 acre at 8038 Steele Creek Road from Roy Francis for \$31,500 for Airport Master Plan Land Acquisition

**Item No. 54-D: 9401 Dorcas Lane**

Acquisition of .45 acre at 9401 Dorcas Lane from Thomas A. Little Jr FUNB for \$30,000 for Airport Master Plan Land Acquisition.

**Item No. 54-E: 435 Hunter Lane**

Acquisition of 1,093 sq. ft. (.025 ac.) in Storm Drainage Easement, plus 2,267 sq. ft. (.052 ac.) in Sanitary Sewer Easement, plus 1,285 sq.ft. (.029 ac.) in Temporary Construction Easement at 435 Hunter Lane for \$27,150 for Gaynor Storm Drainage Improvement Project, Parcel #41

**Item No. 54-F: 3124 Johnston-Oehler Road**

Acquisition of 5,950 sq. ft. (.137 ac.) in Fee Simple, plus 32,609 sq. ft. (.749 ac.) in Fee Simple within Existing Right-of-Way plus 731 sq. ft. (.017 ac.) in Storm Drainage Easement, plus 15,214 sq. ft. (.349 ac.) in Temporary Construction Easement, plus 9,556 sq. ft. (.219 ac.) in Utility Easement at 3124 Johnston-Oehler Road from William L. Mowry and Donna E. Mowry and Hermitage Partners, LLC for \$11,000 for Johnston Oehler Farm to Market, Parcel #38..

**Item No. 54-G: 2715 and 2801 Johnston-Oehler Road**

Acquisition of 11,787 sq. ft. (.271 ac.) in Fee Simple plus 2,234 sq. ft. (.051 ac.) in Storm Drainage Easement, plus 12,303 sq. ft. (.282 ac.) in Temporary Construction Easement, plus 3,588 sq. ft. (.082 ac.) in Utility Easement at 2801 Johnston-Oehler Road from Walter Samuel Raborn and Johnsie R. Raborn for \$14,350 for Johnston-Oehler Farm to Market, Parcel #48 and #49.

**Item No. 54-H: 4321 Pete Brown Road**

Acquisition of 673 sq. ft. (.015 ac.) plus 668 sq. ft. (.015 ac.) in Storm Drainage Easement, plus 5,660 sq. ft. (.13 ac.) in Temporary Construction Easement, plus 24 sq. ft. (.001 ac.) in Utility Easement at 4321 Pete Brown Road from JSG Automotive, Inc. for \$14,525 for Pete Brown Road Extension, Parcel #6.

**Item No. 54-I: 4330 Pete Brown Road**

Acquisition of 3,007 sq. ft. (.069 ac.) in Utility Easement at 4330 Pete Broad Road from Dominion Investment Properties, LLC for \$11,550 for Pete Broad Road Extension, Parcel #12

**Item No. 54-J: McCord Road**

Acquisition of 26,270 sq. ft. (.603 ac.) in Sanitary Sewer Easement, plus 32,015 sq. ft. (.735 ac.) in Temporary Construction Easement at McCord Road from T.M. Westmoreland Family Limited Partnership for \$12,509 for Ramah Creek Sewer Interceptor, Parcel #30

**Condemnations**

**Item No. 54-M: 2716 Celia Avenue**

Resolution to condemn 131 sq. ft. (.003 ac.) in Fee Simple at 2716 Celia Avenue from Linda M. Brown and any other parties of interest for an amount to be determined for Celia Avenue Storm Drainage Improvement Project Easement Acquisition, Parcel #14.

The resolution is recorded in full in Resolution Book45 at page 154.

**Item No 54-N: 2708 Celia Avenue**

Resolution to condemn 431 sq. ft. (.01 ac.) in Fee Simple plus 94 sq. ft. (.002 ac.) in Temporary Construction Easement, plus 632 sq. ft. (.015 ac.) in Utility at 2708 Celia Avenue from Hilary A. Daniel and any other parties of interest for an amount to be determined for Celia Avenue Storm Drainage Improvement Project Easement Acquisition, Parcel #15.

The resolution is recorded in full in Resolution Book 45 at page 155.

**Item No. 54-O: 2633 Celia Avenue**

Resolution to condemn 149 sq. ft. (.003 ac.) in Fee Simple (TOTAL TAKE) at 2633 Celia Avenue from Linda M. Brown and any other parties of interest for an amount to be determined for Celia Avenue Storm Drainage Improvement Project Easement Acquisition, Parcel #16

The resolution is recorded is full in Resolution Book 45 at page 156

**ITEM NO. 25: CITYLYNX GOLD LINE PHASE I SYSTEM CONSULTING SERVICES**

Councilmember Smith said I pulled that. No discussion necessarily needed, just something that I don't plan to support.

Mayor Cannon said and for the sake of the general public knowing, 25 is the CityLYNX Gold Line Phase I.

Motion was made by Councilmember Howard, seconded by Councilmember Smith to (A) Approve a contract with STV Incorporated dba STV/Ralph Whitehead Associates, Inc. in the amount of \$300,000 for testing support services on the CityLYNX Gold Line Phase I Project, and, (B) Approve amendment #5 with URS Corporation-North Carolina in an amount up to \$400,000 for additional construction administration services on the CityLYNX Gold Line Phase 1 Project.

The vote was taken and recorded as follows:

YEAS: Councilmembers Austin, Autry, Barnes, Fallon, Howard, Kinsey, Lyles, Mayfield and Phipps.

NAYS: Councilmember Smith

**ITEM NO. 26: BUDDY BEAR PUBLIC ART DONATION**

Mayor Cannon said I think Councilwoman Kinsey pulled this.

Councilmember Kinsey said I did Mr. Mayor. I just wanted to let everyone out in the audience and TV land know that Charlotte has really been honored recently by the Charlotte Chapter of the German American Chamber, the Alemannia Society of Charlotte, the German Language and Culture Foundation, Kühne & Nagel, Kurt and Regina Waldthausen and the German Saturday School of Charlotte. They have commissioned the painting and installation of a Buddy Bear Statue in recognition of the strong economic and cultural ties that the City of Charlotte has had with the German Community, really for a number of years. The effort was spearheaded by former honorary German Consul Kurt Waldthausen who provided voluntary counselor service for 12 years in the Charlotte Mecklenburg area.

The Buddy Bear concept was created by two German business people in 2001 as a series of bear sculptures that are painted by local artists, somebody from Charlotte would paint it to symbolize the message peace, international understanding and tolerance among nations. Receiving one of these buddy bears really is a tremendous international honor. Several other sculptures have been featured in major international hubs, including Hong Kong, Vienna, Istanbul and Sydney. So we're going to be I guess the number five or six here. Given the German origin, Buddy Bears are typically located in cities that do have close ties to German business and German culture. The design of each bear is specifically tailored to the community that it represents. The donors have worked in collaboration with City staff and with the County staff, Arts and Science Council and also with McColl Center. The artist has been selected, Sharon Dowell will paint the sculpture and it will be located appropriately I think, in the Arequipa Park which is the Plaza adjacent to the Charlotte Mecklenburg Public Library and Arequipa, the park is named after one of our sister cities Arequipa, Peru.

Motion was made by Councilmember Kinsey, seconded by Councilmember Howard and carried unanimously to adopt a resolution accepting a public art donation in recognition of the strong cultural and business relationship the City of Charlotte has with the German community from the Charlotte Chapter of the German-American Chamber, the Alemannia Society of Charlotte, the German Language & Culture Foundation, Kuhne & Nagel, Kurt and Regina Waldthausen, and the German Saturday School of Charlotte.

The resolution is recorded in full in resolution book 45 at pages 145-146.

**ITEM NO. 33: AIRPORT BUSINESS VALET PARKING DECK CHANGE ORDER #4**

Councilmember Mayfield said I really want to have the opportunity for staff to speak to this action which is to approve change order #4 in the amount of \$201,807 to Shelco, LLC for the Airport Business Valet Parking Deck and (B) to adopt a budget ordinance appropriating \$201,807 from the Aviation Discretionary Fund to the Airport Community Investment. With this being change order #4, for full transparency I wanted to have our airport staff give an update of why we are adding #4r and what the total difference of the original cost is from the original approval that we looked at June 2013 to today.

**Jack Christine, Deputy Aviation Director Charlotte Douglas International Airport** said this is the business valet Parking Deck 2 which is on the corner of Wilkinson Boulevard and Harley Avenue. This is change order number four which is really to pay a contractor for the removal of some unsuitable soil that was found in the area of the parking deck. It's a very common occurrence when you are building structures like this to find areas that need to have good soil put in its place. This represents actually a difference of about \$11,000 to the original contract

amount of \$37.2M and we've gotten to that because we had done four change orders. The first of which was done to save about \$530K by changing the type of foundation that was used to build the parking deck. That was offered to us by the contractor in order to save a half of million dollars and save time in putting foundations in. It's a new style of foundation that we have not used before but has proven to be very very effective in us getting this construction underway especially as we started in the winter months, which is always the best time to start a building construction project in Charlotte. But it does represent an \$11K add to the contract for the project and it is well within the budget.

Mayor Cannon said Councilwoman Mayfield, are you done with that?

Ms. Mayfield said mainly Mr. Mayor I wanted to give opportunity for the community to understand that the original project amount of \$37,212,000, even though we are on change order #4, we have received considerable cost savings throughout this project as well as with the prior change orders, still the total cost difference being as mentioned only \$11K as we continue to really look at continuing to be that top notch airport and facility operation.

Mayor Cannon said good observation.

Councilmember Smith said out of curiosity, Mr. Christine was the issues compaction related or remediation of some contamination.

Mr. Christine said it was really unsuitable soils. When we do a project like this, we'll take samples, do test borings, but it doesn't get the whole area and as we got under construction we saw some areas that needed to have that soil removed and replaced with good soil so we could get proper compaction.

<p>Motion was made by Councilmember Howard, seconded by Councilmember Mayfield and carried unanimously to (A) Approve change order #4 in the amount of \$201,807, to Shelco, LLC for the Airport Business Valet Parking Deck, and (B) Adopt Budget Ordinance No. 5308-X appropriating \$201,807 from the Aviation Discretionary Fund to the Airport Community Investment Fund.</p>
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The ordinance is recorded in full in Ordinance Book 58 at page 636.

### **ITEM NO. 36: AIRPORT PARKING AND VALET SERVICES MANAGEMENT**

**Brian Haupricht, 8909 Arbor Grove Lane** said I am the president of Park Inc. We are the current valet provider at the airport. We've been there almost 11 years. We're a company that started that service from 40 cars a day to, on a busy day, we'll have at one time 4,000+. Over the last 12 months with the removal of the hourly garages, we've seen an increase in our volume from 149,843 of the previous 12 months to the last 12 months at 270,886. Our gross revenue has increased from, over the same time period, from \$7.7M to \$12.2M over the last two years. Our net revenues for last fiscal year we met for the City of Charlotte about \$6.7M. With the rate increases that went into effect last Monday, we're projecting for next year a net to the City of \$10.5M. We have issues with the bid that is being recommended. In particular, it's the staffing reduction. They're proposing a reduction in staff of about 29.9% hoping that the changes in revenue will lower the number of customers that we have. We only have a week's worth of data but last week we had not seen any drop off. I checked in today before I got here and we still haven't seen a drop off in any revenue. You just talked about the business valet deck that's under construction that's a \$50M project to accommodate additional valet traffic; however the goal of the new proposal is to reduce the volume, which makes that deck completely unnecessary. We have operational concerns about the staffing levels. I know the Mayor uses our service and can attest to how busy we are. To drop us 30% would be devastating; not just for us but for anybody that comes in and tries to accomplish that. What we're requesting is that due to the amount \$10.5M net to the City, that this request be taken off the consent agenda, moved to the next meeting to allow for citizens' comments and we also want to mention that we are a locally owned and operated company based here in Charlotte and your decisions will impact about 232 employees that we have at the airport, as well as some of our corporate staff.



Mayor Cannon said are there any questions, comments?

Councilmember Mayfield said I'm not sure if this is a question Mr. Mayor because I also pulled this item.

Mayor Cannon said okay so questions and comments, or either or are welcome.

Councilmember Howard said I actually have questions for Brett, the manager.

Mayor Cannon said this is by the way, broken up into ...

Councilmember Howard said I'm sorry she said she pulled it for staff response.

Mayor Cannon said you want staff response.

Ms. Mayfield said right.

Mayor Cannon said sure, absolutely. If you can give us a staff response relative to the airport and valet service management piece here and by the way this is to approve a three year and three month management agreement with SP Plus Corporation to provide public parking staffing services at Charlotte Douglas International Airport. That's A and B would be to approve a three year management agreement with AmeriPark LLC to provide valet parking services at Charlotte Douglas International Airport and then there's C to authorize the City Manager to approve two one-year contract renewals for actions A and B as stipulated in the contracts.

Ron Carlee, City Manager said Mr. Mayor, are the questions for the speaker before we go to...

Mayor Cannon said there may be so I want to keep him on post at the podium.

**Brent Cagle, Aviation**, said I appreciate the opportunity to provide you more information on this request for proposal process that we have recently gone through regarding the valet parking services which Mr. Haupricht directly addressed and also additional staffing services associated with our general parking program which is the A item on the request for council action. Specifically regarding Park Inc. and the valet services that they currently manage under contract; that contract originated in 2003 and has not been out to bid since that time. It has been extended over the years, most recently for a one year period. That contract is a June 30<sup>th</sup> expiration and after that much time, while we very greatly value our partnership with ParkInc, we realized that it was time to take this proposal out for competition to allow the airport to assess what the services might be out there in the marketplace. After, as Mr. Haupricht points out, the service has grown significantly since it was last competitively bid from 40 cars daily to 4,000. And so after that long of time, we really felt that it was appropriate for the airport to bring that business opportunity out to a competitive process, which we did. Mr. Herbert Judon, the Assistant Aviation Director over operations; Ms. Dalia Ballester with US Airways, the New American; Ms. Natalie English with the Charlotte Chamber, and; Mr. Tim Gause with Duke Energy, all were gracious enough to serve on the panel and to evaluate the proposals. I can tell you there was a lot of competition and many proposals were submitted from many different companies both for the valet and for the staffing and some for both of those opportunities combined; and it was a very competitive process. I have discussed the evaluations and the process with the panel members and they feel very confident in the qualifications and the proposals provided to them via AmeriPark and SP Plus. I will point out that representatives from AmeriPark are here tonight and representatives I believe with their subcontractor SP Plus are also here and representatives from the Havaline Station that will serve as a subcontractor to AmeriPark are here tonight should you have questions. Clearly there was a lot of competition for this process and as I said before, we do value the 10 plus years of service that ParkInc has provided; but, in this process the panel felt strongly that the proposals provided from AmeriPark and SP Plus showed that they had the qualifications and ability to really provide the services and elevate services for our customers and enhance the level of service.

Councilmember Mayfield said follow-up Mr. Cagle; so was our current vendor properly advised that were going to be moving to a RFP process since they were our preferred provider for 11

years to let them know that we were going to a RFP process and encourage them to write the strongest proposal since they had been in that position for a number of years.

Mr. Cagle said Councilwoman Mayfield, absolutely. Park Inc. was aware of the proposal process. They did submit a proposal and their proposal was evaluated as were all the others from the panel. They participated in the question and answer portion of the pre-bid and they submitted their proposal along with the other companies.

Motion was made by Councilmember Mayfield, seconded by Councilmember Barnes to (A) Approve a three-year and three month management agreement with SP+ Corporation to provide public parking staffing services at Charlotte Douglas International Airport. (B) Approve a three-year management agreement with AmeriPark, LLC to provide valet parking services at Charlotte Douglas International Airport, and (C) Authorize the City Manager to approve two, one-year contract renewals for actions A. and B. as stipulated in the contract.

Councilmember Howard said Mr. Cagle spend just a few minutes explaining the difference between action A and B. What is staffing and how is that different from valet services?

Mr. Cagle said valet services covers curbside valet and the business valet product and only those two products and so it entails all of the staffing and management of specifically those two products. Staffing services really are the associated staff associated with our parking functions that the airport manages. So the long term parking facilities, the cash handling associated with the toll booths, the passenger pay booths for our parking facilities. It's those other services that we utilize contracted services for, but it does not include the valet products. Those are set aside as a separate agreement. Although I will say that we entertain the idea of the same provider providing those services if the panel found them to be the highest qualified for those services.

Mr. Howard said Mr. Mayor earlier today I sent out to all you all some questions I wanted to run through real quick; Mr. Cagle knows that I'm going to ask these, so I just wondered if I could, if you'll indulge me. So I hear that we got references. One of the big things for me on this one is understanding because it's grown so much; and I think at one point or another many of us have actually been through the valet service, as late as last week I was out there as a matter of fact. I shared with Council that I had a young man that as I was getting in my car, he was complaining about the fact that they couldn't find his car. They had his keys but they couldn't find his car. I offered to ride him around because I felt so bad; to help him find his car and he said well 'no I don't need you to do that but last week it was an hour and a half hours before they could find my car'. So my concern is, given the growth and it happened so fast, I mean it is a lot with flights coming and going and up and down, how in the world do you get your hands around this? I'm assuming that because AmeriPark has been in Atlanta, theirs is maybe just a little busier than our, so understanding how do you go about making sure, what systems do you put in place to make sure that you get this first class service because that's the most important thing to me. Having that gentleman stand there and when I left he was still standing there waiting on his car. What do we do to deal with that going forward? Why are you comfortable that they can do that differently?

Mr. Cagle said well Councilman, service is our top priority and it's unfortunate as you say that our customer had that experience. What I can tell you is that AmeriPark, they do handle in effect the curbside valet product or a similar product in Atlanta. They also provide services in Louisville, Charleston, Birmingham, and Nashville. They are a company that has experience at airports. They are also a company that has experience and a presence in Charlotte in other areas of the City. I will say that as the evaluation panel looked at the proposals, internal controls and the ability to provide excellent customer service were the primary factors that they utilized and gauged when trying to choose a successful proposer. For example, and I don't want to talk too much about AmeriPark if you'd like to hear from them, but I will tell you for example, one thing that AmeriPark included in their proposal that I found interesting and unique was their employees, their valet car runners, if you will, wear RFID bracelets or bracelets with RFID tags on them and that allows in effect the company and the management to track the employee from your car being placed in its parking spot to your car keys coming to the manager and the counter there and so they have good controls to ensure that cars go where they are supposed to go and

keys are put away and put in the proper place so that hopefully there aren't these slips between the customer car going in and the customer car coming back out again.

Mr. Howard said actually he just answered all the rest of my questions right there.

Mr. Mayor said alright, very good.

Councilmember Fallon said have you had performance problems with the company lately?

Mr. Cagle said well, the airport is a challenging environment and there have been issues. As Mr. Haupricht points out, the volume is incredibly intense at the airport. We continue to grow, but yes there have been issues with the product and with the customer service over a period of time for a variety reasons.

Ms. Fallon said how long a period of time?

Mr. Cagle said well I guess Councilwoman what I would say is I became keenly aware of those starting in July when I changed my role from purely finance and administration to the larger. Certainly, as I've worked with our vendor and with CMPD and others, we have had to deal with some issues.

Ms. Fallon said have you given them a chance to improve or to show better?

Mr. Cagle said I think we are always trying to improve and yes, we have been in contact and worked with Park Inc. to hopefully increase the service levels for the customer.

Ms. Fallon said and it hasn't to your satisfaction?

Mr. Cagle said well, I understand the challenges. I would frankly say that we still have challenges as Councilman Howard has pointed out. But I do stand behind the strength of the process that we recently had and I feel very comfortable with the panel's recommendation of AmeriPark.

Councilmember Lyles said I have two comments that I'd like make about this. I think customer service is absolutely the way to judge this and I hope that there is a process in the contract that allows for quick resolution of problems and deals with the individual customer in a way that is acceptable to our standard. But more importantly, we are signing a five year agreement. The last agreement I think was 11 years. In this business, the market is changing. Five years is probably the right amount of time but we shouldn't go beyond that without going out to the marketplace to ensure that we're getting the best value for the airport and therefore for the citizens. So I would encourage us to remember on some of these long term agreements that it's sometimes a little bit easy to say let's just do it next year, but in this case, the world changes pretty quickly; there's all kinds of ways to improve and increase revenue, so five years.

Mayor Pro Tem Barnes said Mr. Cagle I have reviewed the action item tonight. I have also reviewed emails from Mr. Haupricht and other people who wanted to comment on the contract and one of the questions I wanted to ask you is whether we should consider a two year contract with two one-year extensions. I don't know this business the way you guys do but there were some questions about whether AmeriParks' proposals with respect to staffing were accurate and also the way they were allotting for costs and it could be and that's great, I have a history on this Council of being concerned about contracts that go on for a while. Have you given any thought to a two year contract with two one-year extensions?

Mr. Cagle said we have and that's certainly some that we would be willing to reconsider. We did want to give AmeriPark the basic three-year agreement to allow them to get into the operation and make changes and really see those changes come to fruition to help the passengers. I will also tell you SP Plus, and so for the AmeriPark side of that, it is a basic three-year agreement with the ability to extend for two more one-year periods and so is the SP Plus. But I will also say that both vendors, I think we could work with them on the term. That just seemed to be adequate to let them.

Mr. Barnes said I gave a second to Ms. Mayfield's motion and I don't mind leaving a second in place if she wants to amend it, I'd support that as well. I'm comfortable either way.

Mayor Cannon said if I might, because I don't know the answer to this and I think you may have it, have you placed in the agreement itself for there to be an opportunity for a thirty day out? Where, based upon any stipulations, which is typically what you see in parking valet type agreements, if you have that 30 day out pertaining services not being performed to the extent than which they should, then it doesn't matter whether it's three years, five years, 20 years or 100.

Mr. Cagle said and it's interesting you would ask that because yes we absolutely have, we do have the ability. I will also say one of the nice things about these two contracts moving forward together is SP Plus provided a very strong proposal on valet services also. It wasn't quite as strong as AmeriPark and therefore the recommendations you see before you; but we also feel strongly should AmeriPark not be able to fulfill the promises that they have made, we certainly have a strong business partner in SP Plus. I say that knowing that AmeriPark is here as well as SP Plus and we're very excited to be doing business with both of them should you choose to approve this. But competition is always very good and having two strong vendors I think will be a good thing for the airport and its customers.

Councilmember Howard said on the staffing issues, it's been brought up that some feel that the staffing levels that AmeriPark's proposes is not appropriate. Who takes the brunt of the storm if it's not and they have to staff up more. Is that a pass-through to us or is that on them.

Mr. Cagle said well again, as AmeriPark starts to better understand the operation they base their proposal on their observations of the operation and of their experience with other airports. Now, as they start to develop the transition plan, which is part of the transition from parking to AmeriPark, they will start to finalize their staffing levels. The current contract as its negotiated now, places staffing as a direct reimbursable and if those staffing levels need to be adjusted either up or down, we will work with them to do that and provide that as a direct reimbursable to them via the existing terms and conditions of the contract.

Mr. Howard said just a statement Mr. Mayor. I'm going to be a broken record on this for a while; and that's the fact that we've all being a lot of statements over the last year that we want to make sure that cost stays low and that we want to keep it affordable for the airlines and for everybody else to operate and use the airport. So anything that would start to talk about pushing that up is going to be something I'm going to be concerned about and ask questions about. So, it's important for those numbers to be good for me.

Mr. Cagle said and I will tell you as I read AmeriPark's proposal, their proposal did include the envisioning of possibly raising the curbside valet rate. As you are aware, the airport independently raised curbside valet rates before this proposal. But their proposal was not intended to direct us and it was not part of it. We are concerned about cost increases too and we do take cost increases seriously, but we also want to provide a high level of service and be able to meet the obligations that we've made to our investors and to our business partners.

Councilmember Mayfield said just for my colleagues and Brent Cagle, I really want to thank you for us having an opportunity to actually go over a number of questions that were raised around the dais this evening. But as I motion to move forward with the original proposal that is with confidence of the airport staff doing their due diligence because everyone around this dais and the community right now knows that I am not a fan of coming back with change orders and asking for additional, so I'm expecting us to be able to do the exceptional job based on the proposal but I am definitely confident with approving A, B and C as submitted by staff.

Mayor Cannon said so there has been a motion made a properly seconded.

The vote was taken and carried unanimously.

**ITEM NOS. 54-K: 2616 CELIA AVENUE (CONDEMNATION)  
54-L: 2612 CELIA AVENUE (CONDEMNATION)**

**Jayme Infamzon, 2616 & 2612 Celia Avenue** said I wanted to just talk a little bit about my experience with some land in the 485 that I bear witness to the condemnation process with the State over the last couple of years and the State ended up with a lot of land that's wasted. It was to the tune of about \$350K per acre; about a third of it was a big waste. This property, although it's much smaller; I don't want to see the City of Charlotte go through and fall into the same pitfalls that the State ended up doing. The family that I've sold this property to was not aware of this project coming down the street as I was not aware of it and around the same time it came together. So to help this family, I'm trying to help them get as much as they can out of it. It's only a few thousand dollars and I wanted to ask the Council members if you guys are going to allow this to go all the way through the condemnation process and waste a lot of money like the State did over a couple of thousand dollars and a driveway. The problem that I have with this is simply the road and the house is already too close, so this entire project coming through is damaging this property to where they may never even be able to sell it. There are five children living in there. It could be a problem if there was a wreck or something along those lines. So to really change this family's life and to really help them, I wanted to ask the Council members if they would help me close this matter without having to go through any further arbitration or condemnation process which would cost the City a lot of money.

Mayor Cannon said so we have that one on lock. Let me ask you this; Does the second item which is 2612...

Mr. Infamzon said two properties side by side; same thing.

Mayor Cannon said so same issue?

Mr. Infamzon said correct.

Mayor Cannon said so we can probably take this in a single motion in both items depending upon the nature of Council's direction or questions on it.

Mr. Howard said I'm not sure what he's asking. Are you saying not to do the project at all and leave the land alone or are you saying you think it's worth more money.

Mr. Infamzon said no sir. I believe it's worth a few thousand dollars more.

Mr. Howard said so everything you just said about being too close to the road and all that; it was really about money, not about the project.

Mr. Infamzon said well, the project of the water improvement is a good thing for the area due to the flooding in the area, so the area needs it. The house should have never been built there from the beginning but the house has been there for many years and I acquired the house and now this family living has now acquired it. Moving this road and this project closer to the house isn't going to help it. Did I answer your question?

Mr. Howard said I think you gave us more information than we needed earlier because you're really talking about money. You're not talking about what it does to the property.

Mr. Infamzon said I don't want to go through the condemnation process and I feel like I've been more than fair to describe to the folks involved, adding the driveway and putting a few thousand dollars in would just save a lot of people a lot of time and heartache and it's going to going to cost the City a lot of money to go through that process.

Mayor Pro Tem Barnes said I would note that the appraised value for both of these items is about \$1,100 and that the property owners, I don't know if that number came from you or from them, but that the counteroffer is \$1500 per property so \$3,000 so we're \$1,900 apart.

Mr. Infamzon said it's a total of \$5,000 Mayor Pro Tem.

Mr. Barnes said well that's not what's here. It says \$1,500 but let me just finish what I'm saying. I think that earlier tonight we had a presentation on the condemnation process and there are a number of safeguards built in to it for the property owner and this phase here essentially allows the property owners to move forward in that process of getting fair value for their property. It's not our intent to take people's property without fairly compensating them and where there is an ongoing dispute, ultimately there is the option of a trial by jury on the matter, but in this case I think we should move forward. It's a fairly routine matter in many respects and the amounts in controversy are not great based upon what's here, but even if we were to move forward with the condemnation, there is an opportunity to continue to try to resolve the dispute. That's my point. So I move to approve.

Motion made by Councilmember Barnes, seconded by Councilmember Howard and carried unanimous approve a resolution as to **Item No. 54-K** to condemn 415 sq. ft. (.01 ac.) in Fee Simple plus 113 sq. ft. (.003 ac.) in Sanitary Sewer Easement, plus 145 sq. ft. (.003 ac.) in Temporary Construction Easement, plus 11 sq. ft. (ac.) in utility easement at 2616 Celia Avenue from Jesus Adrian Iracheta Ortiz and Maria Tomasa Vallejo Charles and any other parties of interest for an amount to be determined for Celia Avenue Storm Drainage Improvement Project Easement Acquisition, Parcel #6; and a resolution as to **Item No. 54-L** to condemn 518 sq. ft. (.012 ac.) in Fee Simple plus 212 sq. ft. (.005 ac.) in Temporary Construction Easement, plus 14 sq. ft. (ac.) in Utility Easement at 2612 Celia Avenue from Jesus Adrian Iracheta Ortiz and Maria Tomasa Vallejo Charles and any other parties of interest for an amount to be determined for Celia Avenue Storm Drainage Improvement Project Easement Acquisition, Parcel #7.

The resolution is recorded in full in Resolution Book 45 at page 153. (2616 Celia Avenue)  
The resolution is recorded in full in Resolution Book 45 at page 152. (2612 Celia Avenue)

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## **ITEM NO. 12: CONCLUSION OF CONSENT AGENDA**

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## **ITEM NO. 6: PUBLIC COMMENT ON PROSPERITY HUCKS AREA PLAN**

Councilmember Phipps said as we discussed at our dinner meeting tonight, I would like to make a motion to defer the public comment on the Prosperity Hucks Area Plan and allow the Transportation and Planning Committee to continue to discuss the plan. I've been in contact with a number of the residents of the Prosperity Hucks area who have questions about the plan and its impact on them and the neighborhood. These residents have not been able to arrange their schedules to meet here tonight and have asked that we defer the public comment on the plan so that they can attend and speak at a future date. A delay would allow staff to meet with this group of residents and try to address any remaining issues and I would respectfully request that the Council consider this and so we can give them an opportunity to further vet.

Motion made by Councilmember Phipps, seconded by Councilmember Howard and carried unanimously to defer the public comment on the Prosperity Hucks Area Plan to a future date to be determined.

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## **ITEM NO. 7: CITY MANAGER'S REPORT**

### **Code for America**

Ron Carlee, City Manager said I want to share with Council that we are involved in an exciting and innovative program. We are one of 10 cities selected to be part of a Code of America Fellowship Program. We are doing this in conjunction with the Knight Foundation. It's an effort to make local government more connected with its citizens through technology. We have

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three members from Code of America with us tonight; Tiffany Chu, Danny Wayland, and Andrew Douglas. I'd like to ask them to come forward if I may Mr. Mayor and have them share very briefly what they're doing here in our city visiting from the west coast for a while.

**Andrew Douglas, Code for America** said I'd like to thank Councilmember Phipps for coming to our event last Thursday to meet with the brigade. I am a web developer and designer from Houston. This year I get to participate in a fellowship program with Code for America. We partner with local governments to try and address old problems in new and innovative ways; usually that's through the use of technology. What we're really trying to do is create positive citizen and government interaction. We're doing that by building interfaces to government that are both beautiful and easy to use. Some other things that we do; we also provide tools, training and a network to empower government innovators to execute on the things they are trying to accomplish. There are 30 fellows nationwide; 10 cities. There are three team members in each city. With me I have Danny Wayland who is a software engineer from Phoenix who's done a lot with open source software and I have Tiffany Chu who is a user experience designer from the Boston area and we're your team this year.

So, all of January was spent in San Francisco training; a lot of us don't come from government backgrounds so we really need to. We learned a lot about how to interact inside government and how to interview citizens from that perspective, as opposed to a software user perspective and that gave us a lot of help on how to do the things we were doing here. We've been here since February 1<sup>st</sup>. So the month of February is our deep dive. We spend the month here in our city and it's really about research and discovery; trying to figure out what is a problem that we can address throughout our year working for the City of Charlotte. So far this month we've been in over 50 meetings with non-profits, with City employees, some County employees and we've been looking for commonalities in problems that they've had. We've also met with 17 neighborhood groups at the neighborhood board retreat. We witnessed the joint information center in action during the snow storm. We received a lot of southern hospitality. It's been great. We've also shared some of our knowledge on user experience design and development at various meet up groups throughout the city. So what we plan on doing for the rest of the year is going back and taking all these ideas that we've gathered; all these topic areas that we've sort of come up with from our interviews and ideating and prototyping on a project that we'll work on throughout the rest of the year. We'll come back several times throughout the year to make sure that the problem we are trying to address is being addressed by the technology that we're developing. Our focus is generally on civic engagement. So we've been working a lot with Neighborhood and Business Services and that's been pretty interesting; meeting all these people from all over the place; finding out how they're engaging with their government or finding out how they're not engaging and seeing if there are ways we can help them engage better.

We've also been working with the Office of the CIO on an open data policy and developing an open data portal so that citizens can actually access this information without necessarily having to go through FOIA requests all the time; information that's not necessarily personal data, but it's pretty important to us making sure it's all just information that they should be able to access easily and they can do many things with it. They can do a research. They can try and find patterns that could prove to provide useful information even for you guys and so we're just really excited to be here; really excited to be working with the City of Charlotte for this year and if there is anything that you guys think is important, please reach out to us. You can reach us at [charlotte@codeforamerica.org](mailto:charlotte@codeforamerica.org) and we'd love to talk to you. So thank you for having us out.

Mayor Cannon said thank you for being here. Give them a round of applause. Those are some really cool jackets too. Any questions or comments?

Councilmember Howard said just one. Where are you guys actually? Are you working out of the Government Center somewhere?

Mr. Douglas said we have an office in Old City Hall, Neighborhood and Business Services Department. We're working a lot with Tom Warshauer. He's a pretty nice guy.

Mr. Howard said I'm sure there is some financial partners that would love to use them.

Councilmember Autry said I'd like to see some API documentation on how we can get into that open data issue and open that up to folks to peruse that data and actually look for those kinds of patterns and different ways of looking at the same information that we're all looking at. I think that'd be a great opportunity for the City to grow with.

Mr. Douglas said we have helped stand up a sort of a prototype open data portal using an Esri tool, it's more GIS data, so geographic data. We're also working on opening up more data that's not necessarily geographic data through one of a few different ways and we've put that in front of the brigade which is another program that's just volunteers in the City of Charlotte that are likeminded like us and want to benefit their city by working with this data.

Mr. Autry said you know Esri's just down the street.

Mayor Cannon said Mr. Manager, anything in conclusion sir?

### **Referrals to the Economic Development and Global Competitiveness Committee**

Mr. Carlee said the Clerk has passed around four items for consideration for referral; if you'd like to speak to them first?

Mayor Cannon said sure. I've been in conversation, of course, with the City Manager and obviously we've had discussions among ourselves with regard to different items and what's happening in and around the community and I'd like to see about making some referrals to the Economic Development and Global Competitiveness Committee. The first is to have plans to support economic development in relation to the Intermodal Facility and the Airport. The background on this is that the Manager and I have had some conversation and he's gone ahead and appointed a staff task force to promote economic development and job creation through public and private investments and partnerships in order to optimize the opportunities at the Charlotte Douglas International Airport and communities that surround it especially between I-85 and the Catawba River and so the task force will have a litany of work that it will go through. Mr. Manager did you want to speak to any of that?

Mr. Carlee said we've outlined the steps there it's really a comprehensive planning process and what the referral would do is to have the Council committee provide oversight and they would be the source for reviewing or developing policy actions that would come by the result of the task force's work.

Councilmember Phipps said I would like to get some clarification on when something is referred to a committee, is there an expectation on a timeline as to when we would expect some sort of action and report back to the committee or to the Council?

Mr. Carlee said it would vary. Each of these projects is in early stages and part of what we are doing is actually developing specific work plans and timelines and that would be available for discussion by the committee as well. Some of these are longer term than others. Probably the one that will be on the fastest track is probably the second one around the façade. The others, there will be a number of milestones, but they will be longer term projects.

Councilmember Phipps said so inasmuch as some of these might take more time than others, I guess we will be getting updates or would that just be within the committee itself.

Mayor Cannon said it would fall through the normal committee process much like your budget committee. That process would take place; there'd be some level of a recommendation in terms of where you would go, just typically how the committee structure works. You'd bring it back before the full body probably comes before us in a workshop of some sort. We'd continue to flesh it out and determine how we move forward. So, let me just make mention of these because I see there are some hands raised. The second is just going to be façade and security matching grants program for us to go back and revisit that and take a look at the ability to broaden the participation and the programs to property owners who are unable to cover 100% of the upfront costs. That's a big problem, especially for small businesses, along some of our struggling corridors who were trying to make some changes and then also look at the geographical footprint



of the areas where some areas may be left out and not able to participate, i.e., Nations Ford Road, Harold Wood Road area and then some places beyond that.

Councilmember Autry said why is this in Economic Development and Global Competitiveness and not in Housing and Neighborhood Development or even Governance and Accountability?

Mayor Cannon said the Façade Program?

Mr. Autry said yes.

Mayor Cannon said because it's an economic development tool. Typically, it's in Neighborhood and Business Services and as such, business typically parlays with economic development initiatives so I think that was the reason. I'm not bent on where it ends up. I think what's really important is that we address the issue for the betterment of the community so whatever you decide in the end, if you want to float it somewhere else, that's fine. But, I think the logic was that it's an economic development tool dealing money obviously; dealing with image and so forth and so on.

Councilmember Kinsey said well noted that these committees sort of interact. But this I think has been in the past in Housing and Neighborhood Development.

Mayor Cannon said the Façade Program?

Ms. Kinsey said yes and so I was a little taken back when I saw that it was going someplace else. I realize that it's Economic Development, but then almost everything is economic development; everything's environmental.

Mr. Autry said it has a lot to do with neighborhood stability and improving the neighborhood situations too.

Mayor Cannon said I understand. I think I went through that with Ban the Box. It was originally in Public Safety when I was Public Safety chairman but some kind of way ended up in Economic Development.

Councilmember Barnes said with regard to that issue I would suggest that because we are trying to figure out how to leverage the Business Corridor Investment money and some of our grant opportunities and we've recognized the tie-in between the physical appearance of some of our retail structures, we thought that, and I think that, having the matter reviewed and dealt with by the EBGC Committee might be a way to support our efforts to strengthen the business corridors. So, for example, there's an item coming up in a moment on Central Avenue; that is one of our business corridors and we're trying to strengthen that corridor. I think that grant would help do that. Councilman Austin and I talked about the Beatties Ford LaSalle area and I think if we can strength and revive that area, it would go a long way to improving the strength of the businesses in that area and there are several areas and so if you take a look at the various business corridors as a stretch that Ms. Kinsey and I talked about for years, from uptown to Old Concord Road approximately, that is in desperate need of some analysis from an economic development and the façade analysis perspective. So, I think that the business economic development piece, the business corridors, the grant money that we've tried to invest in the corridors is very much consistent with our effort to revisit the Façade Program itself.

Mayor Cannon said let me add something. I think it's going to be really important that there's not an overload of work in each committee and so inasmuch as it may make some sense to sort of spread it out, again, I'm okay with that; simply say to Council, you make some determination about where it should land. I think the Mayor Pro Tem raised some good points but at the end of the day, we can take a vote around the dais and you all determine where it goes because I think the greater issue is how we get to the need that must be addressed for these communities, for the neighborhoods that you point Councilman Autry and for the business side of it as well that has been spoken to by others.

Councilmember Howard said I was wondering if we could get through all three and then maybe then deal with it one at a time.

Mayor Cannon said we can do that if that's okay with everyone else. And then the third would be permitting and inspections. Of course the City and the County will collaboratively create a customer focus permitting process. It's important, I think all of us agree around this table, we're trying to get someplace so that the permitting process and inspections can be a little bit more fluid than what they happen to be and so the goal here is to make Charlotte the best place to do business and not acquire a reputation for it to be the opposite of that. The City and the County are currently working together developing a work plan and timelines for the following activities that you see listed before you. I have been in conversation and remain in conversation with the Chairman of the Board of County Commission who has been really really good to work with on this. The City Manager has been in contact and remains in contact with the County Manager. The private sector has been touched base with, so we still have a lot of work to do relative to this and this one also was set to go to ED and GC. The last, would be of course, global business recruitment. Of course, I am initiating the conversations. I have been talking to the Chamber of Commerce and other partners on ways to enhance global recruitment of businesses to Charlotte and so the ED and GC Committee could provide oversight to these activities and develop and review policies that may come to the full body and of course there's several questions here, not questions but items, that would be addressed per se. So at this point, I'll open it right back up to what we can do. To Councilman Howard's point, we wanted to start back up at the top and determine where you want to go with this in terms of committees, we can do so.

Motion was made by Councilmember Howard, seconded by Councilmember Autry to refer #1, (plans to support economic development in relation to the Intermodal Facility and Airport) to the Economic Development and Global Competitiveness Committee.

Councilmember Howard said just a note that I think that is supposed to be 485 and Catawba River, not 85.

Mayor Cannon said correct.

The vote was taken and carried unanimously.

Motion was made by Councilmember Mayfield, seconded by Councilmember Autry and carried unanimously to refer the Façade and Security Matching Grant Program to the Housing and Neighborhood Development Committee.

Councilmember Lyles said I think that the issue here is Transportation and Planning or Economic Development. I think in all of these its much like the prior one that we just voted on. This is about how do we get to the right processes to achieve our goals and I just really believe that it can fit either way. I think what my concern is we've got a small team of people that work on a number of these projects and I know they're all very very intense. In some respects, I think that we ought to be looking to the Manager to make the right assignments and balance this out among some of our committee work. So Permitting and Inspections would fit either in ED or in Planning and Transportation.

Mayor Cannon said I will tell you, I think that's what happened. There was a meeting with the Manager. The Manager was a part of this and made these recommendations so that's how we ended up where we are.

Motion was made by Councilmember Howard, seconded by Councilmember Kinsey to refer Permitting and Inspections to Transportation and Planning.

Councilmember Barnes said just to make the point; not only did the Manager make the recommendation to refer the items to EDGC but there are specific efforts that we are trying to make from an economic development and business perspective with regard to planning the permitting process and the inspection process I think, make not only this item the final item and the first two items, very much consistent with the focused area planning that we just did for the

Economic Development and Global Competitiveness committee, so my opinion would be that all four of them should go to that committee for the reasons that I have stated.

Mayor Cannon said any other dialogue? Hearing nothing in the way of a substitute motion...

Substitute motion made by Councilmember Barnes, seconded by Councilmember Fallon to refer Permitting and Inspections to the Economic Development and Global Competitiveness Committee as recommended by the City Manager.

Vote was taken on the substitute motion to refer to Item No. 3 to Economic Development and Global Competitiveness Committee and recorded as follows:

YEAS: Councilmembers Barnes and Fallon

Mayor Cannon said it doesn't carry.

Vote was taken on the original motion to refer Permitting and Inspections to Planning and Transportation and recorded as follows:

YEAS: Councilmembers Austin, Autry, Kinsey, Lyles Howard, Mayfield, Phipps and Smith

NAYS: Councilmembers Barnes and Fallon

Motion made by Councilmember Howard, seconded by Councilmember Barnes and carried unanimously to refer Item 4, Global Business Recruitment to the Economic Development and Global Competitiveness Committee.

Mayor Cannon said Council you all made some very important decisions I think just now. Again, regardless of where this ends up, because it's so important that we stay on track with the peoples' business and I think this is going to be really important so thank you for moving this forward. It's a big deal.

Councilmember Howard said you make a good point and I meant to say to say this while we were doing the votes. I think Mr. Phipps was right. We should hear about these on an appropriate basis. I don't want to see it quarterly. I don't want to say what it is but every one of these are important and I would hope that we also capture them in the focus area plans so we can get credit for them. Those are the two notes that I made because we kind of moved outside of the focus area plan process so we need to make sure that we capture these in the focus area so we can measure them and keep up with them.

Mayor Cannon said that's a good thought. Mr. Manager, anything else out of your Manager's report, sir?

Mr. Carlee said no sir.

**ITEM NO. 8: N.C. MUSIC FACTORY BOULEVARD REIMBURSEMENT AGREEMENT AMENDMENT**

Councilmember Barnes said this item concerns an agreement that we had with the developers of the Music Factory beginning in 2006. It was in part for them to provide a public road, North Carolina Music Factory Boulevard, I believe it's called and to be reimbursed. The agreement was for a total repayment to them of \$1.7M; and they have spent over \$5M, we understand, on that road project. At this point they are about to begin building a residential development. It was originally going to be a for sale development. They are now going to build a for rent apartment project there and there are some other associated development that they are contemplating. I'd like to thank the members of the committee, Vice Chairwoman Lyles, members Mayfield, Fallon and Austin for their work on this item and many other items but the committee voted unanimously to recommend to the Council an approval of the action.

Motion was made by Councilmember Barnes, seconded by Councilmember Fallon to approve the Economic Development & Global Competitiveness Committee's recommendation to amend the City's Infrastructure Reimbursement Agreement with ARK Group for N.C. Music Factory Boulevard to allow for: An extension of the start date for reimbursement payments by two years to February 1, 2016; workforce housing requirements to be satisfied by rental units as well as for-sale units, and; a reduction in the number of family-sized units from 50% to 30% of the required workforce housing units.

Councilmember Phipps said I had asked earlier today as part of questions in reading this particular item, I was curious as to why this particular item was referred I guess back in October 2012 to the Economic Development and Global Competitiveness Committee, but it wasn't acted on until 16 months later back in February 2014. I was wondering why the protracted timeline from referral to the committee to some action.

Mr. Barnes said sure and I think Mr. Richardson can provide you with a history of the item.

**Brad Richardson, Economic Development Manager, Neighborhood & Business Services** said two reasons. One is the market changes substantively over time so we wanted to wait as long as we could before we brought it to the Council to see if the market-based argument that the developer made had validity and we believe that it does. The second reason is there's a nine acre parcel of land adjacent to the site that we own. We intend to sell. The developer intends to purchase it from us. We wanted to bring that property transaction in alignment with this action tonight to do it all at one time. However, since that time the North Carolina Department of Transportation has informed us they intend to take some of that parcel to do some I-277 improvements that we've been delayed in that property acquisition discussion with the developer and the time is now because the development agreement is at the point where action needs to be taken.

Councilmember Howard said Mr. Manager I love that we're trying to save paper but I would have loved to have seen the whole recommendation in here because I couldn't find your memo earlier. I'm glad I read it and remembered it but it kind of just refers to your memo. I would have loved to have seen it all in here while we are discussing it because there were some pieces to it I think I wanted to ask you about the rental and for sale and I don't remember now, but I'm going to support it.

Motion was made by Councilmember Fallon, seconded by Councilmember Lyles and carried unanimously to approve the Economic Development & Global Competitiveness Committee's recommendation to amend the City's Infrastructure Reimbursement Agreement with ARK Group for N.C. Music Factory Boulevard to allow for: An extension of the start date for reimbursement payments by two years to February 1, 2016; workforce housing requirements to be satisfied by rental units as well as for-sale units, and; a reduction in the number of family-sized units from 50% to 30% of the required workforce housing units.

#### **ITEM NO. 9: INTERSTATE-77 HIGH OCCUPANCY TOLL LANE NOISE WALLS**

**Mike Restaino, 308 W. 10<sup>th</sup> Street** said first we want to thank you in Fourth Ward, the active involvement of the Council had in terms of the sound wall. We appreciate you reaching out to the State, reaching out to the citizens of Fourth Ward on your behalf and your positions. Thank you very much. I live at 308 W. 10<sup>th</sup> Street. I own that property. I'm one of the people that were actively initiated and balloted in the process. The process was really long as you know. Last July, we started going to the NCDOT meetings, learning about it, trying to educate ourselves and also express concerns to the NCDOT that we had about the expansion and the noise walls. As you know, the votes came in. Just recently, I learned before the meeting, that the noise wall was defeated for the Alpha Mills; but the noise wall was passed for Fourth Ward. What we're really proud of is the involvement that we had in the community. 67% of the ballots were returned in Fourth Ward; 58% of the ballots were returned in Alpha Mills. That is unprecedented based on what the NCDOT forecasted us. They anticipated somewhere in the teens. The reason for that is the active involvement of the community in trying to conduct neighborhood meetings, going door to door, trying to express the concerns of what the walls

would do to property value, to the visual impact of the City and also the economic development at North Tryon. What we did learn is that three out of four of the ballots returned by the owners voted against the wall. It was unprecedented; but unfortunately, as you know, any ballot not returned, was voted as a yes ballot. So to put it in perspective Mr. Mayor, as an incumbent Mayor, if next election, if any citizen did not vote, that vote would go to your opponent. I'm not sure how that would sit with you, but the process did not sit well with us. So for example, the ballots were conducted in point value; of the ballots returned on the wall on Fourth Ward, there was 97 points. Of the 97 points, the owners and tenants voted 71 against the wall and 26 for the wall. Basically a three out of four; but unfortunately, because of the ballots that were not returned had enough point value to make it to a defeat. There were 76 total ballots that were opposed. 80 were required to defeat it. So basically those unreturned votes, basically forced the vote against the wall. So thank you very much. Now we're putting our faith in your hands in making the best wall possible.

Mayor Cannon said thank you so much for your presentation. We certainly thank you and appreciate your leadership as well. Councilwoman Lyles let me simply say thank you. You've been at this pretty hard and heavy. You've spent a lot time and hours on it and we certainly appreciate it and others around the dais, but I know you've really been on point on this so I'm looking forward to what you have to say about it.

Councilmember Lyles said Mayor I appreciate all of the support. The Transportation Committee includes Mr. Howard, Ms. Kinsey, Mr. Phipps and Mr. Smith. We also have in the audience tonight, our State DOT Transportation Engineer in charge, Lewis Mitchell, and our State DOT Board Chair Ned Curran. I just want to say that the Planning staff and the Manager's office have also been really really helpful and have worked very hard; but, special recognition should go to Mr. Austin who has attended every community meeting, every bakery and coffee shop in Fourth Ward has had an opportunity to serve Mr. Austin. Sometimes when we have to approach difficult issues, it's good to find some way to think about what good can come out of it. We often talk about these as lessons learned but sometimes we also learn about our culture. One of the things that I'd like to express is an appreciation to the members of this community for accepting the idea that this was a difficult process with something that perhaps isn't quite understandable. I think about this and I really can't think of any other institution that would allow a decision to stand in the way that this decision will likely stand. So I want to say thank you for being a part of Charlotte and knowing that sometimes we've got to go through something to figure out how to make it better.

So what has happened in the last few weeks? You know that we've got the widening of I-77. We're going to construct these high occupancy toll lanes and as a result of that construction, we kick into a noise abatement policy and that policy is not a policy; it is a regulation. One of the things that I was really seeking was a shared understanding of terms and words and we had a great call participation by the Federal Highway Administration, the State Department of Transportation as well as the leadership and the staff, so that we could get to a common and shared understanding. So this noise abatement is a federal regulation required by the Federal Highway Commission or whatever it's called; it's got a lot more names to it. They charged the State with a process, which is not really a policy; they charged the State with a process, to make a determination on how walls will be managed so that they can fulfill the requirement of the reduction in the noise. That process for the State of North Carolina is similar to a number of processes across the region, nationally, in fact. I think that all of us realize as a result of that, noise walls ordinarily are done, not in urban areas and not in areas like the one that we prize and value in Charlotte, in the Fourth Ward downtown area. However, we've got to recognize also that there are other areas that really wanted walls and those votes and processes occurred and so we now have a final result.

The result for the I-77 area, what I call McCrory Heights, Oaklawn Park and Dalebrook; they have all in that community, supported the wall and they supported a brick pattern and medium brown color wall for the neighborhood. We've also got the I-77 area around the Sunset area which there has been a decision to have the noise walls, as well as a design in that area that's been acceptable. We also have the Alpha Mill wall which went through the process and the determination was that there would not be a wall constructed along I-277 in front of the Alpha Mill. The difficulty I think that we're all wrestling with is the idea of the noise wall process that affects mostly the Fourth Ward neighborhood.

I want to just walk through this a little bit because it's very hard to understand when you send out 86 ballots and 50 ballots are returned, that's 58% and you have 74 points; these are points different than ballots, based on a weighted system that 73% of the people oppose having the wall. It does not meet the standard that is set out on the process that requires 80%. So we have a dilemma. We have a dilemma, one, because we have a process that I think is not one that we would hold to the rigor of standard that we would expect for this type of decision that's so important to a community. We have outstanding, returned and undelivered, seven ballots with an equal of 10 points. If those seven ballots were sent in with a no vote, we would not be having a wall. If those seven ballots were returned with a yes vote, we'd still be in a position of facing probably 60% of the community that would choose not to. There's something not right here and the State, I think, has really agreed to work with us to figure this out because it's going to happen again. As I recall, we are planning to have these noise walls coming up, the next time along 485, 77 South, the 277 rework in the CBD. So it's an important thing for us to really pay attention and work with, but tonight we need to make some decisions and as we have walked through this process tonight, what I would like to do Mayor is make a motion to accept two decisions along with the noise walls. The first to accept the decisions by the community of McCrory Heights, Oaklawn Park and Dalebrook to have their walls with a brick pattern in medium brown color and then the second one would be to accept the recommendation along I-77 on Sunset. The reason that we accept these is because it's in the City's right of way and that's why the City Council is involved. What I'd also like to do is include in that motion that we ask the City Manager to work in the next several days to come back to Council with whatever options we can have around the wall that's planned in Fourth Ward; to look at every stone that we haven't turned yet, to figure out what can be an absolute next step for us so that the Council has the full decision as we work through this, understanding that we have come to this point as far as we can where we have agreement.

Motion was made by Councilmember Lyles, seconded by Councilmember Howard to Approve the Transportation and Planning Committee recommendation to the North Carolina Department of Transportation regarding the design (color, texture, material) of proposed noise walls within Charlotte to include: Noise walls on I-77 (north of I-85) – use exposed aggregate concrete panels consistent with existing walls in this area; Noise walls on I-77 (I-85 to I-277) use stamped concrete brick pattern, and medium brown brick color, compatible with existing brick aesthetic walls in this area, and; direct the City Manager to research and report back to Council all possible options regarding the wall planned in Fourth Ward.

Councilmember Howard said I just want to reiterate what Ms. Lyles just said about the fairness of this. In this situation, in an urban setting, just to be clear for the citizens, that means when you come around Brookshire Boulevard from I-77 now coming towards downtown, for a short period of time, downtown is going to disappear because a wall is going to go up. The idea that it came down to seven ballots making the decision for a city of 700,000 seems to be unfair to me and we should do something about that quick. Essentially, we have nothing we could do about it. It seems to be something really unfair when we sell that skyline as one of our top assets and it's something we worked on for so many years and now it will only disappear for 20 seconds but it still would disappear and it'll take away from a lot of work that we've put into building up our downtown for many years. So just to be clear to the citizenship what's going on.

Councilmember Fallon said it's the craziest way of voting I've ever heard of. I mean its backwards voting. But, if we're going to have to do it, possibly can we put up plastic, clear things where you'd still see the City because to be closed in that way, the whole point is to see that skyline and the sun and you're going to close it off with those hideous things and I think possibly we could put up, I know its 30% more, but I would suggest that we ask City Partners to object to them to kick in some money to help and maybe the foundation would do the same, because shutting off the skyline and shutting off the light and sun and the trees, frankly, I don't understand why we can't use full grown trees, which you can buy and serves the same purpose. They abate noise to as an extent, the same five percent we're going to get with these walls. For five percent, we going to go to all this expense, all this trouble; it's not going to make that much difference to the homeowners there. So why we couldn't put in very high conifers that spread, now the once that go up to the sky and they're beautiful; they serve a purpose. There has to be another solution for something that's imposed on you, that you don't want.

Councilmember Phipps said I know last week we had a chance to see a visual depiction of how the walls would look. Is that not available for the viewing public tonight to show?

Mayor Cannon said do we have anything by way of video through Corporate Communications that we can show to the citizens tonight, Mr. Manager, do we know?

Mr. Carlee said I'm not sure that we can have that teed up. It was a special program.

Councilmember Lyles said Councilmember Phipps, my apologies. I think that when we were talking today, we were trying to get this balloting right and we didn't focus on a presentation and I think importantly, is that we'll be able to come back, when the Manager comes back and be able to give you that visual because that will be the time that we'll make these decisions.

Councilmember Austin said I just want to echo what Councilwoman Lyles said about it is my hope that the North Carolina DOT would really take a look at this process particularly around the mailings and whatnot. Many of the individuals in my community have already begun to reach out to me and indicate that they did not get a particular ballot and they're part of the ones that would be affected by the sound. So that brings pause to me of how accurate we are in sending out our information from DOT and having a process that if you don't send it back, it means a yes. But if I don't get it at all, then what does that mean. So also I want to recognize again Mike and Greg who worked very diligently with the Fourth Ward Community in trying to knock on doors, our meetings at Panera Bread and all the other things that we try to do in an effort to make sure that there was a vote of no. So I really just wanted to, if Council would, give them a hand for their work.

Councilmember Smith said as a native Charlottean I absolutely marvel at our City's skyline and the growth that we have seen in my 40 years in town. It is truly a showcase of our City. With that said, in a lot of respects, I think if you live next to a highway, there's a reasonable expectation that you will have highway noise so I do struggle with this process. I struggle with the outcome. With that said I did have a question for Councilwoman Lyles. I know we had discussions and this is more for clarification, I'm supporting your motion but I know the North Carolina DOT was up against some timelines for contracts. I assume our request to the Manager ultimately will not put them at too much of a disadvantage should they need to lock down what they need to lock down.

Ms. Lyles said I'm going to look to Mr. Mitchell but we had that conversation about timeframe and I think as long as we're moving quickly, we'll be okay. I just want to say one other thing Mr. Smith. Out of the front row owners, out of those there were 13 ballots and every one of those votes voted against the wall. It's just disingenuous. I understand, so I don't know, it's kind of one of those statements, "only in America" and that's where we are.

Mr. Smith said as somebody that used to entertain out of town guests frequently, as you bring folks in town, they would look at our City skyline with awe. Anyway, it really is a showcase for our City and I appreciate your hard work on the committee. This was sort of just dropped in our laps and thank you.

Councilmember Autry said don't take it personal if I vote no.

Councilmember Lyles said I do not.

Mayor Cannon said respectfully understood. I know how I would vote if I were with you all. Thank you Councilwoman Lyles and your committee for the work you've invested in this. Members of the body thank you for how you've participated in this. We all know where I think we stand but it's almost like you're in a catch 22.

The vote was taken and recorded as follows:

YEAHS: Councilmembers Austin, Kinsey, Fallon, Barnes, Lyles, Howard, Phipps, Smith and Mayfield

NAYS: Councilmember Autry

kmj

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**ITEM NO. 10: FAÇADE AND SECURITY IMPROVEMENTS AT CENTRAL AVENUE AND ROSEHAVEN DRIVE**

**Diane Langevin, 3825 Winterfield Place** said I am President of the Winterfield Neighborhood Association. I'm also representing Eastway Sheffield who has a President here, the East Committee and Coventry Woods. Yes, we are in great favor of this façade as it is an entrance to our neighborhood. We see this as a win/win/win situation; a win for our neighborhood as it is one of the entrances of Central Avenue. It is a business and with a façade it will make our entrance to our neighborhood so much more appealing. It is a win for Mr. Powell because it would give him better investment in the businesses there and there are great restaurants there. We want those restaurants. We want those businesses to stay and we want those owners of those restaurants to be long time business people there. And it is also a win for the businesses. They are in a very great location. I have eaten at every one of those restaurants and they're all ethnic restaurants, great food. So with this new façade, we see this as everybody winning. Central Avenue needs a lot of work done and it is getting there. Our neighborhood has worked with many matching grants and again we thank the City for that. We are finishing our fifth matching grant. We will be starting our sixth which will be a beautification grant which will work in tandem with Mr. Powell's façade grant. So I want to thank the City for the financial investment they give to the neighborhoods and to the businesses. So I am just excited about what Mr. Powell is going to be doing and it's really improving our safety; it is improving our quality of life. So I thank you very much for the financial investment that you are putting into East Charlotte, in our neighborhood and in our businesses. Thank you.

Councilmember Autry said I just wanted to say that this process has been going on for some time. I was in the Ecuadorian restaurant over a year ago and talked to the owner about the prospects of a façade improvement grant for the businesses and the property owner has been diligent in working with the neighborhood, working with CMPD to make sure that the security measures are in place that are going to ensure that we have a safe facility going forward for a long time to come. So I appreciate that that resolve seems to be coming together for the neighborhood, for CMPD issues and for the business operators there in that facility so thank you all very much.

Mayor Cannon said as district representative that second rests with you.

Motion was made by Councilmember Howard, seconded by Councilmember Autry and carried unanimously to authorize the City Manager to negotiate contracts, in an amount not to exceed \$225,600 with NBP&F, LLC for façade improvements, parking lot renovations, and security feature installations at the Plaza Central Shopping Center and three surrounding buildings.
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**ITEM NO. 11: 10<sup>TH</sup> STREET RIGHT-OF-WAY LAND PURCHASE**

Mr. Carlee said if it would please you, staff is prepared to make a presentation to set the context of this if you'd like to hear staff presentation before speakers.

Mayor Cannon said sure we can do that and then have the speakers to follow. That would be fine.

Brad Richardson, Neighborhood & Business Services said I'd like to point your attention to a presentation. This won't take very long but it's not very often that you see a property transition on your business agenda so I wanted to just spend a few moments tonight just giving you the context for this because this particular action has some context building around it and it relates to some other agreements that the City has with the First Ward Redevelopment Project. So I thought it would be helpful for you and I'll just also point out that the speakers tonight, and we'll be happy to hear from them as well, have agreed upon the acquisition price. We had this on the agenda February 10<sup>th</sup> as a condemnation action but when the agenda was published, I think there was a settlement reached and it was deferred to this meeting. I'm joined by Brad Branham.



Brad is our real estate attorney. He can talk about the price that was settled on and if you all have technical questions on that as well.

So let me just direct your attention to the map above. The 10<sup>th</sup> Street extension; the first thing you'll notice is the red box on the map. That's 10<sup>th</sup> Street that doesn't exist today. It's been on the plans for the City for as long as six, or seven or eight years; 2006's Center City Transportation Plan included it. In 2009, from an economic development standpoint, that's why I'm presenting tonight, the City signed an agreement with Levine Properties, the developer of the First Ward Redevelopment Project. It included a provision that the developer provide certain infrastructure including 10<sup>th</sup> Street. Let me just orient you to the slide you are looking at right now. The big red square, I said, is 10<sup>th</sup> Street and the Ascher parcel we are actively acquiring tonight in this action is included within that, and I'll resume that shortly. But from a reference standpoint, the Blue Line Extension runs right across the top of the screen at the upper border of that red box. That's the Blue Line extension. The green area is a new County park. It's important to know that this agreement the City has with the developer for the First Ward Redevelopment includes some agreements between the developer and the County for that park. It includes an agreement between the developer and the University for parking for UNCC Center City Campus. The City has agreed to reimburse the developer for approximately \$5M worth of infrastructure to be provided and necessary in the area, as well as provide some gap financing for some public parking that will be available to support the park, the children's library, the arena and other things in the area. These agreements, by the way, were seen by previous Councils and 2009 was when the agreement was seen. We updated the plan in 2012 and then last summer we talked about or last September had a land exchange, I'll talk about just briefly. In the agreement, the developers are required to deliver that 10<sup>th</sup> Street Parking Deck. I don't have a laser pointer, but its right at the crux of 10<sup>th</sup> Street and 10<sup>th</sup> Street would be the connection that's in front of a large parking structure. Our agreement with the developer is to provide that parking structure by December 31<sup>st</sup> 2015. That will require him to purchase and build the 10<sup>th</sup> Street connection. The developer was required in our agreement to negotiate with the property owner, but because of the time constraints in the agreement and the importance of the 10<sup>th</sup> Street connection, we also had a responsibility. We were to negotiate if the developer wasn't able to reach an agreement with the property owner. The City had the responsibility to take up the acquisition process with the property owner and use, if necessary, our condemnation authority. We don't have that in front of you tonight, it's not a condemnation, it's an agreed upon sale price. The portion of the parcel not needed for 10<sup>th</sup> Street right-of-way would be sold to the developer.

Last September due to the convergence of the Blue Line Extension construction and the First Ward Redevelopment plan working side by side, where originally they didn't think they'd be overlapping. That convergence required us to do a land exchange. We negotiated a land swap. The developer provided the City approximately \$1.5M worth of land. The City provided the developer through CATS approximately \$1.5M worth of land and included in that to square up that deal, we included a value of \$817K for this particular parcel. Many of you may remember that from September of last year. To square this up at the very end, to the extent that the value, now that we know the value of the parcel, based upon the agreed upon purchase price, how we are going to settle that is, to the extent that the purchase price exceeded that number of \$817K, that means that the developer needed to pay us some money back. So we're handling that through a reduction in that \$5M infrastructure reimbursement agreement. So this is a little bit more complex than a normal property transaction; that's why you'll see funding sources for this item from CDOT's transportation plan and public private partnerships, but importantly, you'll also see two hundred and some thousand dollars coming from the First Ward Infrastructure Grant. That's simply taking money from the developer to make us whole in this transaction. So I'll take questions on that and then Brad's here if you have questions about the price that we've landed on an agreed with the developer.

**Patrick Byker, Esq., Morningstar Law Group, Mooresville, NC** said I am here representing Brian and Steve Ascher. At the outset, we do want to express our deep appreciation for the professionalism, respect and courtesy shown to us by the City's real estate department and by the City Attorney's office. We are here tonight because at the conclusion of the process that has taken four long years, we have some public policy concerns that Mr. Brian Ascher will discuss in more detail. I think to anybody, four years is a long time to deal with the possibility of condemnation at what felt like the whim of a private developer. I may have a unique perspective on this because in my legal career, I've represented both property owners in condemnation

matters and developers who were working with cities to implement necessary public infrastructure in connection with their development. Since real estate development typically is an expensive lengthy process, it is almost inevitable that developers do all they can to postpone expenditures and the natural inclination can have a detrimental effect on property owners like Brian and Steve Ascher. Therefore, it is necessary to make sure that there is a level playing field between property owners on one hand, who have little if any knowledge of the development process and developers who on the other hand, live and breathe it. In addition, their out of pocket costs for property owners, that given the fact that the developer is making a profit, those out of pocket costs should be compensated by the developer. Let's face it; even developers with the best of intentions will not undertake a project unless they expect to make a profit at the end of it. Mr. Ascher and I are both in favor of the development going on and around Uptown Charlotte, but that development has real impacts on real people. Mr. Ascher would like to share those impacts with you. We thank you very much for your time tonight and we'll be happy to answer any questions.

**Brian Ascher, 321 Brandermill Drive Durham, NC** said I appreciate your time. I live in Durham with my wife and three young boys. My brother Steve who co-owns the property at 631 North Brevard was unable to come for health reasons. Steve and I both grew up in Charlotte and attended Mecklenburg Public Schools. This property is my one big investment for my family's future. As such my family has made enormous financial sacrifices over the past 20 years for this investment. I wanted to speak tonight about my experience selling this investment and give warning about the precedents the City is setting.

The legal agreement the City made with the developer in First Ward as it applied to my brother and my property, is in my opinion, unwise public policy. The way the agreement was implemented, did significant financial harm to my brother and me as the agreement took away my opportunity to negotiate for the sale of my property in a free market setting and financially incentivized the developer not to negotiate on a level playing field. Using condemnation, the developer would not have to pay for any sales incentive to me for selling my property before I wanted to or any assemblage value for this parcel being the missing piece in his real estate puzzle. In 2010, the developer approached me to negotiate the property. He told me the City was requiring him to purchase it that year and if we didn't come to an agreement that he'd have the City apply eminent domain to take the property. In the end, the developer did not recognize my square footage or the MAI City approved appraisal that we had gotten. I was unable to lease my property for the next four years being honest with potential tenants that I was under threat of condemnation. In 2013, the developer again approached us within 36 hours of finding out that he was trying to get a hold of me, I contacted and responded to him; yet, I also simultaneously found out that he was already asking the City to condemn my property. So, the City agreement with this developer said that he had to negotiate in good faith. I never felt like I got that opportunity to negotiate with this developer in good faith. During negotiations with the City, the city attorneys could say that we could not get sales incentive because we were under condemnation. This was different from my lawyer's experience in other cities. Furthermore, the City Attorney said that we couldn't hold the City accountable or the developer to its legal agreement as the latest version was unsigned, but it's my understanding that this agreement...

Mayor Pro Tem Barnes said okay that was the end of that time. Let me ask you a question. Did you have an attorney throughout that process?

Mr. Ascher said yes.

Mr. Barnes said Mr. Branham could you talk to us about the current posture of this matter? Obviously here we are being asked to approve a \$1.518M for just under 4/10<sup>th</sup> of an acre of land. Could you talk to us about the current posture of the process and essentially how we got to this point?

**Brad Branham, Assistant City Attorney**, said certainly I can and let me echo first of all that I appreciate that Mr. Ascher and Mr. Byker are here. They have been excellent to deal with throughout the process and we appreciate them participating as they have. The City became involved in this basically shortly after the details that you've heard about from Mr. Ascher. Once the negotiations reached a standstill and there was no, from our perspective, possibility of a final negotiation being completed between the developer and the property owner, the City under

our contract, stepped in to take over the acquisition process. That essentially means we go through our standard acquisition procedures. It starts in our real estate department. We have the property appraised. In fact, I believe, we may be talking about the most appraised in the City of Charlotte at this point. There is actually between Mr. Ascher and his brother, the City and developer, there has been approximately seven separate appraisal reports prepared on this property within the last two to three years. What we have done as a city is first and foremost, we made a determination that the contractual obligations on behalf of the developer had been satisfied. You can really break that down into three quick things; that the developer had indeed had the property appraised by an appraiser that's approved by the City, that that amount had been offered as an option to purchase to the property owner and that it appeared at this point or at that point the property owner and the developer were not going to be able to get over the hump and reach final settlement. To meet our project deadlines that Mr. Richardson has talked about, we moved forward with our acquisition process. We can say that this was certainly under the threat of condemnation because quite frankly, every potential acquisition is under the threat of condemnation, however we have conducted this completely in the hopes of reaching a negotiated settlement with the property owners which over the past approximately four months or so, we were finally able to do. It did appear on the agenda before Council two weeks ago as a condemnation because it appeared at that point, we were going to run up on some very important deadlines construction-wise without reaching that final settlement but with some hard work both on the parts of the property owner's attorney and the City, we were able to reach this agreement. In closing, I will certainly point out, because it's important, that the amount that has been offered and mutually agreed on is exactly to the penny the average of all seven of the appraisals that have been done on the property. Our goal was to try to figure out what the real fair market value of the property was and ensure Mr. Ascher has been paid that and make sure that the City's procedures were followed specifically through the process.

Mr. Barnes said so the \$1.5M was deposited when the condemnation process began.

Mr. Branham said it's actually not gone to the condemnation procedure quite yet. We have been purely...

Mr. Barnes said is that because they agreed to the \$1.5M?

Mr. Branham said that is partially correct and I will say that the City's appraisal on this which was prepared to do the negotiations and then would have been used in the condemnation process was actually a lower amount than this. So the amount that we have agreed on is higher considerably than what the City's appraisal would have been. The deposit would have been lower.

Mr. Barnes said what's the dispute?

Mr. Branham said we have no dispute on our side. I think they will agree that as far as the City's procedures are concerned and the anxiousness to move forward is mutually felt on both sides. I think we would like to see a deal finalized this evening.

Mr. Ascher said I guess my point is given the agreement that was made, it put me on unlevel negotiating and I wasn't able to get sales incentive for selling this property.

Mr. Byker said it's a process that took four years and that really feels like something that, if we had reached this agreement in 2010 when the process started, it would have been much more advantageous for both Mr. Ascher and I; I assume for all property owners who would face a similar situation in the future.

Mr. Howard said I had questions and now I'm confused. So you agree to the number but you wanted to tell us that you're not happy about it.

Mr. Ascher said yes. I had really no choice because I couldn't take it to condemnation.

Mr. Howard said no I'm not going to ask more.

Ms. Fallon said how big is this property?

kmj

Mr. Barnes said it is 4/10<sup>th</sup> of an acre, .398 acres.

Mr. Byker said essentially its 4/10ths of an acre.

Ms. Fallon said so you didn't go through condemnation process. It's just the normal process that you put out, but it wasn't done. It's just the way the process works. You have to say it. So you could have done something with that property all that time.

Mr. Ascher said I had no chance to do that.

Mr. Byker said we respectfully disagree with that because whenever a tenant came to rent it, out of being just honest as the day is long, we told them that this property could be condemned. We had a restaurant that wanted to lease it, but they wanted a five year lease. We obviously couldn't commit to a five year term because we didn't know when the condemnation might happen pursuant to the development agreement so we really had our hot hands tied behind our back by the agreement in terms of making the property income producing, although we still had to pay property taxes on it. I appreciate your question.

Ms. Smith said when was the last appraisal conducted?

Mr. Branham said there had been within just the past year or so approximately, there have been two of those appraisals. All of these appraisals took place within 2010 to the present. The City's appraisal, which is the only one the City did on behalf of itself, was done in September of last year 2013. I believe that Mr. Ascher has produced one to us that was just completed the first part of this year I believe or within the last few days of 2013.

Mr. Smith said what was your appraisal?

Mr. Byker said \$1.73M.

Mr. Howard said \$200,000.

Mr. Carlee said if I might just try to bring some clarity. The issue tonight is really not a debate on the value of the property. We've actually reached an agreement on that. I think the gentlemen who came to speak tonight are really here for the purpose of raising a larger policy issue and the approach that was taken in the acquisition of this property in the context of the contractual relationship we had with the developer. What I would say is that we should listen to that; take it under advisement and to evaluate this kind of approach in future public-private deals that we may negotiate in the future and understand the impact that it had on this property owner and as we do future contracts, evaluate what intended and unintended consequences we may face and we will certainly look at that from a staff standpoint.

Ms. Lyles said I think the Manager just expressed it succinctly my concerns. I'm very concerned we have a condemnation and then four months later, ready to acquire on something like this in a deal that's three parties, so I appreciate that.

Mr. Howard said and I think it comes down to, the crux of it Mr. Manager, having a plan that included property that you don't own and that's essentially what we're talking about. So I mean how that got into the mix, although I know we have a broader City agenda of extending 10<sup>th</sup> Street to provide some connectivity through there, but we should separate those. If that's a City goal, we should have left that in a CIP somewhere and not put it in this deal. That's where the confusion is.

Motion was made by Councilmember Howard, seconded by Councilmember Smith and carried unanimously to (A) approve a purchase contract with Brian Ascher, Steven Ascher, Community Development and Realty Company, Inc. and Dennis L. Watts and any other parties of interest (Owner) for Parcel 080-041-06 in the amount of \$1,518,413.71 for the 10<sup>th</sup> Street Right-of-Way Project in First Ward, and; (B) Adopt Budget Ordinance No. 5303-X appropriating \$1,518,413.71 from prior approved Program funds in the General Community Investment Plan.

The ordinance is recorded in full in Ordinance Book 58 at page 631.

**ITEM NO. 13: MAYOR AND COUNCIL TOPICS**

Councilmember Kinsey said really quickly, I'm really concerned about the time issue. I think in these instances, if we allow 10 speakers, they each need three minutes. In this case I think we should have made it very clear that these two gentlemen either had three minutes combined or three minutes each and I think it's gotten very fuzzy.

Mayor Pro Tem Barnes said I think you're right and I think the Clerk's office will take that under advisement and make sure that each speaker is aware of the rules.

Councilmember Howard said a couple of things, earlier today I sent you guys an email about my concerns about parking fee increases at the Airport and I've talked to the Manager and I'd like to ask the Council's, I guess acclamation, that we get a report from the Manager that goes a little further than the report that he gave us earlier. He explained some stuff to me that I thought would be good to put in writing.

Mayor Pro Tem Barnes said no objections to that?

Mr. Howard said one last thing, I'd like to make sure we recognize the fact that our former Mayor who sits here with us is now Woman of the Year and we should recognize that.

Mayor Pro Tem Barnes said any other items? I have one of my own. This past weekend my son who plays on seven and eight year-old basketball league was an undefeated champion. They were 11-0. The team was a great group of kids and they played a local church here in town and he was excited, I'm excited, my wife was excited, everybody was excited, and they won in overtime in the championship game so it was a great experience for him and the other little boys who are on that team; so congratulations my boy.

Councilmember Phipps said this past Saturday morning over at the Martin Luther King Middle School in Hidden Valley in association and conjunction with TreesCharlotte and the District Rotary; we planted 425 trees over there on the campus. We had 250 volunteers and a good time was had by all. It going to really push us up to reaching our tree canopy goal of 50% tree canopy by 2050 and so even this spring, I think when those trees start budding and blooming, it's going to be a beautiful sight to behold over there at Martin Luther King Middle School.

Councilmember Smith said I would like to congratulate a citizen of the greater Charlotte Metropolitan area for winning the Daytona 500 last night, Dale Earnhardt Jr.

Motion made by Councilmember Fallon and seconded by Councilmember Kinsey to adjourn the meeting.

Meeting adjourned at 9:18 p.m.



Emily Kunze, Deputy City Clerk

Length of Meeting: 4 Hours and 01 minute  
Minutes Completed: March 16, 2014

kmj