

The City Council of the City of Charlotte convened for a Dinner Briefing at 5:22 p.m. on Monday, April 25, 2011 in Room 267 of the Charlotte Mecklenburg Government Center with Mayor Anthony Fox presiding. Council members present were Michael Barnes, Jason Burgess, Patrick Cannon, Nancy Carter, Warren Cooksey, Andy Dulin, Patsy Kinsey, Edwin Peacock and Warren Turner.

ABSENT UNTIL NOTED: Council Members David Howard and James Mitchell.

Mayor Foxx called the meeting to order at 5:22 and said the Council will combine the Zoning Meeting and the Business Meeting in this meeting. I know we have a presentation on our Zoning Agenda so I will turn it over to City Manager, Curt Walton.

City Manager, Curt Walton, said the Dinner Meeting is dedicated to the Zoning Meeting and not the Business Meeting so I will turn it over to Tammie Keplinger to go through the decisions for tonight.

Tammie Keplinger, Planning, said just to briefly update you on what is in your packet, you have the Dinner Meeting Agenda, a copy of the follow-up report, the Text Amendment Update, and you have two citizen responses to two of our petitions, one for 2011-09, which is Crescent rezoning and 2011-16 which is Kidane Haile.

In terms of decisions we have several deferral requests. We have one month to May 16th for Item No. 2, which is 2010-45. This is the Text Amendment on informational pillars. This petition along with 2010-80, which is on outdoor produce sales, we are requesting that both of those be deferred until May. In terms of hearings, as you know the *Charlotte Observer* did not get our hearings advertised this month so instead of actually deferring these, these hearings will just be held tonight, but they will be held on May 16th. The cases that are involved with that are Items No. 11 through 15, Petition No. 2011-18 for University City Partners, 2011-20 for Percival McGuire Commercial Real Estate Development, 2011-21 for Singh Development, 2011-022 for Cambridge-Eastfield, LLC, and 2011-025 for the Charlotte-Mecklenburg Housing Partnership. At this point the Zoning Committee has not determined the date of their Zoning Committee Meeting. They are working on that in the opposite conference room and we anticipate an answer on that by the meeting. Also we anticipate the Council decision date on these cases to be May 23rd instead of asking the petitioner's to wait until June as we normally would. We have asked them if they would like to be put on the Business Meeting Agenda in May so that they will only be late one week in terms of getting their decision. In terms of decisions, I do have several special votes due to amendments. As you know, the Zoning Ordinance requires the City Council to make a special vote, not to send the rezoning petition back to the Zoning Committee for review if changes are made after the Zoning Committee makes their decision. We have two petitions, 2010-72 for Quail Corners and 2011-09 for Crescent Resources that have had additions to their site plans made after the Zoning Committee meeting. Staff considers these to be minor and recommends that these proceed and not be sent back to the Zoning Committee. The changes on both of those petitions, and I will be glad to go over these further in the Chamber if need be, the changes for Quail Corners deals with a potential traffic signal at the intersection of Hamlin Drive and Park Road. The potential extension of a fence that runs along Quail Hollow Middle School frontage along Park Road, is some information on parking areas like headed to the Hamlin Park Drive, that they will be screened from the abutting property and public view so the Hamlin Park Drive people will not have to view those and it is accordance with the Zoning Ordinance Section 12.303. We have also added a note indicating that elimination from exterior lighting fixtures on the site will not exceed 11.5 candles measured horizontally at grade along the site property frontage along Hamlin Park Drive. They have made three other minor changes that are basically corrections and staff feels that those changes are minor in nature.

In terms of Crescent Resources, LLC which is Item No. 6 in your agenda, Crescent Resources has added a 400 foot retaining wall to their site. By doing this it has allowed them add additional tree save area to the site. Overall there are 28 trees that are over 20 inches in caliber in the area and 24 of those trees will be saved. Overall on the site as a whole there are 210 trees and the petitioner is saving 140 of those trees which is approximately two-thirds. Again, staff feels that this is an improvement to the plan and not a significant change. On Item No. 5, Petition 2011-002 for 521 Partners, LLC, this petition, as it was originally submitted, staff was not in favor and

we did recommend approval. The Zoning Committee did recommend approval. Since the Zoning Committee Meeting the petitioner has submitted another site plan that staff is comfortable with. If you recall one of our main issues on this site was the location of the building and they have now pulled the building away from Providence Road and Lancaster Highway as requested. Since that is a major change and it is a change that changes the staff recommendation, this is the petition that we would like to suggest to you that it should go back to the Zoning Committee for further review. We would also let you know at the Zoning Committee Meeting that we will recommend to the Zoning Committee that they recommend a new public hearing. The reason for that is we understand that there were citizens who were not at the original public hearing and were not there because of the location of those buildings. We want to make sure that they have a chance to have input on this change.

Councilmember Cannon said has there many any changes already made to the site from those that are proposing to this particular rezoning request?

Ms. Keplinger said since the Zoning Committee meeting they did submit a revised site plan and that is what our recommendation is based on now.

Mr. Cannon said what is specifically happening with the hotel that was being proposed?

Ms. Keplinger said I believe the hotel location is still the same, but all of the other office buildings, they have moved up to the private street on the interior.

Mr. Cannon said so they have reconfigured the buildings?

Ms. Keplinger said yes sir.

Councilmember Cooksey said the petitioner has followed staff's request to get a staff recommendation. Their desire is to have a full hearing and a Zoning Committee reconsideration. Has the petitioner talked about any kind of time constraints they are under because this has been deferred several times already while it was getting through discussion.

Ms. Keplinger said I have not had conversations with the petitioner myself, however this is way that the ordinance prescribes us to do this. When you make changes after the Zoning Committee meeting this is something petitioners can run into.

Mr. Cooksey said I realizes that it gets into major versus minor and who determines what is major or minor.

Ms. Keplinger said we did investigate to see if there was any way to speed this up for the petitioner, but unfortunately the Attorney's Office advised us that there is not.

Laura Harmon, Planning, said you should have before you what is labeled Text Amendments Update and as you requested a couple a months ago, we have highlighted in yellow the changes since last month so you can see what is different from what we presented to you last month. With respect to Text Amendments, I think what is most note worthy is that we have three major Text Amendments coming up for hearings in June. Those being the height in residential, the PED Overlay District and the Single Room Occupancy. Those are the major pending Text Amendments and you can see that we have the Research District Update that was supposed to be heard tonight but has been pushed back to May as well as a few others that we are working on that we will bring forward. In addition we thought it might be helpful since Zoning is tied so closely to our area plans to also give you an update on area plans that are the way as you might be hearing about some of these. Starting at the bottom of the second page we have added Area Plans to the list of items that we have underway that will be coming forward to Council. We have in particular the Steele Creek Area Plan, the Elizabeth Area Plan and the Independence Boulevard Area Plan that are all wrapping up and will be coming to you in the early summer part of the year.

Mr. Walton said that is it for Zoning. If there are any questions on the regular agenda, either Business or Consent we will be glad to deal with those, otherwise you can eat in peace.

Councilmember Dulin said on the Quail corners revisions, I had a specific conversation with the neighbors about the fencing, etc. but what were the comments from the neighbors? Did staff go over those changes with the neighbors or did the petitioner go over those changes?

Ms. Keplinger said I honestly do not know Mr. Dulin. The staff contact is not in the room at the moment and I don't know if the neighborhood was advised of the changes.

Council Members Howard and Mitchell arrived at 5:34 p.m.

Councilmember Barnes said there was an item from the regular Business Agenda regarding an appointment to Boards and Commissions that I wanted to ask Council's consent to defer. Should we do that here or downstairs?

Mayor Foxx said you can do it here if you like.

Mr. Barnes said on the agenda tonight is the appointment to the CRVA. I wanted to defer that vote to our June 13th Business Meeting in order to allow the Council to assess the audit that they are going to produce at the end of next month and also give the Council an opportunity if it desires to refer back to the Budget Committee further analysis of the relationship between the CRVA and the City Council. Ruffin Hall and I had a discussion last week regarding the financial relationship and there are some issues around the marketing money where the Council may actually have more influence than we think so I wanted to ask Council's consideration of that deferral.

Councilmember Peacock said I know this references Mr. Cooksey's comments about the overall process of who we are appointing to this Board and I think you made some structural comments to that, but were you referring to our overall audit of CRVA and the pending report that will be coming to us. You think that the specific people that are on the slate to be nominated have some financial conflicts?

Mr. Barnes said not at all. I'm speaking of the audit that the CRVA has commissioned and I'm speaking of leaving those two nominations open to allow us to assess what they come up with at the end of next month, and determine whether or not the pool of candidates is what we believe it should be.

Mr. Cooksey said is that request recommendation suggestion including at this stage reopening the nominations for a decision June 13th with some previous nominations or are you suggesting we hold off on deciding to do that until after we?

Mr. Barnes said the latter.

Mr. Cooksey said stick with the pool that is in there but just not pick anybody from that pool until afterwards?

Mr. Barnes said right.

Councilmember Turner said I'm trying to understand what would be the purpose of doing that because one has nothing to do with the other.

Mr. Barnes said from my perspective Mr. Turner, over the last few weeks it has become fairly clear to me that there are some inconsistencies with the way I have understood our relationship to be with that body. I also have expressed concerns about the way the body has been functioning, both the Board and management and our most immediate opportunity to demonstrate or express our concerns about the way the Board and the body function is through these two appointments. It would only be fair to this body to have an opportunity to again assess what the audit says at the end of next month and determine how we would like to proceed with our nominations and appointments after that time.

Mr. Turner said Mr. Cooksey asked the question with regards to would you want us to open this back up for those that would be interested and if we are not going to do that the slate for which we have before us is not going to change. You have pretty much said that you don't want that to

happen so to delay to appoint someone, no matter what the outcome is, one person could very well be the person that is currently on the board, which is an incumbent person and the other folks will all be new. If the incumbent person has no conflict and there is no indication that this person has done anything wrong, I wouldn't see the purpose of why we would delay that when we are still going to make an appointment.

Mr. Barnes said I'm not suggesting that anybody on the list has done anything wrong. I would note that the incumbent only had five nominations, but also in answering Mr. Cooksey's question regarding whether I wanted to open up the nominations, that is not necessarily my intent. If this body decides to seek additional applications and nominations later, obviously I would be supportive in doing that. My intention in making the request tonight is to allow us an opportunity to further evaluate the current pool of candidates.

Mr. Dulin said Mr. Barnes and I have had a conversation about this subject over the week-end and I agree with him. I don't know if we need to rush with those appointments tonight. There is a little bit of a haze around that Board right now and I don't mind taking a step back. If they are going to take a step back and look at themselves, I don't mind taking a step back and taking a breath while they are doing that. I think it also sends a little bit of a message to them that the people who have appointed them expect excellence and that we are watching more closely now. I agree with Mr. Barnes and I would vote to support his soon to come motion.

Councilmember Howard said I too have had conversations with Mr. Barnes over the week-end and the reason why I'm okay with it after talking with him is that it doesn't do anything really to change the terms of the next people who will serve. The new person that would take Vi's place wouldn't take place until July 1st anyway. All we are really doing is delaying this and if it gives us a little bit more time to digest some things which is what Mr. Barnes told me, then I'm okay with that.

Mayor Foxx said we can do it without objection or we can do it with a vote. Does anybody have any objection to that? Hearing none, it will come back on June 13th for a vote on the nominations pending.

Councilmember Kinsey said you may want to make the announcement in the Chamber because some people could be here particularly for that.

Mr. Foxx said good point, I'll do that.

Ms. Kinsey said I have a consent item. It is Item No. 15, the Belmont Gateway. I just want to be able to make a statement in the Chamber that it is finally going to be built.

[Motion was made by Councilmember Cooksey to refer to the Restructuring Government]
[Committee the subject of appointments to Boards and Commissions that have final decision]
[making authority, for consideration by that committee of any recommendations to Council on]
[changes in those types of appointments. Councilmember Barnes seconded the motion.]

Mr. Cooksey said I'm not suggesting any particular changes at this point and I'm not saying we will come back with any, but just in light of not just the CRVA, but we've got the Civil Service Board, Housing Authority, Citizens Review Board and the Zoning Board of Adjustment have final decision making authority on matters that come before them, I think it would be worthwhile to take a look and having the Committee discuss do we want to tighten up on those or continue on as we currently do with appointments. I don't want to call it a fishing expedition, but I also don't want to prejudice the end of it by saying I've got something in mind because actually at this point I don't really have something in mind, but I think it is something the Committee could discuss.

Mayor Foxx said you are talking about not necessarily final deposition on staff but final disposition on issues that fall within ...

Mr. Cooksey interrupted and said I'm referring to the Boards and Commissions to which we make appointments and they, the appointees then have some sort of final decision making authority that doesn't come back to the Council. We have two authorities, two review boards

and the Zoning Board of Adjustment are the ones that come to mind that do that. Once we appoint them they are on their own and we don't see what they do again. I think that is a category where we could discuss and potentially come up with some recommendations to Council on how we could better exercise oversight over those appointments. It is casting out folks to make decisions and we don't see them back again as opposed to the Planning Commission, the Airport Advisory Committee, and other Advisory Committees where we appoint people to give us advice and then we make the final decision. On those, we don't make the final decision and should we perhaps have a different approach to appointing members to those boards.

Mr. Barnes said I actually support Mr. Cooksey's referral and I would like to either add an item to that or perhaps make it a part of that referral and that is for the Committee to explore the nature of the seats on some of these boards. For example, you have silos where certain industries are represented and a certain number of seats are at large. As I understand it that has created a lack of any effectiveness with respect to some boards. I think it would be worthwhile to have the Committee and the Council explore whether or not that is the most effective way for the committees to do the work that we appoint them to do.

Councilmember Mitchell said how would you determine which items would come back to Council?

Mr. Cooksey said this is for the Committee to consider recommendations to the Council for these changes in making appointments to Board with decision making authority. It is open ended because frankly we haven't come up with anything at this stage, but I would like to go ahead and get the subject in the Committee where you and I, Ms. Kinsey and Mr. Turner can delve into it and see are there any recommendations we could like to make on these sorts of appointments.

Mayor Foxx said I'm not sure what gets picked up by the "final decision-making authority" and I think that is where Mr. Mitchell is coming from. The circle may get cast wider than you intend and maybe it doesn't. Mr. Manager what would you think would get included into that category? I actually like your motion so I'm not trying to get away from it.

Mr. Walton said we can look at the list, but I think Mr. Cooksey included them. They are the ones that once you appoint them they do have relatively autonomous decision making. It was unclear on Civil Service, but I would encourage you to include Civil Service in there even though it is on the staff side. They do make final decisions that are very important. I think CRVA, Housing Authority, Civil Service and Zoning Board of Adjustment.

Mr. Cooksey said how about Citizens' Review Board? I thought they had final decision authority.

City Clerk, Stephanie Kelly said they don't make decisions.

Mr. Walton said it has been a long time since we had one, but I don't think they do.

Mr. Cooksey said that is why I was questioning that and, any group to which we make appointments that has final decision making authority.

Mayor Foxx said it would be find with me if you just said look at the appointment structure and then you kind of decide it as a Committee how far into it you wanted to drill. That may be more than other people want to take on.

Mr. Barnes said for the sake of comfort for some of us perhaps I had a discussion with Mr. McCarley about this issue and I think there were things he was considering because I believe there may be some action needed in Raleigh to address some of what I am talking about.

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

Mr. Dulin said I may have been out of the room with the Scouts when you asked for Consent. I do not have any Consent items tonight and neither does my colleague Ms. Carter. But, since I

have the floor, I wanted to talk about the CRVA a little bit. Are we in a discussion open mode on the CRVA?

Mayor Foxx said it is not in order, but we've got some time so go ahead.

Mr. Dulin said we have anybody helping them pick their consultant and are they now free lancing to their own consultant? Do we have anyone on the Review Committee of the consultant? Where is staff on looking after the CRVA process? I can only imagine that they are moving forward on it. I sure hope so.

Mr. Walton said we are moving forward but we do not have a seat at that table. That is their board that is making that decision.

Mr. Dulin said they are really our board so I would feel more comfortable if I could report back to the citizens of this community that we do indeed have somebody sheparding that process, even if we are just proctoring the meetings. That is a big deal and if they want to put it off for a month that is fine.

Mayor Foxx said does anyone care to comment on our authority to require such as has been suggested?

Mr. Walton said I really think it speaks to the earlier issue that Mr. Cooksey raised. Once you appoint them they are an autonomous board that can make final decisions and in this case final decisions over CRVA matters. We could certainly request to be included in that process, but I think it is one that is clearly within their authority unless we want to request something different. I don't think we could require something different, but we could request something different.

Councilmember Cannon said Mr. Dulin are you asking that the City be a part of that process or that the CRVA come back to us with some of the entities they may be looking at to do this audit?

Mr. Dulin said I was asking a question as to whether we had someone that was a part of the process. I'm not talking about Council, I was talking about staff. We have staff people on their Board and we have staff people in other parts of their organization. I don't believe we have a vote and I think that this body needs to be able to report to the citizens of Charlotte that indeed we are proctoring what is going on and that we do know what is going on and at least to this body there won't be any surprises in the next month. Is the consultant going to do any forensic financial studies or what is the consultant going to look at? I'm very interested in the numbers as much so as anything. Forensically where the numbers are, where they came from and then where they went. If they want to take a month to study it fine, but I want the thing studied and without somebody at the table, it just has more cloud. I don't want to hurt anybody's feelings, but it does.

Mr. Cannon said I clearly understand that and the one thing I don't want to do is to belabor any action from taking place. I'm really anxious to get something back and see what is going where over there. As I understand it, I don't know that we have a staff person over there. I think we have a staff resource in that of Ron Kimble, but beyond that.

Mr. Walton said we are not on the Board.

Mr. Cannon said there is no-one on the Board from the City per se. We just have a staff resource but that is about it.

Mr. Dulin said I think we've opened ourselves up to some additional why aren't you watching questions.

Mayor Foxx said I think part of the challenge here is the arrangement that was struck in 2004 was to essentially divest the City Council of management authority.

Mr. Cooksey said actually it was back in the 50's when the original Charlotte Coliseum was built. That is when the management was taken from City Council and given to the Authority.

Mayor Foxx said whenever it was, the point is that there was a desire to remove this body from making management decisions over the CRVA and that is kind of the way it is. It is maybe not the most comfortable place for us to be, but that is where we are and actually I think there is a State Charter that is really embeds that which makes it not even our decision to unpack that and reverse it.

Mr. Howard said I would like to make a suggestion Mr. Dulin because I actually understand what you said is when they get something back and it does not answer some questions that we may have had, if that is the situation, the people that are here that are going to be involved in the process, we ought to just tell them that. What you just put on the table as a concern that you have, and if there are other concerns, I just can't imagine that if we shared that with them they wouldn't take that into consideration. I'm sure they want to get this past them just as quickly as we all do. I'm suggesting that we do request it, we hear about the scope and what it is going forward and if we think there are things that we would like to see in it too, if it is possible to suggest that now so they can start off and we don't come back a month from now and wonder why they didn't cover that as well.

Mr. Dulin said I agree. Now is the time for us to have this conversation.

Mr. Barnes said was there any direction given? Were you just expressing a concern Mr. Dulin?

Mr. Dulin said I'm not singularly able to give direction. The body doesn't appear to want to make a request, but I think we need to be public that we are watching because the community is watching us.

Mayor Foxx said I think they know. I don't think this report would be being done if there hadn't been some vocal concerns expressed by many around this table.

Mr. Cannon said Mr. Howard brought up an interesting point and no, we haven't taken any action and Mr. Dulin has brought some points, but at least by way of the minutes that have been discussed this day, or getting back with them to at least make them aware of the level of discussion that has been going around this table and to see if they have any reaction, I think would be helpful.

Mr. Walton said I will be glad to do that.

The Mayor said it is always good to put your concerns on the table Mr. Dulin.

Mr. Dulin said personally I'm very interested in the numbers, follow the money.

Councilmember Turner said I keep hearing that and I have not read what was in the Observer, but I've been called on it by many folks and it appears to me, you keep saying money, are we speaking in regards to the money that was supposed to have been given to an employee that works for CRVA or are you speaking about something else?

Mr. Dulin said yes, without using her name.

Mr. Turner said sell it is what it is.

Mr. Dulin said but I'm interested in decision making process at the CRVA leadership saying you can't give that to the employee, you give it to us and we will give it to her.

Mr. Turner said you can't follow the CIAA money because we have no absolutely no control over the CIAA and what the commissioners do. I think what you are saying is the money they receive from the CIAA that they provided to an employee or staff member. Is that what you are saying?

Mr. Dulin said apparently the CIAA never gave money to the employee, they gave it to the management of the CRVA.

Mr. Turner said to give to that employee?

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Mr. Dulin said yes.

Mr. Turner said you can't follow their money, you can only follow what was given to them.

Mr. Dulin said it will be interesting to see what the report says. If they don't come back with part of their report about the money portion of the report, which is what this is all about, then it will be very interesting and there will be some more questions. Our questions apparently don't matter because we don't have anything we can do about it.

Mr. Turner said so does anyone at this table believe that this money wasn't property receipted? I'm just going by what Mr. Dulin stated and it makes it appear that some of us have a concern whether or not there is any record to show that that money was receipted or taken and property processed. I think the paper alluded to that and said they interviewed someone and they said that is what happened. I've received a lot of phone calls on this and I've talked to the individuals and what I'm concerned is there have been some comments that I personally think they are dead wrong when we start talking about the CIAA and we have absolutely no control over the CIAA and what they do with their money. It is not money that they received from the City of Charlotte and I've had that conversation with the Commission and I believe it, but if someone at this table or the staff knows something differently it seems to me that some have an opinion or know more than others. I sent a request to Mr. McCarley, wanting to know how we got to this point in the first place. When did any individual on this Council have the power to request an investigation, which I was told that we don't, but I was also told that we approved it as a Council. I haven't missed a Council Meeting, but maybe I missed that comment that we voted on that. Does anyone have any different information to that?

Mr. Barnes said I do. The fact of the matter is, Mr. Turner, is that we do send the CIAA \$200,000 tax dollars every year. I have not raised the CIAA issue yet. My issues have been with respect to the CRVA and its management. For me this started with the Hall of Fame, the projection that I know were misleading regarding the attendance numbers. It continued last fall with the internal HR issues they were having and it continued this spring with the CIAA issue, and I don't know where Mr. Dulin is going with this. I think I understand and I'm not interested in delving into the CIAA itself. My concern is what is going on in Charlotte with the CRVA so what I would submit to you is that there is a lot of information that we don't know and when I asked Mr. McCarley to answer a few questions for me they were very basic questions about how we got to where we are. What he and I discussed ultimately was a brief recitation of how we got to this point from the very beginning and I don't know what scope ultimately that would take or how that would ultimately look, but I think it would be very useful and beneficial to this Council to understand what is going on in these entities that we appoint that, as Mr. Cooksey said, are essentially at arm's length once we appoint them. We are being held accountable for what these people are doing and there are a number of other boards that I could bring up where we are taking buck shot in the face because of decisions other people are making and we need to make it clear to the people of this City that we are on the job. Again, I'm not digging into the CIAA issues at this point, but I do think it is worth noting that we do send them \$200,000 per year. As I understand it, they said the money they sent back for the employee at CRVA was from a different pot.

Mr. Howard said I don't think it is just us that have concerns. The CRVA, by their own direction decided to hire the consultant, none of us ask them to hire a consultant. They are concerned and it is not just us.

The meeting was recessed at 6:05 p.m. to move to the Council Chamber for the Zoning and Business Meetings.

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Mayor Foxx called the meeting to order at 6:11 p.m. and said we are going to combine our Business Meeting and our Zoning Meetings today because we did not have a meeting last week so we are collapsing those two meetings tonight.

INVOCATION AND PLEDGE

Mayor Foxx gave the Invocation and asked the Boy Scout Troop #17 from Christ Episcopal Church, led by Michael Hunter to come lead the Council in the Pledge of Allegiance.

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AWARDS AND RECOGNITIONS

Mayor Foxx said at our last meeting we had hoped to get Dr. Charles Sifford to be present tonight to recognize him for his many contributions to golf. He is still not feeling well enough to be with us so I would like to go ahead and acknowledge him and read the Proclamation which we will present to him on May 3rd during the renaming of the Revolution Golf Course to Dr. Charles L. Sifford Golf Course.

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Mayor Foxx announced that for those who are present for the CRVA appointment which comes at the end of our agenda tonight, the Council just discussed this matter and agreed to delay consideration of those nominations until June 13th. We ask you all to come back on June 13th and we will make a decision at that time.

Mayor Foxx also announced that the Council would not hear any Zoning hearings tonight due to an error in the advertising. He recognized the Chair of the Zoning Committee and asked him to introduce members of the Zoning Committee.

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DEFERRALS

Mayor Foxx said we have a deferral on Item No. 2, Petition No. 2010-045 until May, and Item No. 4, Petition No. 2010-080 until May.

[Motion was made Councilmember Barnes, seconded by Councilmember Kinsey, and carried]
[unanimously, to defer Item No. 2, Petition No. 2010-045 and Item No. 4, Petition No. 2010-]
[080 until May.]

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DECISIONS

ITEM NO. 3, ORDINANCE NO. 4641-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE FOR A SITE PLAN AMENDMENT FOR APPROXIMATELY 14.40 ACRES LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF PARK ROAD AND SHARON ROAD WEST.

A protest petition has been filed and is sufficient to invoke the 20% voting rule requiring affirmative votes of ¾ of the Mayor and Council members, not excused from voting in order to rezone the property.

Councilmember Dulin said this has been as interesting a zoning matter as I have had in five years on Council. We've certainly come to this spot tonight with thought and work and in my case some prayer. We've got a neighborhood shopping center that has been there since 1982 I believe and by all accounts is in disrepair, has empty store fronts. Traffic does not flow in it well. It still a used neighborhood shopping, a shopping center that the neighbors are proud of and yet the paint is falling off of it. The parking lot is no good and it is just not a good place to go spend money and shop. It has neighbors who would like to have a better shopping center and there is a big contention about how to get there. In this particular case, as Council knows, they have whittled it down from all sorts of uses from neighborhood convenience store and gas station, which was thrown out immediately, more banks and even an ABC liquor store. They have whittled it down to where the last remaining additional use that is on the table is a fast food

restaurant, whether it is hamburger or chicken or whatever it might be. There has been multiple discussions about what those options are. We know about the pros and cons. A fast food convenience store would then produce enough income for the owner of the site to be able to renovate the site by all accounts, even folks that are part of the petition against this rezoning, the proposed additions would be welcomed, then again they don't want to have this fast food restaurant. It is our job to listen to those folks. I meet with constituents from all around this City on zoning matters or street matters or road matters and even school matters all the time and I know you guys have spent a lot of time and a lot of your efforts in listening and talking with the neighbors of the coalition of these neighborhoods along park Road and I appreciate that. I really appreciate these folks that have put their time and effort and passion into it. The petitioner and the owner of this shopping center has done I think a very good job, and it might end up not being good enough, but a very good job of listening. I think they have made themselves available. I think they have come back and done everything they can do and still make their numbers work to make this a nicer site and listen to these residents too. I've been losing sleep over this thing for weeks and particularly last night, knowing that this was coming up today. This is hard work and you all know it better than anybody and they know it too because they are living it every day, day in and day out as well. Ms. Kinsey uses the term, I'm going to vote my conscious, a lot and in the end it comes down to my conscious and there are things on the pro side of this zoning change tonight, the center gets renovated in a nice way, the neighborhood shops, primarily Rusty's Deli, I think has been there for 25 years, I don't know the exact number, but it is certainly as long as I can remember since I have been back from college. Dilworth Coffee that I've been going to for at least 10 years if not 15 years, they get to stay and their lease probably isn't going to be jacked up and the empty spaces that are there, instead of being empty store fronts, the idea of course is to get those things full. When you lease a space you create jobs, you create areas for high school kids to go get jobs and possibly their first job ever. My own son has his first job at Park Road Shopping Center in a store front just like those over three. You also increase the tax base. More sales means more taxes to both the City and to the County. The County is in dire need of more taxes. This is the redevelopment kind of thing that helps the County have more tax base and they use those tax dollars on things like libraries that are very important to the community as well. It is difficult but I would like to make a motion to approve this zoning tonight.

[Motion was made by Councilmember Dulin, seconded by Councilmember Barnes to approve]
[the Statement of Consistency and Petition No. 2010-072 for the above site plan amendment]
[as modified, by Quail Corners, Associates, LLC, as recommended by the Zoning Committee.]

Mayor Foxx said I do want to recognize that there have been some changes made to the petition and maybe have Ms. Keplinger walk through those changes.

Tammie Keplinger, Planning, said I would be glad to. Since the Zoning Committee met the Petitioner had agreed to several items. They have added some notes based on the potential traffic signal at or near the intersection of Hamlin Park Drive and Park Road and who would responsible and contributions toward that traffic signal. They have added notes about the extension of a fence that runs along Quail Hollow Middle School's frontage on Park Road. They have added a note indicating that the parking area adjacent to Hamlin Park Road will be screened from the abutting property and public view in accordance with the Zoning Ordinance. They have added a note indicating that the elimination of exterior light fixtures on the site will not exceed 11.5 candles and they have specified where that is to be measured along the property line on Hamlin Park Drive. They have also made several other changes that are basically correctional and are not substitutive.

Mayor Foxx said so before we have a vote on the motion that has been made, we'll need to decide whether to go back to the Zoning Committee or whether to go forward with a vote tonight. We will need a motion on one or the other there.

[Motion was made by Councilmember Dulin, seconded by Councilmember Barnes to move on]
[tonight because I think those were minor enough changes.]

Councilmember Howard said does the staff have an opinion on whether or not it should go back.

Ms. Keplinger said we believe that the issues are minor and it is fine to move forward.

mpl

Mr. Howard said I agree with Mr. Dulin, this one has been a hard one for a lot of reasons. One of the things I struggled with during my first term is how do you deal with trying to compromise between two sides that you respect a lot and how do you find virtue in whether or not, it is not yes or no, but finding some compromise and gray areas, which is what I tried to do in this situation. I think that was reflected in what Ms. Keplinger just shared with us. For me I heard from the community the issue about the drive-through, about fast food and about safety. The drive-through being really something we need to go through land use and our regulations to figure out the staff signed off on that one. On fast food, it is really more of a land use and more about food, feeding people, so again that was a land use issue. The one that I did feel like I could really sink my teeth into was safety and when you start looking at all the different things that are going I first heard that Councilmember Carter introduced the whole idea of how do you deal with maybe slowing traffic down at certain parts of the day and I call that peek traffic control. When I delved into that more and talked with the Petitioner and with C-DOT I didn't get from the Petitioner that there was any hesitation to deal with some of the issues. I think they would like to see it signaled because it wouldn't stop people right in front of their front door. It really had more to do with C-DOT saying that there was not a signal warranted right now at this point, but pushing them a little bit they did agree to put up the money that would be required to pay for signaling that and just to confirm with C-DOT with head nod, that \$75,000 would cover the installation of a signal. Then you start looking at children which is what we heard about where they would come from. They would come from the Junior High School mainly and if you look at the site of the school, the track actually does leave a gap in this fence that would allow kids to almost pull right into that intersection. Again I heard that it was suggested, what do you do with the fencing and they have agreed that if the school would allow them to extend a six-foot fence all the way down the property line to prevent that flow of traffic. Then you start thinking about the lighting if it comes from the parking lot. That is where the note came about adding more vegetation in that buffer, not just in the front part of Hamlin Park Drive, but all the way down Hamlin Park Drive along that parking lot to screen the parking lot from the neighbors across the street. I think what I'm saying is that after pushing and getting them to conceive that safety could be a concern, I think the developer has done all they could do to deal with safety and that is what my issue was with this. After hearing those concessions I'm in support of it, but I wanted to at least explain to the community, who put so much time into this, at least what my thought process was on it. So with that I'll support it tonight.

Councilmember Carter said I'm still a little concerned about safety as we are talking about right turns off of Park Road into both of those small streets, Hamlin Park Drive and the interior drive. I would ask one more time for the developers to look at pushing those entries into the drive-through back further from Park Road itself because I think that is a very important issue so that you don't have stacking. I know with the Chick-Fil-A on Randolph Road we do get stacking out on Randolph Road and that is not a good thing, even in rush hour traffic so that is an issue that I would ask that they reconsider. I'm grateful for the concessions that were made. I still have a problem with four drive-throughs in one area and we are going to be looking at that on Monroe Road. I hope that the drug store will not develop its drive-through. The idling is important to me for air quality and the health of our citizens, but for renovation of a shopping center that is in decline, I understand that issue extraordinarily well and I know what the deletion of a good grocery store can do to a shopping center. That is why I will look at the gray areas and decide to support the issue.

Mayor Foxx said Ms. Keplinger maybe you can help me with this. I'm sure that the issues Mr. Howard and Mr. Dulin have referenced that gave rise to the protest petition have been discussed extensively. Has there been conversations at this point with the protest petition filers about these changes and is there a sense of whether that satisfies their concerns or not.

Ms. Keplinger said I understand that the petitioner did send out an e-mail today letting people on their contact list know that these changes had been made, however staff has not had any contact with the protest petitioners specifically and the protest petition is still in place and it is sufficient.

Mayor Foxx said I know this is not a hearing but because we are seeing changes to the petition that we are having discussion about tonight, would it be possible to ask a question if there is someone present who signed the protest petition?

Assistant City Attorney, Terrie Hagler-Gray, yes, you might want to make sure that you give even time to the developer as well.

Mr. Foxx said let's figure out whether or not we are going to send this to zoning first and then we can deal with that later. There is a motion on the table to go forward with the vote tonight and it has been seconded. The vote was taken on the motion and was recorded as unanimous.

Mr. Dulin said it has been brought to my attention that I may need to change my motion to approve with modifications.

Mr. Foxx said if that okay with the seconder?

Mr. Barnes said yes.

Mr. Foxx said is there anyone present who is a signer of the protest petition? Is the developer here? Sir I assume you heard the conversation about the modifications to the petition and the question I have is whether those modifications allay the concerns of you and others who filed the protest?

Mark Matthews, President of Quail Hollow Homeowners Association, said the first time I was seeing the modifications were at 3:00 this afternoon when they hit my e-mail box. I have not had a chance to personally look at them or discuss them with our Homeowners Association or the Park Quail Neighborhood Coalition. With that said I'm a little concerned that (a) they came in this late because all along I think one of the requests from City Council was to work together with Crosland to come up with a viable plan. I think we did. We worked with Andy to have these discussions and I think bottom line is no new ideas were brought to the table with regards to a replacement of a fast food restaurant with a drive-through. That was the biggest concern and that is the opposition.

Mr. Foxx said I will offer some equal time to the developer on this question.

John Carmichael, said I am here on behalf of the petitioner. We were working on these additional commitments last week and I think we finalized the language. I sent Ms. Carter an e-mail on Thursday with of the notes and the other two notes were finalized Friday and sent to the architect to put them on the plan, which was delivered to staff today. I talked to Ms. Settlemyre from the Coalition sometime this morning and e-mailed the notes around noon and I'm sure Mark didn't get them until around 3:00 and we apologize for that, but they were work in progress. In terms of working with the neighborhood, we did meet with them and we've had a lot of discourse with them. They have given a lot of their time to this effort and we appreciate that. They have devoted a ton of time and at some point in the last 4 or 5 weeks I wanted to be respectful of their time and not just keep meeting if we were hung up on one issue and it is an important issue to everybody, but it is the fast food use. I made an inquiry whether it would be worthwhile to meet to see if we could talk conditions that could be imposed on a fast food use to get folks comfortable with that use. I think the response was, there weren't any. I think they are opposed to the fast food use and we understand and respect that. We feel like it is important to the client so we are at a point where we just respectfully disagreed on that one use. These conditions arose conversations with Council members in an effort to address some of the additional concerns about pedestrian safety. We are happy to have additional conversations after tonight about things if it is approved or if it is not approved.

Mr. Foxx said that is helpful on both sides and I appreciate that feedback.

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

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

NAYS: Mayor Foxx and Councilmember Burgess.

The modifications were:

- A note has been added stating internal sidewalks and pedestrian connections will be provided as generally depicted on the site plan.

- The note under “Setbacks, Side Yards and Rear Yards” has been amended to state that the setback will not be reduced beyond the 40 foot setback shown.
- A note has been added stating construction and installation of the outdoor plaza area with hardscape, planter, and seating will be completed prior to the issuance of a certificate of occupancy for the restaurant building.
- A note has been added stating that the architecture, pedestrian connectivity and parking areas relating to building envelope 2 (if the existing building located within building envelope 2 is replaced with a new building), building envelope 3, and building envelope 4 must be reviewed and approved by the Charlotte-Mecklenburg Planning Department prior to the issuance of a building permit for the building(s) to be constructed within building envelope 2, building envelope 3, and building envelope 4 to ensure compliance with the spirit and intent of the architectural and design standards for the corresponding building envelopes.
- A note describing the storefront elevations of existing building conditions for building A (wood or cedar siding painted to match the color of the storefront elevations of existing building A).
- The driveway on Sharon Road West will be amended to eliminate design details from the site plan.

The ordinance is recorded in full in Ordinance Book 57, Page 48-49.

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ITEM NO. 5, PETITION NO. 2011-002 BY 521 PARTNERS, LLC FOR AN 0-1(CD) SITE PLAN AMENDMENT FOR APPROXIMATELY 12.54 ACRES LOCATED ON THE SOUTHWEST CORNER AT THE INTERSECTION OF PROVIDENCE ROAD WEST AND JOHNSTON ROAD.

Mayor Foxx said this is a case where we need to have a decision on whether or not to go back to the Zoning Committee or not.

Councilmember Cooksey said there was some discussion about this at dinner about what constitutes a major change or a minor change. I have been reminded by our Attorney that it ultimately is up to us to determine whether it is a major or minor change that warrants going back to the Zoning Committee and then if necessary back to a public hearing. In this case, given that the issue was that the placement of the buildings, whether they be aligned up against Johnston Road or along the internal road, that the staff concern was that they be lined up on the internal road. I think that is a better way of lining this up. The petitioner has made that adjustment. I'm comfortable offering a motion that this Council does not consider that a significant enough change to go back to the Zoning Committee and vote on it tonight.

[Motion was made by Councilmember Cooksey, seconded by Councilmember Cannon to vote]
[on this matter tonight.]

Mr. Foxx asked if there was a staff recommendation on this?

Tammie Keplinger, Planning, said originally staff was in opposition to this rezoning petition, but with the changes since the Zoning Committee meeting, staff is now in favor. I would like to point out that the Zoning Committee did recommend denial and that was based on the original plan that did not show the buildings on the internal street.

Councilmember Kinsey said do the residents know about this change? Are we doing something that maybe some of the residents are not aware of? Have they been notified, or maybe there was not a huge concern about this project. I just don't recall.

Ms. Keplinger said the change that occurred after the public hearing and after the Zoning Committee meeting, there is no notification that goes out to the adjacent property owners. We understood, that there were citizens that were happy with the buildings fronting on Johnston Road. I don't know how they feel if the buildings are facing the internal public street.

Mr. Cooksey said let me make sure, is the sole change to this petition the location of the buildings or has there been any change to density or the hotel uses?

Ms. Keplinger said the sole change is the location of the buildings with the exception of the hotel. The hotel will remain along Johnston Road.

Mr. Cooksey said could I ask the Chairman, what were the Zoning Committee's concerns about this particular petition and why did the Committee vote no on it?

Steve Rosenburgh, Zoning Committee Chair, said I think the Committee was concerned about three things, the orientation, the hotel and the density. It is up to Council how they treat this, but my suggestion, because we've had a lot of public participation and interest on this, is that if Council deems that this needs to be reexamined that it be sent back to the Zoning Committee so the process that involved the public be maintained.

Mr. Cannon said the orientation, as staff has pointed out, has already been taken care of. The density aspects of it, has there been any changes relative to the density?

Ms. Keplinger said no sir.

Mr. Cannon said what is the current ask, what is the scope on that right now?

Ms. Keplinger said in terms of the density?

Mr. Cannon said yes. I know that the level of discussions that I've had given I'm a ¼ mile down the street from the location of the proposed site, there hasn't been any opposition that has come across my desk. That is not saying that it does not exist but the faith based institutions that are in the surrounding area, from some of the other residents in the surrounding area to west, to the east and to the north, as well as to the south, I haven't gotten negative feedback. I don't know what Mr. Cooksey has gotten back, being the District Rep, so that is what it is.

Ms. Keplinger said part of their request was to allow an additional 30,000 square feet of office if the hotel is not constructed, which would allow a maximum overall square footage 210,000 square if the hotel is provided and 155,000 square feet if the hotel is not provided.

Councilmember Carter said I think I remember discussing with some of the citizens in that area they are content with having the buildings face on that internal street. I am concerned about their reaction if we do change that orientation. They might be in the minority, but I think they need to have a say. Consequently I would like to ask if there is a way to expedite the decision process if we have the public hearing, to have that hearing and the decision at the same point.

Ms. Keplinger said the Attorney and I discussed that prior to the meeting and the Zoning Ordinance is very specific on how we deal with this. It says that the change after the Zoning Committee meeting, the Council gets to decide if it is a major change or a minor change and whether you want to send it back to the Zoning Committee. If you send it back to the Zoning Committee, the Zoning Committee can make a recommendation for a new public hearing, so it could come back to the Council again with a recommendation for the Zoning Committee for a new public hearing then the Council votes today. We recommend to hold a new public hearing and we would hold the hearing. Terrie and I talked about that to see if there was any way to expedite that procedure and the ordinance is very specific.

Ms. Carter said so that means a delay of about five months because we get into the delay of the summer?

Ms. Keplinger said possibility with the August break that we have, also something that could be considered is a decision the same night of the hearing which would be possible to speed it up a little bit, but in terms of the process, we still have to go through this step.

Ms. Carter said I'm uncertain about how it would track given our schedule right now. It would be a May decision.

Ms. Keplinger said it would probably be a July hearing with a September decision.

Councilmember Mitchell said just to follow up with Ms. Carter. I like to support the District Rep as I think they know their community better than the rest of us, but this one makes me very uncomfortable because in our write-up it is about denial. City staff has approved it, then changes have been made after the Zoning Committee so I am a little uncomfortable. Would there be any impact to the developer with the September timeframe? Do we know?

Ms. Keplinger said I personally have not had any conversations with the developer. We have been in contact with his representative and we did explain the delay to them. I'm not sure if the developer is here or his representative.

Mr. Mitchell said there was a high level of public interest, one of my colleagues made reference to, so do we communicate to the citizens in some fashion that this has been changed?

Ms. Keplinger said the changes can come in as late as today at 3:00 so unfortunately there is not a way for us to communicate those to the citizens and if the people didn't come to the public hearing we wouldn't have a record of who they are. We would do a general notice of course if a hearing was held again.

Mr. Mitchell said my question is not so much, because I'm very supportive of the petition, but I think sometimes if you do it the right way it comes across and brings a lot of credibility. This one makes me feel very uncomfortable.

Mr. Cannon said Council, even today and in the past, have actually voted to do what Council wanted to do. When staff disagreed, Council decided they would agree and the Zoning Committee may have disagreed and Council decided they would agree. In the last issue that just came before this body, one of the things that happened was, Council had another option, even at that point to send this back to the Zoning Committee because of a change. Council opted not to do that and Mr. Mitchell raises an interesting point, but the point I'm making is that if in the last item the Council knew there were changes being made the citizens, for all practical purposes weren't made aware of any of those changes. If that were the case then, if we want to be consistent and you have the option and/or the opportunity to continue to stay consistent. There is probably a difference between the two which I'm not pointing out, but I will ask you for the point of public information what that difference might be.

Ms. Keplinger said there is a difference. In the previous petition staff was supportive of the petition originally after we had outstanding issues addressed. In this petition, staff was not supportive of the petition originally until they addressed the outstanding issues. We consider it a major change because our recommendation changed.

Mr. Cannon said I think the change staff made was with regard, as we talked about the orientation, that was for the betterment of the public good in the area. That is what we are going to end up finding out at the end of the day and the push back was coming from the petitioner because they really didn't want to do that. Hats off to you for making this happen on behalf of the community. That orientation piece is major and I think the only outstanding piece that needs some level of discussion is really about the density of the hotel. I won't hammer this to death and will yield to the will of whatever the Council wants to do because at the end of the day I think this will move forward. My only point of concern is that the petitioner is not here represented today and I don't know if that is because they weren't notified or maybe they were told this was probably going to be delayed or what. They are not represented and that makes me uncomfortable because they are not here and these are business folks and they can only tell if the watch makes sense to them for us slow things down or keep it moving forward.

Ms. Carter said to see if there is a third option here I would like to ask the Attorney to see if we can defer the action on this proposal for one month and give our citizens a chance to contact us on City Council regarding their reactions to the change.

Ms. Hagler-Gray said that is a possibility. If you vote to not to send it back to the Zoning Committee you don't have to vote tonight and you can defer it a month for a decision.

Ms. Carter said I think that is probably a median decision point for us. It respects the timing of the developer as well as the input of the citizens.

[Substitute motion was made by Councilmember Carter to keep the Council's purview on this]
[but to defer the matter for a month. The substitute motion failed to get a second.]

Ms. Kinsey said if the motion didn't pass maybe this is a moot point, but if we did defer somebody would need to reach out to these people, we just couldn't say contact us because they won't know that.

Councilmember Barnes said apparently the waves aren't reaching this side of dais here, but what is the preference of the elected representative of the area?

Mr. Cooksey said I made the motion that Council go ahead and not consider the change significant enough to send to the Zoning Committee.

Mr. Barnes said are you going to be moving to approve this petition?

Mr. Cooksey said that is my intention. Procedurally, I think where we are tied up in knots here is that we have historically considered a change made after the Zoning Committee discussion to be minor and we move forward. What we have here is a question of whether or not we are content to move forward with an official Zoning Committee recommendation of denial, based on the petition at the time, versus the petition we now have before us which basically reoriented the buildings. It didn't change the density and it didn't change the hotel. My concern about how to treat that is if we do vote to send this back to the Zoning Committee a variety of cans of worms get created because as has been mentioned, the only way for the public to know this change has been made and it is something to comment on is if there is a call for another public hearing. Then notices go out and timing wise, what I was told before the meeting would be if that route went, the timing was probably July and we hear petitions in July, we vote on them in September, not August. I'm not convinced that there will be a change that results in denial of this petition. I support it, you've got staff's support, the Zoning Committee opposed the version that they saw but the change has been made, in my opinion was a minor one, necessary for some staff support and a change that does improve the orientation of the buildings and improves the project. I'm content, given all the "what ifs and if thens" I'm thinking the final outcome of this is an approval so I'm content with saying let's consider it a minor change tonight and go ahead and vote on it.

The vote was taken on the motion to vote on this matter tonight and was recorded as follows:

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

NAYS: Council members Carter, Kinsey, Mitchell, Peacock and Turner.

Since this was a protested petition it required a $\frac{3}{4}$ affirmative vote of Mayor and Council, therefore the motion failed.

[Motion was made by Councilmember Mitchell, seconded by Councilmember Kinsey, to]
[send Petition 2011-002 back to the Zoning Committee.]

Mr. Howard said is there any scenario where we can do this and it does not go all the way to September for a final decision.

Ms. Hagler-Gray said I understand from staff that the Zoning Committee has a meeting in April where they could consider this because due to the delay with our public hearings they are having a special meeting I believe this month. They could meet in April and also there is the opportunity to have the decision on the same night as the public hearing.

Mr. Cannon said if the petitioner were called tonight and asked why they weren't here tonight, what would they say?

Ms. Keplinger said I cannot answer that Mr. Cannon. We would not advise the petitioner not to be at the meeting.

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

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

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ITEM NO. 6: ORDINANCE NO. 4642-Z FOR A MUDD-O SITE PLAN AMENDMENT FOR APPROXIMATELY 7.81 ACRES LOCATED ON CARNEGIE BOULEVAD AND WEST OF THE INTERSECTION BETWEEN ASSEMBLY STREET AND CARNEGIE BOULEVARD.

A protest petition has been filed and is sufficient to invoke the 20% voting rule requiring affirmative votes of $\frac{3}{4}$ of the Mayor and Council members, not excused from voting in order to rezone the property.

[Motion was made by Councilmember Dulin, seconded by Councilmember Carter, to approve]
[the Statement of Consistency and Petition No. 2011-009, as modified, for the above site plan]
[amendment by Crescent Resources, LLC, as recommended by the Zoning Committee.]

Councilmember Carter said there has been extraordinary work done by the neighbors on this issue, particularly on the tree save issue and there are several recommendations. I want to thank the developers for working very sincerely and if I might, ask them some questions.

Mayor Foxx said let's have Ms. Keplinger go through the modifications for us real quick.

Tammie Keplinger, Planning, said basically there has been one modification since the Zoning Committee meeting. Ms. Carter, I'm not sure if that is the one you want me to specifically go through. Since the Zoning Committee meeting the petition has added a retaining wall which is located in the area of the detention basin. What that has allowed them to do is to preserve more tree save area. They have approximately 28 trees in this area that are over 20 inches in diameter and they are going to be able to preserve 24 of those trees. On the site overall they have 210 trees and they are preserving approximately $\frac{2}{3}$ of those which is about 140 trees. This additional retaining wall will add benefit the site and the location of the retaining wall is very hard to see on the site plan. Ms. Keplinger pointed it out to the Council as well as the tree save area.

Ms. Carter said the questions would be, number one, I understand the survey was made in 2008. Is that correct?

Ben Collins, Crescent Resources, said the survey was actually a 2004 survey that was done under the previous development. We are in the process of updating that right now so the tree caliper that we referenced were based on that survey.

Ms. Carter said if there are more trees over 8 inches in diameter, will they be saved or every effort be made to save them?

Mr. Collins said we are planning to make every effort to save as many trees on the site as we can. We feel like every tree we save is an enhancement to our property value so we will make every effort to save those trees.

Ms. Carter said there was a suggestion not to clear the buffer, but to leave it in a natural state and that would preserve a greater distancing from the residential property to this commercial property and pathway.

Mr. Collins said I believe our plan was to go through and take down any dead or dying trees based on consultation with an arborist and we would still suggest doing that because we've had some trees that have fallen even most recently during this past storm. We would like to check tree health through there, but beyond that we plan on preserving.

Ms. Carter said when trees falls they are considered seed trees and lots of wonderful things happen to trees in these natural areas when they are left, even though they are dead. Number two, there is an allegation that the downstream flooding in the neighborhood is a myth and is there anyone from Storm water, or can our Planning folks confirm that there has been downstream flooding and locate it specifically for us?

Ms. Keplinger said Doug Glosser is here from Storm Water Management.

Doug Lozner, City Storm Water, said regarding your question about the downstream flooding, there has been flooding that has gone back over several years to the downstream area. Going back to the original 2004 Petition, we did meet with the neighborhood to inquire what they had experienced and what their concerns were regarding the increased flooding. With that the petitioner decided to do additional retention beyond what was required at that time for the 50-year storm event. With that we were pretty comfortable that that would offset any potential impacts for their development.

Ms. Carter said there has been actual flooding and threatening of residences in the area?

Mr. Lozner said yes.

Ms. Carter said so rain gardens would not an appropriate decision for this area?

Mr. Lozner said not to alleviate flooding, no mane, rain gardens are more of a water quality measure, but the wet pond they are proposing here would help with both water quality and water quantities.

Councilmember Turner said Ms. Keplinger indicated that the average size tree that would be saved is 29 inches in diameter.

Ms. Keplinger said 20 inches.

Mr. Turner said in the area where the 210 out of that 140, do you know what the average size was of the 140 that was going to be saved?

Ms. Keplinger said I don't know the average size of those trees, but the petitioner may be able to answer that question.

Mr. Turner said if he would like to speak to that it would be fine. He indicated that he did not so I'll go on with my question. I appreciate the work that both sides and the District Rep have done and I think you all have made a lot of compromise. I never got a response back or a clear answer when I inquired about the pond on the property. Were there any legal ramifications where they could still meet our requirements by reducing that pond and we didn't have the answer to that. Can you speak to that tonight?

Ms. Keplinger said I can't but Doug probably can.

Mr. Turner said the reason I brought that up as a concern was that if we could reduce that pond size to help save some of those trees and it falls within our guidelines I through it would be a great way to help alleviate some of the concern about the tree save area.

Mr. Lozner said yes, they could make the pond smaller, but what it would do is just decrease the level of protection for what they are detaining. Back in 2004 they had agreed to detain to the 50-year storm event and at that time only the 10-year storm event was the requirement, but with the Post Construction Ordinance forthcoming they did willingly bring it up and decided to go well above and beyond the requirement at that time and to do the biggest level of detention they deem possible for what they had. They could decrease the level of detention and make it smaller, but it would also decrease the potential protection downstream for the flooded areas as well.

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

Ms. Keplinger said since the change was made after the Zoning Committee met we do need a special vote not to send it back to the Zoning Committee.

[Motion was made by Councilmember Barnes, seconded by Councilmember Howard, and]
[carried unanimously, not to send this petition back to the Zoning Committee.]

The modifications were:

- Note 8 has been modified to indicate the future public street illustrated on the rezoning plan will be constructed and offered for dedication to the City of Charlotte prior to the issuance of the certificate of occupancy. In lieu of constructing the street prior to the issuance of the certificate of occupancy, the petitioner will be allowed to provide one of the following two options:
 - a. Provide funding, in the amount of \$190,000, into a CIP project for the portion of the proposed road connection located on the subject site; or,
 - b. Post a bond for the construction of the required street located on the subject property. In either case, the note indicates the petitioner will construct the intersection of Carnegie Boulevard and the proposed street as a roundabout, as illustrated on the rezoning plan.
- The fire access grass pave from the future street right-of-ay on the site plan has been removed and replaced with the street cross section to illustrate the required public street extending south from Carnegie Boulevard and stubbing at the southern property line. A note has been added allowing the fire access grass pave within the future street right-of-way until the street is constructed.
- Note # 11.e has been modified by eliminating the word “if” to clarify that a minimum six-foot trail will be constructed around the detention/water quality pond. “Optional” has been eliminated from the term “trail, optional” used to identify the trail on the site plan.
- Supplemental landscaping and benches have been added around the detention/water quality pond area to enhance the amenity area.
- A note has been provided stating residential units abutting the paver sidewalk that extends from Carnegie Boulevard to the pond open space area will have individual sidewalk connections where grades permit.
- The site plan has been revised to indicate the paver sidewalk extending from Carnegie Boulevard to the pond open space area will have a minimum width of six feet.
- The type, quantity, and size of the evergreen landscaping materials to be planted along the future public street where it abuts the parking deck of the existing Piedmont Town Center building (“existing building D”) has been provided on the site plan.
- The width of the future public street right-of-way has been increased by shifting the eastern boundary of the right-of-way to the common property line with the Piedmont Town Center parcel located east of this subject site.
- The maximum height was modified to indicate the development will not exceed nine stories.
- Note #4.a, second sentence, has been modified to read as follows: This setback will be measured from the existing or future back of curb whichever is greater.
- The building material for the retaining walls has been provided along with a conceptual cross section of the site to illustrate the location of the retaining walls and the grades across the site.
- The use of the various levels of each building component and indicate courtyards and open spaces has been labeled on the site plan.
- Architectural notes have been added to the site plan to ensure that the architectural style is as depicted on the attached rendering (“Exterior Perspective”).

The ordinance is recorded in full in Ordinance Book 57, Page 50-51.

* * * * *

ITEM NO. 7: ORDINANCE NO. 4643-Z FOR AN I-2(CD) SITE PLAN AMENDMENT FOR APPROXIMATELY 5.61 ACRES LOCATED ALONG CENTER PARK DRIVE NEAR BEAM ROAD.

[Motion was made by Councilmember Barnes, seconded by Councilmember Cannon, and]
[carried unanimously to approve the Statement of Consistency and Petition No. 2011-012,]
[with modifications, by Steve McGirt for the above site plan amendment.]

The modifications were:

- The I-1(CD) and I-2(CD) reference under Note #1 has been removed from the site plan.
- Wording from Note 1 regarding business distribution since this site plan amendment does not pertain to the business distribution portion of the original rezoning has been removed from the site plan.
- Note #2.a has been modified to read “total land area covered by building(s) shall not exceed the stated amount for the I-2(CD) district as shown on the original 88-012c rezoning plan.
- The reference to rezoning petition number within the title block has been corrected from 2011-12C to 2011-12.
- The buffer related note, which states “The exterior 50’ of the 100’ Class A buffer shall remain undisturbed”, has been relocated to a newly created heading under “Conditional Requirements” for “Buffers”.
- Notes #5a and #5c have been removed as they were not enforceable through zoning.
- The statement in the “site plan amendment summary” has been modified to say that the “purpose of the zoning change: delete conditional buffer adjacent to parcel 143-211-02 which has been rezoned to **B-2(CD)**...”
- The “NOTES” section has been deleted as it did not pertain to the rezoning.
- The vicinity map has been modified to show only the property being rezoned.
- A note has been added that states changes to the site plan will be in compliance with Section 6.207 of the Zoning Ordinance.

The ordinance is recorded in full in Ordinance Book 57, Page 52-53.

ITEM NO. 8: ORDINANCE NO. 4644-Z FOR A MUDD-O SITE PLAN AMENDMENT FOR APPROXIMATELY 1.19 ACRES LOCATED ON THE EASTERN CORNER OF THE INTERSECTION OF SOUTH BOULEVARD, IDEAL WAY AND REMOUNT ROAD.

[Motion was made by Councilmember Kinsey, seconded by Councilmember Howard, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2011-015, as]
[modified, by Long Animal Hospital, for the above site plan amendment as recommended]
[by the Zoning Committee.]

The modifications were:

- Note #1 has been modified to indicate that alterations to the site plan may be made in accordance with Section 6.207, not Section 6.206(2).
- The last sentence of Note 1 regarding minor and incidental changes has been removed from the site plan.
- Notes that were general ordinance requirement or were not applicable have been removed from the site plan.
- The site plan has been modified to reference the petition number.

The ordinance is recorded in full in Ordinance Book 57, Page 54-55.

ITEM NO. 9: ORDINANCE NO. 4645-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FOR APPROXIMATELY 0.26 ACRES LOCATED ON THE WEST SIDE OF MARGARET WALLACE ROAD NEAR THE INTERSECTION OF MARGARET WALLACE AND IDLEWILD ROAD FROM B-1 TO NS.

[Motion was made by Councilmember Carter, seconded by Councilmember Howard, to]
[approved the Statement of Consistency and Petition No. 2011-016, as modified, for the]
[above change by Kidnane Haile, as recommended by the Zoning Committee.]

The modifications were:

- Landscaping to screen the loading area from Margaret Wallace Road has been added on the site plan.
- A different shading/hatching has been utilized to identify the driveway and to better distinguish it from the surrounding sidewalks.
- The petitioner has removed notes related to screening dumpsters and loading spaces and compliance with the PCCO, sign ordinance and outdoor lighting as they are general ordinance requirements.
- No fuel pumps will be permitted.

Councilmember Carter said there were two things that happened in the interim, the Planning staff contacted Matthews and Mint Hill and they had no objections to this. Then the developer committed to mimic the adjacent center with the use of a combination of brick and stucco, I think thereby increasing and enhancing the development.

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

The ordinance is recorded in full in Ordinance Book 57, Page 56-57.

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ITEM NO. 10: ORDINANCE NO. 4646-Z FOR THE ADOPTION OF A TEXT AMENDMENT TO THE CITY OF CHARLOTTE ZONING ORDINANCE TO REFLECT CHANGES IN THE ENFORCEMENT OF BUFFERS FROM MECKLENBURG COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION TO CHARLOTTE-MECKLENBURG STORM WATER SERVICES, AND TO UPDATE REFERENCES TO THE CHARLOTTE LAND DEVELOPMENT STANDARDS MANUAL AND CHARLOTTE-MECKLENBURG BMP DESIGN MANUAL.

[Motion was made by Councilmember Cannon, seconded by Councilmember Kinsey, and]
[carried unanimously, to approve the Statement of Consistency and Petition No. 2011-019 for]
[the above Text Amendment by Charlotte-Mecklenburg Storm Water Services as recommended]
[by the Zoning Committee.]

The ordinance is recorded in full in Ordinance Book 57, Page 58-88.

* * * * *

BUSINESS MEETING

CONSENT AGENDA

Mayor Foxx asked the City Clerk what items had been pulled on the Consent Agenda.

Deputy City Clerk, Ashleigh Martin said I would like to make note of a correction of the dollar amount listed on the RCA for Item No. 16, which is 911 Back-up Generator Purchase. The correct dollar amount is \$187,843. Items pulled are 15 and 20-B.

[Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, and]
[carried unanimously to approve the Consent Agenda with the exception of Items No. 15]
[and 20-B.]

mpl

The following items were approved:

16. Purchase of a 911 back-up generator as authorized by the cooperative purchasing exemption of G.S. 143-129(e)(3); contract with Carolina cat for the purchase of a back-up generator in the amount of \$187,843.
17. Service contracts for Janitorial Services with the following service providers for an initial term of three years with aggregate estimated annual expenditure of \$649,000.
 - Charlotte Environmental Services
 - ISS Facility Services, Inc.
 - Interstate Contract Cleaning ServicesAuthorize the City Manager to renew the contracts for up to two additional one-year terms, with possible price adjustments as authorized by the contract and contingent upon performance, and authorize the City Manager to approve additional services and service locations at the prevailing contract rates on an as needed basis during the term of the contracts.
18. Accept and approve Tender Agreement With Travelers Casualty and Surety Company of America that offers Blythe Development Company as the completion contractor in satisfaction of the Performance Bond for the Fred D. Alexander Boulevard Section B-2 Project (Freedom Drive to Old Mt. Holly Road, and approve completion contract with Blythe Development Company, as incorporated in the Tender Agreement, for Fred D. Alexander Boulevard Section B-2 Project
19. Authorize the City Manager to approve a lease extension with 301 Cameron Associates, LLC (Cameron Brown Building) for the City's Risk Management Division of the Finance Department for \$184,944.48 per year for a two-year lease with a one-year option with 3% annual increase.
- 20-A. Acquisition of 21,482 square feet in fee simple, at 1614 North Davidson Street from Luke Logan Olive and Reece, LLC and any other parties of interest for \$152,000 for Belmont Plan – Gateways, Parcel #3.1.
21. Approve the titles, motions and votes reflected in the Clerk's record as the minutes of January 31, 2011, February 1, 2011, February 7, 2011 and March 2, 2011.

* * * * *

ITEM NO. 15: CONTRACT TO ECON INTERNATIONAL CORP. IN THE AMOUNT OF \$268,753.91 FOR THE BELMONT GATEWAY PROJECT.

Councilmember Kinsey said I pulled that. I just wanted to let our friends in Belmont know that they are finally going to get their gateway. This is something that has been in the works for several years, but upon action on this tonight we should be seeing some nice brick gateways and signs go up at the corner of Hawthorne Lane and Parkwood Avenue and at Parkwood Avenue and North Davidson as part of the HOPE VI Seigle Avenue and Belmont Revitalization Plan.

[Motion was made by Councilmember Kinsey, seconded by Councilmember Barnes, to]
[approve the subject contract. The vote was recorded as unanimous.]

Summary of Bids

ECON International Corp.	\$268,753.91
W. M. War & Son, Inc.	\$274,962.19
Blythe Development Company	\$281,400.00
Sealand Contractors Corp.	\$289,743.30
Morlando Construction, LLC	\$304,609.99
Carolina Cajun Concrete	\$315,126.00

* * * * *

ITEM NO. 20-B: RESOLUTION OF CONDEMNATION OF 3,159 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT AT 5633 MURRAYHILL ROAD, FOR MURRAYHILL ROAD SIDEWALK, PARCEL #71, FROM LARRY ALBERT BRACKETT AND ANY OTHER PARTIES OF INTEREST FOR \$4,575.

Larry Brackett, 5633 Murrayhill Road, said the first thing I want to address is the letter attached to the construction plan which is from the Project Manager, Sonji Mosley. The letter addresses the details of the construction and I would ask that this letter, since it does define the construction on the plan, be attached as a condition to the easement. There are two statements in this letter that I would like to draw your attention to before we go on. Paragraph 2, the last sentence, also conditions throughout will follow the natural terrain of the property. The project does not call for any ditch sections throughout the project limits. The last paragraph, first sentence, overall the impact to your yard is negligible. If we look at the construction plan all of the construction is scheduled to fall from the broken line behind the sidewalk to the curb behind this broken line back to the easement limit. There is no construction plan available to place on the table at this time and there is quite a bit of expense here that there is no apparent need at this time for the easement, since there is no construction. I would ask for a contingency clause that would define what the intent will be. It is not transparent at this time. The next item has to do with the appraisal and the first sheet is the tax profile on my property. Under land use you have the fair market value for the land, which is \$100,000 and that revaluation as of January 1, 2011 rises to the standard of fair market value and the City charges me tax, which I have to pay, based on that fair market value. The Real Estate Division of the City informs me that they will not do their computations for compensation based on that \$100,000. They went outside and got an independent appraisal which is \$67,000 versus \$100,000. I maintain that they can't have it both ways, either we go with the tax value for their purposes or else they reduce my tax payment to the City. This summary appraisal under Item 8, the total area is 17,743 square feet.

Sonji Mosley said as far as the construction easement we should be able to stay within the limits of the temporary construction easement without exceeding that. Typically the contractor that is hired for the job will be responsible for staying within the guidelines or staying within the temporary construction easement so that shouldn't be a problem as far as construction is concerned.

Councilmember Dulin said this came up when we worked on this before and Mr. Brackett had some legitimate questions for the Real Estate folks and they have come back and we've figured out that you are not going to be trenching from the house below you to this house. I got some of that information just today. When we last visited this I was not pleased with where we were and the City didn't come up with the right answers and I think you and our City folks have gotten together and I'm please with it now and I think we are ready to move on.

[Motion was made by Councilmember Dulin, seconded by Councilmember Barnes, to approve]
[the subject Resolution of Condemnation.

Councilmember Howard said I would like to have someone on our staff to respond to his issue about the appraisal and property tax value.

Jeff Reid, City Real Estate, said I won't presume to speak on behalf of the County of Mecklenburg, but the processes that we go through in order to appraise properties for the City in an eminent domain appraisal are very individualized and very detailed as opposed to the process that the County goes through, which uses mass appraisal techniques to get an average over a broad area. One of the biggest hurdles that the County has to overcome is there is an element of allocation between the improvement on a piece of property versus the land. When we appraise a piece of property we are only appraising the land and we go out and find comparables that are vacant lots and we appraise the land that we are appraising whether it has an improvement on it or not, as if it were vacant. We are appraising land to land doing an apple to apple appraisal on sold lots. The County is using, as in the case of Mr. Brackett, up to 125 different properties with improvements on them and then trying to subjectively allocate a certain amount of value toward the improvement and the remaining amount toward the land. It is a totally separate process and I am certainly not here to disparage the County's process, ours is a much more detailed process and speaks to all types intimate details regarding the properties such as topography, proximity to amenities such as schools, shopping, churches, the way the neighborhood is trending, is it stable

or is it in transition. We consider a lot more details and that would be the difference as best I can explain it.

Councilmember Turner said I wanted to speak to this because it was one of my concerns and I ask staff to go back and look at this one. In this report it basically says that Mr. Brackett misrepresented the facts when he told us about the two-foot ditch. I just want to make sure this is accurate that what staff is indicating now is basically this is about one –foot and they are going to raise the driveway of the neighbor that he was concerns with so his land won't have to be graded to that level and that he would only be looking at about a 2% slope at the most.

Ms. Mosley said that is correct. I think what happened in Mr. Brackett's interpretation of the plans was called out as a description of a two-foot valley curb and gutter. He misinterpreted that to me, a two valley or ditch which is incorrect. As far as the grading of his driveway we will be removing approximately 17 feet of his driveway and realigning it because right now it is at a skew and it will be cut down about 6 inches at a 2% slope as well as the adjacent property owner. His driveway would actually be elevated at the same rate so it should be pretty much even.

Mr. Turner said is that to help move the water?

Ms Mosley, said well, the way that we are actually constructing or installing the sidewalk it would actually be put in at grade so it will be running at natural grade. It shouldn't be a problem with any type of standing water.

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

The resolution is recorded in full in Resolution Book 42, Page 948.

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ITEM NO. 3: PUBLIC HEARING ON THE PROPOSED FY2012 ANNUAL ACTION PLAN FOR HOUSING AND COMMUNITY DEVELOPMENT.

The scheduled public hearing was held on the subject matter.

[Motion was made by Councilmember Cannon, seconded by Councilmember Turner, and]
[carried unanimously to close the public hearing.]

[Motion was made by Councilmember Kinsey, seconded by Councilmember Howard, and]
[carried unanimously, to approve the proposed FY2012 Annual Action Plan for Housing and]
[Community Development.]

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ITEM NO. 4: PUBLIC HEARING TO CLOSE A RESIDUAL PORTION OF BROOKSIDE LANE; RESOLUTION TO CLOSE A RESIDUAL PORTION OF BROOKSIDE LANE.

The scheduled public hearing was held on the subject matter.

[Motion was made by Councilmember Mitchell, seconded by Councilmember Kinsey, and]
[carried unanimously, to close the public hearing.]

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

The resolution is recorded in full in Resolution Book 42, Page 949-950.

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ITEM NO. 5: CITY MANAGER'S REPORT

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

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ITEM NO. 6: RESOLUTION AUTHORIZING THE SALE OF THE JOHNSTON AND MECKLENBURG MILLS PROPERTIES TO THE COMMUNITY BUILDERS, INC. FOR THE SUM OF \$1,240,250 WITH CLOSING TO OCCUR WITHIN 30 DAYS OF AUTHORIZATION; BUDGET ORDINANCE NO. 4640-X APPROPRIATING \$1,240,250 TO THE GENERAL CAPITAL INVESTMENT PLAN.

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

Councilmember Kinsey thanked everybody for working on this, particularly the Committee, initially under the leadership of Councilmember Mitchell and then we had Council members Barnes, Cannon, and Cooksey and also staff. Peter Zeiler was terrific working on this and we actually doubled the amount of money that we started out with and have a good group of people I think to work with. We are getting the historic buildings saved and actually increasing the number of affordable residential units considerably. I really appreciate everybody's support on this and I know the neighborhood is very happy with this. I also want to thank the neighborhood because they worked very closely with staff, with the committee and also embraced the idea of the additional affordable housing. They are to be commended for that.

The resolution is recorded in full in Resolution Book 42, Page 951-952.
The ordinance is recorded in full in Ordinance Book 57, Page 47.

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ITEM NO. 7: AUTHORIZE THE CITY MANAGER TO NEGOTIATE A CONTRACT WITH THE SOUTHEAST ENERGY EFFICIENCY ALLIANCE TO DISBURSE UP TO \$400,000 IN ENERBGY EFFICIENCY FUNDS FROM THE U. S. DEPARTMENT OF ENERGY.

[Motion was made by Councilmember Cannon, seconded by Councilmember Howard, to]
[approve the subject authorization. The vote was recorded as follows:]

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

NAY: Councilmember Cooksey.

* * * * *

ITEM NO. 8: RESOLUTION OF SUPPORT FOR MECKLENBUG COUNTY'S CONSOLIDATED CAPITAL PLANNING INITIATIVE.

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

Councilmember Kinsey said I'm just going to say what I said in the earlier meeting, I don't really see a point in doing this right now. To tell you the truth, I think we are doing everything that this resolution says, however, in the spirit of cooperation, I will go along with it with some reservations. I suppose what it does is reaffirm what we are doing.

The resolution is recorded in full in Resolution Book 42, Page 953-954.

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ITEM NO. 9: AUTHORIZE THE MAYOR TO REQUEST A LETTER OF COMMITMENT FROM THE NORTH CAROLINA SECRETARY OF TRANSPORTATION FOR THE STATE'S 25% FINANCIAL PARTNERSHIP SHARE OF THE COST OF THE NORTHEAST CORRIDOR LYNX BLUE LINE EXTENSION (BLE) LIGHT RAIL PROJECT; RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A STATE FULL FUNDING GRANT AGREEMENT AND GRANT CONTRACT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT) FOR 25% FINANCIAL PARTNERSHIP SHARE OF THE COST OF THE NORTHEAST CORRIDOR LYNX BLUE LINE EXTENSION (BLE) LIGHT RAIL PROJECT. THIS ACTION WILL BE CONDUCTED IN COORDINATION WITH ACTION BY THE METROPOLITAN TRANSIT COMMISSION.

Councilmember Barnes said this is the State Full Funding Grant Agreement for the LYNX Blue Line Extension. This is good news in our effort to move the Northeast Corridor along. As you all know we are hoping to connect both uptown Charlotte and northeast Charlotte, as well as the uptown campus of UNC-C and the main campus and this is a crucial step in that process. I'm just happy that we are seeing it come to fruition. I certainly appreciate Carolyn Flowers' leadership, Manager Walton's leadership and a number of elected officials and others involved.

[Motion was made by Councilmember Barnes, seconded by Councilmember Cannon, and]
[carried unanimously to give the Mayor the subject authorization and adopt the subject]
[resolution.]

The resolution is recorded in full in Resolution Book 42, Page 955-956.

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ITEM NO. 10: RESOLUTION TO AMEND AND RENEW THE LIQUIDITY AGREEMENT WITH BANK OF AMERICA FOR THE 2003F CERTIFICATES OF PARTICIPATION FOR A PERIOD OF THREE YEARS; RESOLUTION TO INCREASE THE LIQUIDITY WITH BANK OF AMERICA FOR THE GENERAL OBLIGATION COMMERCIAL PAPER PROGRAM FROM \$100 MILLION TO \$150 MILLION AND RENEW THE AGREEMENT FOR A PERIOD OF ONE YEAR.

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

The resolutions are recorded in full in Resolution Book 42, Page 957-959 and 960-962.

* * * * *

ITEM NO. 11: PROCESS AND TIMELINE FOR THE RECRUITMENT AND SELECTION OF THE NEW CITY ATTORNEY; BASIC POSITION REQUIREMENTS TO BE USED IN THE RECRUITMENT AND SELECTION OF THE NEW CITY ATTORNEY

[Motion was made by Councilmember Barnes, seconded by Councilmember Cannon, and]
[carried unanimously, to approve the subject recruitment and selection process.]

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ITEM NO. 12: NOMINATIONS TO BOARDS AND COMMISSIONS

Mayor Foxx said we need to make nominations to the Development Review Board. He called on the Deputy City Clerk, Ashleigh Martin for the nominations.

Deputy City Clerk, Ashleigh Martin, gave the following nominations:

Development Review Board
Architect category

mpl

Joseph Woolen, nominated by Council members Barnes, Burgess, Cannon, Carter, Cooksey, Howard, Kinsey, Peacock, and Turner.

Member of the Planning Commission Category

Margaret Nealon, nominated by Council members Barnes, Burgess, Cannon, Carter, Cooksey, Dulin, Howard, Kinsey, Peacock, and Turner.

Public Health Professional Category

Michael Popejoy, nominated by Council members Burgess, Cannon, Carter, Cooksey, Dulin, Howard, Kinsey, Peacock, and Turner.

Real Estate Attorney

Karen Clark, nominated by Council members Burgess, Cannon, Carter, Cooksey, Dulin, Howard, Kinsey, Peacock and Turner.

Real Estate Development Industry Representative Category

Sheraine Spivey, nominated by Council members Barnes, Burgess, Cannon, Dulin, Howard, Mitchell, Peacock and Turner.

Thomas Brass, nominated by Council members Carter, Cooksey, and Kinsey.

Civil Engineer as an alternate

Robert Latta, nominated by Council members Barnes, Burgess, Carter, Cooksey, Kinsey, and Turner.

Kevin Vogel, nominated by Council members Howard and Peacock.

[Motion was made by Councilmember Barnes, to approve all, including Ms. Spivey, by]
[Acclamation, except for the last two which I believe only had two or three nominations, which]
[I would move to hold open. The motion was seconded by Councilmember Cannon.]

Ms. Martin said for the Civil Engineer as an alternate, Robert Latta did receive six nominations.

Mr. Barnes said okay, I will include him in that motion for acclamation. So there should be one that is open.

Ms. Martin said there are two for which no applications have been received.

Councilmember Cooksey said are we nominating and voting the same night then on those had more than one nomination to a spot.

Mayor Foxx said the ones that had a majority or more. That is what the suggestion is.

Mr. Barnes said there seems to be only one, the Real Estate Development Industry person where there were multiple votes for the two and one of the two had 8 nominations.

Mr. Cooksey said I've always felt the nominating and voting were two separate activities and two separate promises so I can't support doing a same vote when there are multiple people seeking a spot when we have a nomination night and typically an election night or appointment night at a subsequent meeting. I can see voting for those where there was no contest whatsoever, only one nominee, but if there is more than one nominee I'm not comfortable with that change in practice.

Mr. Barnes said I would be willing to revisit that issue. May I ask the Clerk, other than the Real Estate Development Industry appointment, which others have more than one nominee.

Ms. Martin said only one other, which is the Civil Engineer as an alternate.

Mr. Barnes said and that person had 6 nominations, to which Ms. Martin said yes.

[Councilmember Barnes amended his motion to approve all except the Real Estate]
[Development Industry Person and the Civil Engineer person, in addition to the other two]
[that had no people. Councilmember Cooksey seconded the motion.]

Mr. Cooksey said that is much appreciated.
Mayor Foxx said is that a good accommodation? Who seconded that motion?

Councilmember Cannon said I did originally.

The Mayor said are you okay with that?

Mr. Cannon said no sir.

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

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

NAYS: Councilmember Cannon.

APPOINTMENTS

Charlotte International Cabinet – The following nominations were considered for one appointment for a three-year term for a cultural/ethnic rep beginning July 1, 2011.

1. Troy Pelshak, nominated by Council members Dulin and Peacock
2. Adelheid Rundholz-Eubanks, nominated by Council members Burgess, Carter, Cooksey and Kinsey
3. Bahiyyah Walker, nominated by Council members Howard, Mitchell and Turner
4. None of the above

Results of the first ballot were recorded as follows:

1. Troy Pelshak, 2 votes – Council members Dulin and Turner
2. Adelheid Rundholz-Eubanks, 6 votes – Council members Barnes, Burgess, Cannon, Carter, Cooksey, and Kinsey.
3. Bahiyyah Walker, 2 votes – Council members Howard and Peacock.

Mr. Eubanks was appointed.

Mayor Foxx said we have agreed to defer the Charlotte Regional Visitors Authority until June 13th.

Charlotte Regional Visitors Authority

Mayor Foxx said we agreed to defer this item until June 13th.

Citizens' Transit Advisory Group – The following nominations were considered for one appointment for a two terms beginning July 1, 2011:

1. Greg Austin, nominated by Council Member Turner
 2. Lee Cochrane, nominated by Council Members Howard and Peacock
 3. Bea Dewing, nominated by Councilmember Kinsey
 4. Scott Mickle, nominated by Council Member Cooksey
 5. Heather Myers, nominated by Council Members Carter and Dulin
 6. Katherine Payerle, nominated by Councilmember Cooksey
 7. Wilbert Russell, nominated by Council members Barnes and Burgess
-
1. Greg Austin, 0 votes
 2. Lee Cochrane, 2 votes – Council members Howard and Mitchell
 3. Scott Mickle, 2 votes – Council members Cooksey and Kinsey
 4. Heather Myers, 1 vote – Councilmember Carter
 5. Katherine Payerle, 3 votes – Council members Cannon, Dulin and Peacock
 6. Wilbert Russell, 3 votes – Council members Barnes, Burgess and Turner

Ms. Martin said they need to have a runoff between Katherine Payerle and Wilbert Russell. Results of the second ballot were recorded as follows:

1. Katherine Payerle, 8 votes - Council Members Cannon, Carter, Cooksey, Dulin, Howard, Kinsey, Mitchell and Peacock.
2. Wilbert Russell, 3 votes – Council Members Barnes, Burgess and Turner

Civil Service Board - The following nominations were considered for one appointment for a three-year term:

1. Ralph Barnes, nominated by Council Member Kinsey
2. Veronica Jones, nominated by Council Member Turner
3. John Lambert, nominated by Council Member Peacock
4. Jason McGrath, nominated by Council Members Burgess, Cannon, Cooksey, Dulin and Howard
5. Thomas Mitchell, nominated by Council Members Barnes and Carter

Results of the first ballot were recorded as follows:

1. Ralph Barnes, 1 vote – Council Member Kinsey
2. Veronica Jones, 0 votes
3. John Lambert, 1 vote – Council Member Peacock
4. Jason McGrath, 6 votes – Council Members Burgess, Cannon, Cooksey, Dulin, Howard and Turner.
5. Thomas Mitchell, 2 votes – Council Members Barnes and Carter

Jason McGrath was appointed.

Community Relations Committee – The following nominations were considered for one appointment for an unexpired term beginning immediately and ending June 30, 2013.

1. Toria Boldware, nominated by Council Members Barnes, Cannon and Howard
2. Chantay Cooper, nominated by Council Member Turner
3. Sue Korenstein, nominated by Council Members Kinsey and Peacock
4. Maneisha LaFate, nominated by Council Member Dulin
5. Vernetta Mitchell, nominated by Council Member Carter
6. Marty Puckett, nominated by Council Member Cannon
7. Michael Tanck, nominated by Council Members Cooksey, Dulin and Peacock
8. Bahiyyah Walker, nominated by Council Member Burgess

Results of the first ballot were recorded as follows:

1. Toria Boldware, 2 votes – Council Members Barnes and Howard
2. Chantay Cooper, 0 votes
3. Sue Korenstein, 1 vote – Council Member Kinsey
4. Maneisha LaFate, 0 votes
5. Vernetta Mitchell, 1 vote – Council Member Carter
6. Marty Puckett, 1 vote – Councilmember Cannon
7. Michael Tanck, 6 votes – Council Members Burgess, Cooksey, Dulin, Mitchell, Peacock and Turner
8. Bahiyyah Walker, 0 votes

Michael Tanck was appointed.

Keep Charlotte Beautiful - The following nominations were considered for two appointments for a three-year term beginning July 1, 2011.

1. Richard Flanagan, Jr., nominated by Council Members Burgess, Carter, Cooksey and Peacock
2. Gregory Greer, nominated by Council Members Cooksey, Howard and Mitchell
3. Murray Hines, nominated by Council Members Barnes, Howard, Kinsey and Turner

4. Taurean Walker, nominated by Council Members Barnes, Burgess, Carter, Kinsey, Mitchell and Turner.

Results of the first ballot were recorded as follows:

1. Richard Flanagan, Jr., 3 votes – Council Members Cooksey, Dulin and Peacock
2. Gregory Greer, 2 votes – Council Members Burgess and Mitchell
3. Murray Hines, 5 votes – Council Members Barnes, Cannon, Howard, Kinsey, and Turner
4. Taurean Walker, 6 votes – Council Members Barnes, Cannon, Carter, Kinsey, Mitchell and Peacock.

Ms. Martin said Taurean Walker is appointed and there is a need for a runoff between Richard Flanagan, Jr. and Murray Hines.

Results of the second ballot were recorded as follows:

1. Richard Flanagan, Jr., 5 votes – Council Members Burgess, Carter, Cooksey, Dulin and Turner.
2. Murray Hines, 5 votes – Council Members Barnes, Cannon, Howard, Kinsey and Mitchell.

A third ballot was taken and recorded as follows:

1. Richard Flanagan, Jr. 3 votes – Council Members Burgess, Carter and Dulin
2. Murray Hines, 6 votes- Council Members Barnes, Cannon, Howard, Kinsey, Mitchell and Turner.

Murray Hines was appointed.

Neighborhood Matching Grants Fund Review Team – The following nominations were considered for one appointment for a business representative for a two-year term beginning April 16, 2011:

1. Wofford Boyd, III, nominated by Council Member Dulin
2. Tami Burris, nominated by Council Member Barnes
3. Kathleen Cornett, nominated by Council Member Kinsey
4. Karen Labovitz, nominated by Council Member Burgess
5. Jerome Miller, nominated by Council Members Cannon, Howard and Mitchell
6. Stephanie Stenglein, nominated by Council Members, Cooksey, Peacock and Turner
7. Brigit Taylor, nominated by Council Member Carter

Results of the first ballot were recorded as follows:

1. Wofford Boyd, III, 2 votes – Council Members Dulin and Peacock
2. Tami Burris, 1 vote – Council Member Barnes
3. Kathleen Cornett, 0 votes
4. Karen Labovitz, 4 votes – Council Members Burgess, Cannon, Kinsey and Mitchell
5. Jerome Miller, 2 votes – Council Members Howard and Turner
6. Stephanie Stenglein, 1 vote – Council Member Cooksey
7. Brigit Taylor, 1 vote – Council Member Carter

Ms. Martin said there is a need for a runoff between Wofford Boyd, III, Karen Labovitz and Jerome Miller.

Results of the second ballot were recorded as follows:

1. Wofford Boyd, III – 1 vote – Councilmember Dulin
2. Karen Labovitz, 4 votes – Council Members Burgess, Cannon, Cooksey and Kinsey.
3. Jerome Miller, 5 votes – Council Members Barnes, Carter, Howard, Mitchell and Turner.

A third ballot was taken between Karen Labovitz and Jerome Miller and was recorded as follows:

1. Karen Labovitz, 5 votes – Council Members Burgess, Cannon, Cooksey, Dulin and Kinsey.
2. Jerome Miller, 6 votes – Council Members Barnes, Carter, Howard, Mitchell, Peacock and Turner.

Jerome Miller was appointed.

Planning Commissions – The following nominations were considered for one appointment for a three-year term beginning July 1, 2011:

1. Emmanuel Choice, nominated by Council Members Cannon, Howard, Mitchell and Peacock
2. Rickey Hall, nominated by Council Member Turner
3. Karen Labovitz, nominated by Council Members Burgess, Carter, Cooksey and Kinsey
4. Nancy Newton, nominated by Council Member Barnes

Results of the first ballot were recorded as follows:

1. Emmanuel Choice, 4 votes – Council Members Cannon, Dulin, Peacock and Turner
2. Rickey Hall, 0 votes
3. Karen Labovitz, 5 votes – Council Members Burgess, Carter, Cooksey, Howard and Kinsey
4. Nancy Newton, 2 votes – Council Members Barnes and Mitchell

Ms. Martin said there is a need for a runoff between Emmanuel Choice and Karen Labovitz.

Results of the second ballot were recorded as follows:

1. Emmanuel Choice, 5 votes – Council Members Barnes, Cannon, Howard, Mitchell and Peacock
2. Karen Labovitz, - 6 votes – Council Members Burgess, Carter, Cooksey, Dulin, Kinsey and Turner.

Karen Labovitz was appointed.

Privatization/Competition Advisory Committee – The following nominations were considered for one appoint for an unexpired term beginning immediately and ending March 1, 2012:

1. Lisa Crawford, nominated by Council Member Howard
2. Robert Diamond, nominated by Council Members Cooksey and Turner
3. Randall Miller, nominated by Council Member Mitchell
4. Katherine Payerle, nominated by Council Members Cannon, Carter and Peacock
5. Adrian Woolcock, nominated by Council Member Barnes
6. Julian Wright, Jr., nominated by Council Members Burgess and Kinsey

Results of the first ballot were recorded as follows:

1. Lisa Crawford, 0 votes
2. Robert Diamond, 2 votes – Council Members Cooksey and Turner
3. Randall Miller, 2 votes – Council Members Howard and Mitchell
4. Katherine Payerle, 3 votes – Council Members Carter, Dulin and Peacock
5. Adrian Woolcock, 2 votes – Council Members Barnes and Cannon
6. Julian Wright, Jr., 1 vote – Council Member Burgess

Ms. Martin said there is a need for a runoff between Robert Diamond, Randall Miller, Katherine Payerle and Adrian Woolcock.

Results of the second ballot were recorded as follows:

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1. Robert Diamond, 1 vote – Councilmember Cooksey
2. Randall Miller, 2 votes – Council Members Kinsey and Mitchell
3. Katherine Payerle, 4 votes – Council Members Burgess, Cannon, Carter and Peacock.
4. Adrian Woolcock, 2 votes – Council Members Barnes and Dulin.

A third ballot was taken between Randall Miller, Katherine Payerle and Adrian Woolcock and recorded as follows:

1. Randall Miller, 6 votes – Council Members Carter, Cannon, Dulin, Howard, Kinsey and Mitchell .
2. Katherine Payerle,
3. Adrian Woolcock,

Randall Miller was appointed.

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ITEM NO. 14 – MAYOR AND COUNCIL TOPICS

Councilmember Mitchell said Manager Walton can you look into a convenience store called Sweepstakes and can we get some staff write-up analysis? I talked to Debra Campbell earlier. I have three that are within a one mile radius located on Sunset/Beatties Ford Road and these are the types of stores that at one time Governor Purdue was actually trying to stop from developing. I don't know if they have met the parking requirements so we can have Debra Campbell in Planning to look at that and report back to staff.

City Manager, Curt Walton, said yes sir.

Councilmember Carter said there are two items, I would like to remind folks about the District 5 meeting this Thursday from 6:30 to 8:30 at 5500 Executive Center Drive at the Charlotte East Complex and also to ask for permission by Council to bring up the subject about Taco Trucks. A year ago we had this discussion and part of the vote was that we have a review in one year. It is one year and I hope that we can look at this again please.

Mr. Mitchell said as a mobile vendor?

Ms. Carter said yes as a mobile vendor.

Mayor Foxx said are you asking for the Council to put that on the table?

Councilmember Peacock said to put it on a future agenda?

Ms. Carter said yes.

Councilmember Turner said for clarification, are you asking staff to bring back the results after a year?

Ms. Carter said to see the effect and the impact of this ordinance.

Mr. Turner said so actually you are asking for a report?

Ms. Carter said to report and then that we review it.

Mayor Foxx said is there is any objection to doing this?

Councilmember Dulin said I don't necessarily object, although I object because we've worked real hard on that legislation and I don't want to have to go do it a second time. As long as staff will study the drop in crime and the drop in loitering and the drop in late night noise and speed, then that is fine. I was really pleased with the work we did to clean up those areas and get those neighborhoods and those neighbors safer and I don't want to spend another two years going over it again.

Mr. Peacock said I believe Ms. Carter is just asking for a report, right?

Ms. Carter said a report and review by Council.

Mr. Mitchell said I just want to remind everyone, we passed this in 2008 and part of the agenda item was to review it after one year, so we are kind of in violation of our own motion we made.

Mayor Foxx said Curt do you feel like you have the clarity on that?

City Manager, Curt Walton, said I'm not sure what review means from the staff perspective. If we are to review the impact that is a very subjective, possible difficult to quantify assignment, so I'm not sure what we do there.

Ms. Carter said there is a quantitative analysis that can be done about how many of those small businesses still exist, if there is a decrease in crime in the area, the things that Mr. Dulin mentioned. I think those are valid, but I also think it is valid to look at the loss of business and the loss of taxes.

Mr. Walton said we will be glad to do that. I guess the part of the equation I wouldn't know how to assess is that issue came to us originally from a neighborhood focus, so I'm not sure how we go back to the neighborhoods to ask their impression of the success or failure of the ordinance, but we will do our best to bring you back an assessment and go from there.

Councilmember Barnes said I should have said this at the beginning of the meeting. You all know that some tremendous tornados went through the eastern part of the state where I'm from and a number of people out there were affected and killed in fact and families were impacted by the tornados out in Wilson County and in Wake County our State Capital in Raleigh. Those folks need our prayers as I understand it a number of them are dealing with trying to put their lives back together and finding scrupulous vendors to do work for them. I wasn't doing the prayer tonight, but I would have included them in that prayer because they are really suffering. That part of the state has struggled economically since hurricane Floyd and this did not help at all.

Mayor Foxx said I'm glad you brought that up and I think that is absolutely right. I think another thing we should probably have, I know some of the things that we do to offer resources in situations like this. It might be helpful Curt, if we got just a couple grafts on the types of help the City offers to that part of the State because I've gotten some questions from citizens about what we are doing to try to help out there.

Mr. Barnes said I do believe we actually have some CFD resources out there for a while.

Councilmember Carter said that dropped down into Samson and Bladen and areas north of that as well. It was devastating in that whole area. I thoroughly concur, that is my husband's home town and I do understand what happened.

Councilmember Kinsey said my son's house in Wilson was missed by about two blocks and my grandson was there last week visiting and saw the devastation just in Wilson. It was bad there but much worse in some other counties.

The Mayor said a lot of people are affected by this crisis.

Councilmember Cooksey said I don't usually do this, but I have to in your case Mayor, Happy Birthday Saturday. I can always remember because it is my nephew's birthday also.

The Mayor said I'm the last one over the hill on this dais. I'm going to 40 this year so I'll rely on my elders here to guide me.

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April 25, 2011
Zoning and Business Meeting
Minute Book 131, Page 965

ADJOURNMENT

The meeting was adjourned at 7:46 p.m.

Ashleigh Martin, Deputy City Clerk

Length of Meeting: 2 Hours, 24 Minutes
Minutes Completed: June 6, 2011