

## BUSINESS MEETING

The City Council of the City of Charlotte, NC, convened on Monday, May 23, 2011, at 4:06 p.m. for a Budget Public Hearing and regularly scheduled Business Meeting in the Meeting Chamber of the Charlotte Mecklenburg Government Center with Mayor Anthony Foxx presiding. Council members present were: Councilmembers Michael Barnes, Jason Burgess, Patrick Cannon, Nancy Carter, Warren Cooksey, Andy Dulin, David Howard, Patsy Kinsey, James Mitchell, Edwin Peacock III, Warren Turner

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Mayor Foxx said we have a very full agenda today. It will be a little different than normal because we have some votes on rezoning cases that will also be decided today as well as a hearing on our budget. We will do this schedule a little differently. We'll start out with Consent Items and then work through our Zoning cases and get as far as we can until the 5:00 Public Hearing at which time we will pick up the Budget Hearing and then resume our schedule.

## INVOCATION AND PLEDGE

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

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## CONSENT AGENDA

**Stephanie Kelly, City Clerk**, said I have two that I need to bring to your attention. Item No. 29 has been pulled by staff. Item 37-I has been pulled, no longer needed for the project.

Councilmember Dulin said I have four tonight. Nos. 20, 21, 27, and 31.

Councilmember Kinsey said Item 24.

[ Motion was made by Councilmember Cannon, seconded by Councilmember Mitchell , and ]  
[ carried unanimously to approve the Consent Agenda as presented with the exception of Item ]  
[ Nos. 29 and 37-I, which were pulled by staff; and Item Nos. 20, 21, 24, 27, and 31, which ]  
[ were pulled for discussion. ]

The following items were approved:

22. Contract to the lowest bidder, Utility Service Company, Inc., for \$738,426 for reconditioning of the elevated water storage tank located on North Tryon Street.
23. Resolution approving the donation of two bicycle equipment trailers including bikes and safety equipment to Mint Hill Police Department and to the Crib to College Foundation, Inc., which are members of the Safe Kids Charlotte Mecklenburg Coalition.

The resolution is recorded in Resolution Book 42 at Page 970.

25. Contract for \$280,000 with Thompson-Gordon-Shook Engineers, Inc. (TGS) for the design of bridge repairs.
28. Service contract with Bondo Innovations, Inc. for welding and related services for an initial term of three years with an estimated annual expenditure of \$120,000, and authorize the City Manager to approve up to two additional one-year renewal options as authorized by the contract and contingent upon the Company's satisfactory performance.

30. Contract amendments for geotechnical, construction materials testing, and special inspection services: 1) Terracon Consultants, Inc. in the amount of \$75,000, and 2) ESP Associates, P.A. in the amount of \$75,000.
32. Contract amendment with RS&H Architects-Engineers-Planners, Inc. in the amount of \$165,300 for additional engineering services for the Oakdale Road farm-to-market project.
33. Contract with US Infrastructure of Carolina, Inc. (USI) in the amount of \$650,000 for engineering services, and authorize the City Manager to renew the contract once for the original contract amount.
34. Lease renewal for four years with two, one-year renewal options with Jill S. Newton for office space for the Police Hickory Grove Division and Code Enforcement located at 5727 North Sharon Amity Road.
35. Final legal settlement of \$339,437 in the condemnation case captioned City of Charlotte v Airlie Homeowners Association, Inc., et al, 06 CVS 24524, Mecklenburg County Superior Court.
36. Resolution authorizing the refund of business privilege license payments made in the amount of \$2,285.38.

The resolution is recorded in Resolution Book 42 at Pages 971-972.

- 37-A. Acquisition of 6.2 acres on Virginia Circle from Kevin Domer Reeves and Shannon Dee Reeves for \$74,000 for Airport Master Plan Land Acquisition.
- 37-B. Acquisition of 61,150 square feet in conservation easement on Dorn Circle from Charles J. Parker and wife, Janice A. Parker, for \$15,350 for City View Stream Restoration, Parcel #16.
- 37-C. Acquisition of 1,826 square feet in fee simple plus 11,922 square feet in existing right-of-way plus 1,915 square feet in storm drainage easement plus 48 square feet in utility easement plus 1,674 square feet in temporary construction easement at 2600 Park Road from Owners of All Units in the Condominiums at Versailles for \$13,450 for Colonial Village/Sedgefield NIP – Phase II, Parcel #219.
- 37-D. Acquisition of 525 square feet in sidewalk and utility easement plus 2,462 square feet in temporary construction easement at 2000 Commonwealth Avenue from Lazaro D. Siplon and wife, Sherrilyn B. Tamayo Siplon, for \$31,250 for Commonwealth Streetscape, Parcel #13.
- 37-E. Acquisition of 4 square feet in sidewalk and utility easement plus 1,154 square feet in temporary construction easement at 1111 The Plaza from Ash Investments, LLC for \$15,125 for Commonwealth Streetscape, Parcel #19.
- 37-F. Acquisition of 144,470 square feet in fee simple on Old Bell Road from Ernesto Moran and wife, Margarita Moran, for \$69,650 for McAlpine Stream Restoration, Parcel #34.
- 37-G. Acquisition of 10,536 square feet in sanitary sewer easement plus 8,434 square feet in temporary construction easement at 10831 East Lake Road from John A. Wofford and wife, Frances M. Kelley, for \$11,325 for McKee Creek Interceptor – Mecklenburg county, Parcel #24.
- 37-H. Acquisition of 47,534 square feet in sanitary sewer easement at 12825 Downs Circle from Robert E. Lanier for \$13,500 for Steele Creek Pump Station Replacement, Parcel #19.
- 37-J. Resolution of condemnation of 1,670 square feet in fee simple plus 1,820 square feet in existing right-of-way plus 1,248 square feet in sidewalk and utility easement plus 1,701

square feet in temporary construction easement at 149 Gum Branch Road from Roderick B. Hall and wife, Tonya D. Hall, and any other parties of interest for \$2,300 for Coulwood/GumBranch/KentBerry Sidewalk Projects, Parcel #44.

The resolution is recorded in Resolution Book 42 at Page 974.

- 37-K. Resolution of condemnation of 19,472 square feet in sanitary sewer easement plus 24,207 square feet in temporary construction easement at 9512 Gwynne Hill Road from Baranko Enterprises, Inc. and any other parties of interest for \$5,475 for McKee Creek Interceptor – Mecklenburg County, Parcel #60 and 56.

The resolution is recorded in Resolution Book 42 at Page 973.

- 37-L. Resolution of condemnation of 2,116 square feet in sanitary sewer easement plus 2,152 square feet in temporary construction easement at 7325 Boswell Road from Baranko Enterprises, Inc. and any other parties of interest for \$1,975 for McKee Creek Interceptor – Mecklenburg County, Parcel #64.

The resolution is recorded in Resolution Book 42 at Page 975.

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#### **ITEM NO. 20: FIRE UNIFORM APPAREL**

Councilmember Dulin said I need a definition of the term on 20-B. This is a contract for more fire uniforms, etc. that I'm for, but the contract here says the terms with possible price adjustments, and I'm not exactly sure what possible price adjustments are.

**Rich Granger, Charlotte Fire Department**, said the reason we put that in there, and if Ms. Ruppe is here, she can elaborate a little more on the technical side, but we have annual price increases. The price of cotton, polyester, and things like that change. They do have to justify it and have to show that they have incurred the increase on the raw side to pass it on to us. The price stays consistent unless there is an industry wide price adjustment.

Councilmember Dulin said, Council, that's fine, but I would love to have a contract when I don't have to tell my customer how much it's going to cost next year. That ought to say with possible price adjustments not to exceed 2% or not to exceed 5%, Mr. Manager. What are your thoughts on that?

**Curt Walton, City Manager**, said if you are too limiting on that guard up front it increases the price of the contract going in. It's a matter of choice, but I think as Chief Granger says unless they can demonstrate to us an increase in the commodity there won't be an adjustment, and we believe that is the better way to do it than to negotiate that up front.

Councilmember Dulin said how many years have we been doing business with this bunch?

Chief Granger said MES this is the first time we have done uniforms with them, but we have probably been in various contracts for over 20 years with them.

Councilmember Dulin said I will let somebody else make the motion. I'm going to vote no on this particular contract because I don't like the ambiguity of the wording in the contract.

Councilmember Barnes said I have a couple of questions. Have the prices ever gone down?

Chief Granger said, yes, sir, they have. In fact, on an annual basis, we have some garments that go down and some that go up.

Councilmember Barnes said over the last five years what has been the general trend?

Chief Granger said the last five years has been pretty flat with slight price increases with an occasional drop.

Councilmember Barnes said do you know what the approximate percentage increases have been?

Chief Granger said it generally is between two and 5%. This year cotton was a little different. Cotton went up worldwide 14%. That whole 14% was not passed on to us.

[ Motion was made by Councilmember Cannon and seconded by Councilmember Kinsey to ]  
[ award the low bid unit price contract to MES-Carolinas, Inc. for the purchase of fire uniform ]  
[ job shirts and knit, collared shirts for the term of three years, and authorize the City Manager ]  
[ to extend the contract for two additional one-year terms with possible price adjustments at ]  
[ the time of renewal as authorized by the contract. The FY2012 expenditures are estimated ]  
[ to be \$464,633. ]

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

**AYES:** Councilmembers Barnes, Burgess, Cannon, Carter, Cooksey, Howard, Kinsey, Mitchell, Peacock, Turner

**NAYS:** Councilmember Dulin

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**ITEM NO. 21: AIRPORT VIDEO TECHNOLOGY PACKAGE**

Councilmember Dulin said Item 21 is \$1.3 million. It says down here that the electrical installation will be done in house. We have electricians out there that will install this stuff at the Airport. Are we buying just the equipment? They can get back to me in order to move. I would like to skip No. 21 since there is no one here to answer the question to keep rolling.

Mayor Foxx said, Curt, is there someone?

**Curt Walton, City Manager**, said I don't see him right now, Mayor, so we will defer this to the next agenda.

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**ITEM NO. 24: JOB ACCESS REVERSE COMMUTE AND NEW FREEDOM GRANTS AND CONTRACTS**

Councilmember Kinsey said I'm going to vote yes for this. I have no problem. I just wanted to point out that the COG has aided with this particular project. We sometimes don't know exactly what COG does for Charlotte, and I just wanted to point out that they are a part of this process.

[ Motion was made by Councilmember Kinsey, seconded by Councilmember Mitchell, and ]  
[ carried unanimously to A) adopt Budget Ordinance No. 4665-X allocating \$1,198,478 of ]  
[ Federal Job Access Reverse Commute (JARC) and New Freedom Funding, which includes ]  
[ \$752,736 for CATS projects, \$292,147 for sub-recipient projects, and \$153,595 to be ]  
[ reserved for future project awards, B) Direct \$752,736 for CATS projects, which are ]  
[ enhancements to various bus routes, C) Authorize the City Manager to execute contracts ]  
[ totaling \$292,147 with the following organizations for JARC and New Freedom federal ]  
[ public service grant projects, 1) Metrolina Association for the Blind for a service project ]  
[ funded by the New Freedom federal grant program in an amount up to \$70,505, 2) Main- ]  
[ streaming Consultants, Inc. dba Disability rights & Resources for a service project funded ]  
[ by the New Freedom federal grant program in an amount up to \$191,642, 3) Charlotte ]  
[ Housing Authority for a service project funded by JARC federal grant program in an amount ]  
[ up to \$30,000, and D) Reserve \$153,595 of the appropriated funds for additional JARC, New ]  
[ Freedom, or other public transportation grant projects. ]

The ordinance is recorded in Ordinance Book 57 at Pages 130-131.

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**ITEM NO. 26: AIRPORT CARPET**

Mayor Foxx said this was actually voted on already, but Ms. Carter had a question about that.

Councilmember Carter said I was wondering if Mr. Orr had ordered via the U.S. community so we have economies of scale.

**Curt Walton, City Manager**, said I'm sorry. I couldn't hear.

Councilmember Carter said if Mr. Orr had ordered via the U.S. communities so we have economies of scale.

City Manager Walton said is that a report as to whether we did that?

Councilmember Carter said just a simple question whether he used that capacity or not.

City Manager Walton said I don't think we can answer that, so that will be deferred to the next agenda.

Mayor Foxx said we have already approved it. Just a question for information purposes.

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**ITEM NO. 27: RADIO EQUIPMENT CONTRACT EXTENSION**

Councilmember Dulin said again radio equipment contract. This is from May 24, 2011, to November 30, 2011, for \$2.2 million, and I just didn't have enough write-up here to understand what that was going to entail for half a year.

**Chuck Robinson, Business Support Services**, said what this is is a unit price contract with Motorola through which we purchase radios, network devices, a whole lot of equipment. This \$2 million is a not-to-exceed amount during the period where we are working out a new unit price contract with Motorola. Last year our spend was \$3 million. We don't know exactly what the spend will be, so we are just covering ourselves for this period. We don't anticipate spending that amount, but we don't know what's out there. We are getting prepared for DNC and a number of other things that might come into play during this period, so we are just trying to make sure that we have everything we need.

Councilmember Dulin said last year did we have the \$3 million for the same half a year?

Mr. Robinson said, no, sir.

Councilmember Dulin said you said last year it was \$3 million. With the DNC, we have federal dollars coming in to buy communications equipment.

Mr. Robinson said it will still be spent through this contract.

Councilmember Dulin said this seems out of whack, but a lot of things in this are out of whack. Mr. Manager, is this how we have done business before?

**Curt Walton, City Manager**, said, yes, sir. You will have to be more specific on out of whack.

Councilmember Dulin said maybe I'm out of whack.

City Manager Walton said could we have a vote on that?

Councilmember Dulin said I'll vote for that.

[ Motion was made by Councilmember Dulin, seconded by Councilmember Cannon, and ]  
[ carried unanimously to approve a contract extension with Motorola Solutions, Inc. to ]  
[ cover the time period from May 24, 2011, through November 30, 2011, for the unit price ]  
[ purchases of radio equipment in an estimated amount of \$2,200,000. ]

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**ITEM NO. 31: KENILWORTH AVENUE AT PEARL PARK WAY INTERSECTION IMPROVEMENTS**

Councilmember Dulin said great lead-in for out of whack. This intersection we still have asphalt sidewalks down there, so this will fix the turn lanes, it will fix the sidewalks, but I just pulled it just cause the Pearl Park Way is an excellent opportunity for us to lead by example, and we missed the opportunity to put bike lanes on that bridge. I'm going to move for approval of the intersection but I wanted to get my two cents worth in, but I still disagree with the name and I disagree with the design of that bridge.

[ Motion was made by Councilmember Dulin and seconded by Councilmember Carter to ]  
[ reject the low bid of \$1,307,696.93 from Burney & Burney Construction for the Kenilworth ]  
[ Avenue at Pearl Park Way Intersection Improvements, and award a contract to the lowest ]  
[ responsive and responsible bidder, Blythe Development, in the amount of \$1,309,000 for ]  
[ the Kenilworth Avenue at Pearl Park Way Intersection Improvements. ]

Councilmember Barnes said I actually had a question regarding this low bidder and how they even got as far as they did in the process because as you see the request is for us to reject the low bid and approve the second highest bid, and I noticed that the company that would win under that second bid was recently on our agenda for other SBE-related issues. Mr. Blackwell, if you could explain to us the history of the Burney and Burney Construction and how they got this far in the process and why they were rejected. I read it, but I want you to talk about it.

**Jeb Blackwell, City Engineer**, said Burney and Burney has only done one contract with us up to this point. They did the demolition at the fire building, and they performed well on that. They subcontracted a lot of the work. They have not done a lot of horizontal work, and the horizontal work we have checked on their references we had some concerns about, and this is a relatively difficult project with a relatively tight schedule, so we didn't feel like this was a good project for a contractor with lean experience. I would tell you that at an upcoming Council meeting we are recommending award to them on another contract, one we feel like they can be successful on. They were able to be successful on the previous one awarded to them. Our goal, of course, is for them to succeed and us to succeed, and on the previous contract we felt like they could and they did, and we feel on the upcoming one, but this is a more difficult contract because they had relatively less experience on horizontal work, and this is a relatively complicated project. We felt like this was not a good one for them. We talked to them about that, and I think we are in good shape on that.

Councilmember Barnes said will there be any work done on the Pearl Park Way Bridge itself or just on Kenilworth?

Mr. Blackwell said I'll let Sam come down and describe the specifics of the project. This is primarily across the street.

Councilmember Barnes said I'm getting to Mr. Dulin's point about retrofitting the bridge.

**Sam Barber, Engineering and Property Management**, said all of our work on this project will be done on Kenilworth. There will be no work done on Pearl Park Bridge.

Councilmember Dulin said will any work be done over at the other end at the Kings Drive side?

Mr. Barber said, no, sir, not with this project.

Councilmember Barnes said I don't think we should retrofit the bridge, but I was curious whether there would be any impact.

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

Mayor Foxx said that concludes our consent items.

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### ZONING MEETING

Mayor Foxx said moving forward we have several zoning cases. I believe one of them is one that we cannot vote on tonight for a technical reason, and that is Item 4, Petition No. 2011-020. The other ones we can decide.

**ITEM NO. 3: ORDINANCE NO. 4658 FOR THE ADOPTION OF A TEXT AMENDMENT RELATED TO THE RESEARCH DISTRICT (SECTIONS 6.201, TABLE 9.101, 9.601 THROUGH 9.607, 11.701 THROUGH 11.709, 12.106, 12.202, 12.212, 12.213, 12.218, 12.301, TABLE 12.302(a), 12.413, 12.415, 12.417, 12.502, 12.532, 12.534, AND 12.538, AND THE TABLE OF CONTENTS OF THE ZONING ORDINANCE**

Mayor Foxx said the Zoning Committee found the petition to be consistent with adopted policies and to be reasonable and in the public interest.

[ Motion was made by Councilmember Peacock, seconded by Councilmember Kinsey, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2011-018 ]  
[ for the above rezoning by University City Partners as recommended by the Zoning ]  
[ Committee. ]

The ordinance is recorded in Ordinance Book 57 at Pages 62-109.

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**ITEM NO. 5: ORDINANCE NO. 4659-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FROM R-3 SINGLE FAMILY RESIDENTIAL TO R-3 SINGLE FAMILY RESIDENTIAL, CONDITIONAL, AND INST(CD) FOR APPROXIMATELY 22.65 ACRES LOCATED ON THE EAST SIDE OF PROVIDENCE ROAD AND ACROSS FROM PROVIDENCE COUNTRY CLUB DRIVE**

Tammie Keplinger, Planning, said the Zoning Committee found that this petition is inconsistent with the Providence Road/I-485 Area Plan Update but reasonable and in the public interest by a unanimous vote.

[ Motion was made by Councilmember Peacock, seconded by Councilmember Mitchell, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2011-021 for ]  
[ the above rezoning by Singh Development, LLC as recommended by the Zoning Committee. ]

The ordinance is recorded in Ordinance Book 57 at Pages 110-111.

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**ITEM NO. 6: ORDINANCE NO. 4660-Z FOR AN NS SITE PLAN AMENDMENT FOR APPROXIMATELY .55 ACRES LOCATED ON THE SOUTHEAST CORNER OF PROSPERITY CHURCH ROAD AND ARBOR CREEK ROAD**

**Tammie Keplinger, Planning**, said this petition is found to be consistent with the Northeast District Plan and to be reasonable and in the public interest.

[ Motion was made by Councilmember Barnes, seconded by Councilmember Cannon, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2011-022 for ]  
[ the above rezoning by Cambridge-Eastfield, LLC as recommended by the Zoning Committee.]

The ordinance is recorded in Ordinance Book 57 at Pages 112-113.

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**ITEM NO. 7: ORDINANCE NO. 4661-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FROM UR-3(CD) AND UR-3(CD) PED-O TO UR-3(CD) PED-O SPA FOR APPROXIMATELY 1.6 ACRES LOCATED ON THE NORTHWEST CORNER AT THE INTERSECTION OF WESLEY HEIGHTS WAY AND DUCKWORTH AVENUE**

**Tammie Keplinger, Planning**, said this petition is found to be consistent with the West End Land Use and Pedscape Plan and the Central District Plan and to be reasonable and in the public interest.

[ Motion was made by Councilmember Mitchell, seconded by Councilmember Carter, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2011-025 for ]  
[ the above rezoning by New Bethel Church Ministries, Inc. as recommended by the Zoning ]  
[ Committee. ]

The ordinance is recorded in Ordinance Book 57 at Pages 114-115.

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**ITEM NO. 8: ORDINANCE NO. 4662-Z AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF CHARLOTTE TO AFFECT A CHANGE IN ZONING FROM R-3 TO INST FOR APPROXIMATELY 4.83 ACRES LOCATED ON BROWNE ROAD AND ACROSS FROM AMBER GLEN DRIVE**

**Tammie Keplinger, Planning**, said this petition is found to be inconsistent with the Northeast District Plan but reasonable and in the public interest.

[ Motion was made by Councilmember Barnes, seconded by Councilmember Cannon, and ]  
[ carried unanimously to approve the Statement of Consistency and Petition No. 2011-026 for ]  
[ the above rezoning by Robert D. Smith as recommended by the Zoning Committee. ]

The ordinance is recorded in Ordinance Book 57 at Pages 116-117.

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Councilmember Mitchell said, Mayor, if we can go back to Item No. 4. That's the one that we got a nice write-up but that we could not vote today. I would like to make a motion, if we could, to put that on the June 6<sup>th</sup> Business Meeting. Staff, are you all okay with that? I spoke to Debra Campbell. So, if Council is okay, if we can make that decision on June 6<sup>th</sup>, I would appreciate it.

Mayor Foxx said is there any objection to that? Hearing none, we will do that.

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Councilmember Mitchell said on the zoning petition in District 2 our good friend I need to recuse him from that vote, Mayor – 2011-025.

Mayor Foxx said Item No. 7, Petition 2011-025. Is there a motion to recuse Mr. Howard from that?

[ Motion was made by Councilmember Mitchell, seconded by Councilmember Cannon, and ]  
[ carried unanimously to recuse Councilmember Howard from Item No. 7. ]

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**ITEM NO. 10: INDEPENDENCE BOULEVARD AREA PLAN**

Mayor Foxx said a lot of work has gone into this, Mr. Mitchell.

Councilmember Mitchell said it has been tremendous work, and I have to thank staff for the long process and engaging with the citizens, and my two colleagues who shared this great part of town, District 1, Patsy Kinsey; and District 5, Nancy Carter. I'm going to be quiet. I was about to make the motion, but I'm going to yield to the ladies on my left and right if they would like to officially make the motion for this particular item.

[ Motion was made by Councilmember Carter and seconded by Councilmember Kinsey to ]  
[ approve the Economic Development Committee recommendation concerning the Indepen- ]  
[ dence Boulevard Area Plan Volume I: The Concept Plan and receive Volume II: The ]  
[ Implementation Plan as information. ]

Councilmember Carter said this plan is the skeleton on which a wonderful mannequin will be constructed. It opens flexibility for a decision on transit. It defines the areas that can be developed and make suggestions about them. It defines the stops for transit. There are six stops. Three are acknowledged in this plan by the ULI as well, and the other three are indicated as regional nodes. In other words, we know what kind of development is recommended.

We are looking at side streets as very important. We are increasing the importance of Central and Monroe. There is a richness in this plan that is enhanced by its flexibility. We have a plan for the future we can work with. I'm very grateful to staff, to the Economic Development Committee, to people who have put a lot of time. There are 127 citizens who participated in the advisory group. Thank you to all, and I really recommend this to Council.

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

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**ITEM NO. 11: NOISE ORDINANCE**

Mayor Foxx said this has been a somewhat noisy ordinance. So why don't we have Mr. Cannon introduce this item as the chair of Public Safety.

Councilmember Cannon said I certainly as chair would like to acknowledge the members of the Community Safety Committee and that of Vice Chair Kinsey and Councilmember Peacock, Councilmember Dulin, and Councilmember Barnes. I want to also acknowledge other members of the City Council, who took time to weigh in on this discussion. Thank all of you for your emails and/or calls about this issue.

The action is to approve the Community Safety Committee's recommendation to amend Chapter 15 of the Charlotte City Code entitled "Offenses and Miscellaneous Provisions" to address issues associated with noise. As many of you are aware, the City's current noise ordinance has not been revised or updated for approximately 25 years. As our city has grown, it has rendered the current noise ordinance to be ineffective. The ambient noise in the uptown area and several neighborhoods exceed our current noise ordinance limits, which was the main reason why we

wanted to address the issue accordingly. Now, you are also aware of the numerous calls and emails from citizens concerned about music being heard from the neighborhood bars and even restaurants as late hours into the evening and even the early mornings, so it was incumbent upon us to look at this issue and try to do what we could accordingly to address the item.

As a result of these issues and concerns, the City Council referred the review of the Noise Ordinance to the Community Safety Committee, and over the last 16 months the Community Safety Committee has heard from a certified audiologist, reviewed other city noise ordinances, heard from hotel and restaurant owners, heard from musicians, held a rare public comment session in committee, and participated even in a noise demonstration.

It took time, but we feel that the Community Safety Committee is recommending a noise ordinance that will address and solve community noise issues without inconveniencing both businesses as well as community activities that are not posing a problem to our neighborhoods. Also the committee's recommendation will target violators of the ordinance and creates a noise mitigation process to even resolve those noise issues. Now, hopefully the City Council has taken an opportunity to review the City of Charlotte Noise Ordinance Report prepared by City staff. It's only a few pages. Either way, we hope you have taken a look at this document. This was included in your packet last week, and it outlines the details of the committee and the City staff work on the noise issue.

We, as a committee, are asking that the City Council support the Community Safety Committee's recommendation and also we wanted to acknowledge staff resources – Mac McCarley, Bob Hagemann, as well as Eric Campbell, our assistant city manager for their very hard work and also want to thank all sides that came to the table from both businesses, area residents, and other stakeholders for their part in this. It's with that said, we do have staff resource, Bob Hagemann, available at the podium if there are any questions.

[ Motion was made by Councilmember Howard and seconded by Councilmember Peacock ]  
[ to approve the Community Safety Committee recommendation to amend Chapter 15 of the ]  
[ Charlotte City Code entitled Offenses and Miscellaneous Provisions to address issues asso- ]  
[ ciated with noise. ]

Councilmember Cannon said we do have two speakers on this item and we'll hear from them first.

**Frank Caldwell, 352 N. Caswell Rd.**, said you probably know me by now. My name is Frank Caldwell, and I live within 50 yards of two bars and restaurants at the corner of East Seventh and Caswell Road, both of whom play music at the same time. Over the past several months, I have watched the City come to grips with this noise ordinance. I question you at this point. Would you as a resident like to be subjected to amplified music 18 hours of the day, seven days a week, 365 days a year? That is what you have, if I understand it correctly, in your ordinance. If you can answer yes to that question, then vote for it; otherwise, give me a fair shake. At one point in this debate, there was a promising effort to get such an ordinance giving residents some rights in this situation. That effort seems to be high-jacked by special interests. Leading up to this, I, along with other residential neighbors, sensed that majority of the Council is poised to vote in favor of this ordinance as it's written. You know and I know that this debate has been seeded, influenced by the combined confederation of local bars, grills, local musicians, and the North Carolina Association of Musicians. If you vote to enact this ordinance as it stands, I, along with other Elizabeth residents, will be saddened by your concession to an industry that is more likely to generate problems than it is to solve them. It's troubling with doing the right thing can sometimes get sidelined when the wrong kind of influence is allowed to supersede common sense. My motive in this struggle has been to try to protect my rights as a citizen/resident. This motivation dates back to a time in 1944 when I first became a prisoner of war in Germany and witnessed firsthand what it means to lose your freedom and lose your rights.

Mayor Pro Tem Cannon said we are going to have to get you to wrap up your comments. Your time has exceeded.

Mr. Caldwell said what concerns me in this ordinance is the lack of respect this ordinance gives to its residents.

bvj

Mayor Pro Tem Cannon said we appreciate you coming down, and I want to have it to be addressed. I know Mr. Hagemann was at the podium, and I want him to come back to talk about how we are looking to move this forward in the way of enforcement because that is a primary key here also. If you don't mind, Bob, making mention of what we are talking about in the way of requirements in terms of some of the amplifications relative to speakers and the size of that, and if you care to address the issue of the test we had done on the street, that's fine, too, but that's not a real request right now. It's really about the level of enforcement and what we can expect going forward.

**Bob Hagemann, Senior Deputy City Attorney**, said with all due respect to Mr. Caldwell, we think that the proposal before you gives the City, the Police Department, and Neighborhood and Business Services some new tools that are lacking right now under the current ordinance, and I'll walk through a couple of those. Back in Mr. Caldwell's situation, there has been some issues, significant issues, with loud music from at least one of the establishments he referenced that has generated a lot of complaints at that part of town.

The new ordinance will give, as I said, the Police tools that they don't have right now, specifically the decibel limits that are set are measured at the property line of the noise producing property. One of the challenges under the current ordinance is that the decibel limits are measured at the receiving property and given ambient noise that might be in the area or that is created between the sound producing property and the receiving property enforcement is a real challenge.

In addition, the fines under the current ordinance are \$100. What we have put in place with this new proposal is a mechanism whereby a business that is causing a problem as determined by the Police Department is labeled a chronic noise producer. It is then referred to Neighborhood and Business Services, Code, to problem solve, to work the unique issues of that particular establishment and the sensitivities of those who are around it who are being impacted and affected by the noise, and Code then is charged with developing a noise mitigation plan. The plan can do any number of things. It can reduce the hours when live music can be played. It can set lower decibel limits. It can impose self-monitoring and reporting requirements, deal with direction of speakers and other physical aspects including requiring noise screening or noise abatement. So we have given a whole set of tools to Code to try to solve problems where they really exist.

If a business that is referred to that program is uncooperative, they either don't participate in solving their problem or they agree to a program and then begin to violate it, then we have some really significant tools and that is heightened civil penalties of \$1,000 per violation and upon a second offense an 18-month prohibition on any live outdoor music. In our view, we think that this ordinance is stronger in terms of enforcement tools and the ability to enforce the ordinance, and we anticipate staff will be working the problem that Mr. Caldwell is referring to.

Councilmember Cooksey said I have a couple. What I would like to know is how does the provision that is carried over from the old ordinance that is still maintained in the new ordinance a measurement at a residential property line of amplified sound at the 50 or 55 decibel level work with the measurement to be taken at the property line of the producing establishment where you have the 85 and 60. If one criterion is met but the other is not – that is basically my concern. What if one is met and the other is not how does this ordinance proceed?

Mr. Hagemann said if you look very carefully at the end of the section you are referring to there is a new sentence that excludes businesses that are regulated by the new section from the old 50 to 55 decibel, so the old provision really only has usefulness in a residential noise context – a backyard party bothering somebody's neighbor. That is what it would apply to. For commercial establishments, we have the new 85 decibel until 9:00 p.m. on weeknights and 11:00 p.m. on weekends and 60 decibels until 2:00 in the morning. That is measured at the property line of the business. There is an additional requirement that the Police make the more subjective determination that the sound is unreasonably loud and disturbing to the quiet use and enjoyment of residential property.

I will also mention that technically there does not have to be a violation in order for a business to be referred to the chronic noise producer problem. It may be that a business is operating within those thresholds and because of where they are located may still be a problem in need of attention. An example would be commercial property whose property line directly abuts residential. The 85 at the commercial property line happens to also be 85 decibels at the residential. That would be a candidate for creating a tailored solution to those unique situations that are causing problems. One of the goals of staff and the committee was to focus on the problems without imposing a bunch of new regulations on businesses and activities that really aren't bothering anybody.

Councilmember Cooksey said that line now that you bring it to my attention I do see it. The second question I had, and I would like to hear also from members of the committee about how this works. Mr. Hagemann, you referenced that there is that new sentence added, "A business may be a chronic noise producer without having violated this article," and I'm trying to figure out how you violate the article without violating the article. Specifically the next section talks about in making the designation of the chronic producer the Chief of Police or designee shall take into consideration the number and frequency of valid noise complaints. What's a valid noise complaint that doesn't violate the article?

Mr. Hagemann said as we conceived it a valid noise complaint does not necessarily have to be violation or something for which a citation is issued. The purpose of the valid part was we heard anecdotes of businesses calling the Police on each other. That would be an example if the Police responded and didn't see a problem. Well, there was a complaint, but it wasn't really valid in the sense that the noise wasn't bothering anybody. So, the Police can make an assessment that complaints are valid even if they are not over the 85 and use that noise mitigation process in the referral.

Councilmember Cooksey said but is there a definition of valid noise complaint in the ordinance that covers that kind of discretion?

Mr. Hagemann said there is not. We provide the Police with I think there are five or six criteria or factors to be considered. The intent was to weave flexibility and room for judgment. I will also mention that we built in some protections, which I haven't previously mentioned. A designation of chronic noise producer is an appealable decision. We built in an administrative appeal mechanism, and that designation can be appealed to a hearing officer designated by the City Manager. Similarly at the back in, if a business is deemed non-cooperative, and, therefore, looking at thousand dollar penalties or 18 month prohibition, that designation also is appealable, so we have tried to build into this thing protection particularly for testing the discretionary decisions that are the kind you are asking about.

**DeWitt McCarley, City Attorney**, said let me add one thing to that explanation. The real world case where this comes up is where you measure 84 decibels at the property line of the business, but the complaining property is literally right next to it, so 84 at the property line of the producing business is also 84 at the receiving property. That is a situation where we would like to have the ability to do a tailored solution that meets the needs of that neighborhood.

Councilmember Cooksey said I appreciate that, but back to the example of what makes valid. You cited as an example of invalid one the anecdotal evidence of businesses calling on one another. I could see a perfectly reasonable reason for a business, an adjacent business, to say that restaurant's music is disrupting my clients – stop it. Would that be considered valid?

Mr. Hagemann said it could.

Councilmember Cooksey said how is that determination made? I'm very concerned about the looseness of this.

Mr. Hagemann said as I said before we intentionally in flexibility and room for judgment. A number of people suggested that we put a bright line – "X" number of complaints – and staff at least thought on balance providing the Police the flexibility to exercise their judgment when they have identified what really is a problem as opposed to something that meets some relatively arbitrary numerical threshold of complaints, that they have the ability to say this is a problem.

Normal enforcement, talking to the business, warning, citations, be a good neighbor is not effective. The mechanism is there to refer it to be worked more aggressively with Code.

Councilmember Cooksey said let me ask it the other way around. If I make some complaints that I think are valid but the law enforcement agency does not make a designation of my neighbor as a chronic noise producer, do I have any avenue of appeal on that decision?

Mr. Hagemann said no legal appeal exists in that situation.

Councilmember Cooksey said so it's still basically on the hands of the Chief of Police or designee, and if the designation of chronic noise producer is made there is an appeals process.

Mr. Hagemann said right.

Councilmember Cooksey said but if the designation is not made then the person making the complaint has nowhere to go but here during a Citizens' Forum appearance.

Mr. Hagemann said that certainly is one option. I would suggest that the discretion that this proposed ordinance leaves with the Police is no different than the discretion that they have for all the other laws that they enforce.

Councilmember Cooksey said fair point. I would be interested in committee members' opinions about the fact that a business may be a chronic noise producer without having violated this article. I'm not quite there yet.

Councilmember Cannon said you probably don't have to get there. I think our issue was really about trying to make sure we could find a way to deal with the one or two only producing amplified entities out here in the community and not try to penalize the entire community across the board – business wise or neighborhood wise – but strike that balance where we could have something in place where if the entity, the business, that was providing the amplified music got into a situation where they were just continuing to ignore what we currently have on the books that we would institute something that would give us the ability to look at the decibel levels and have the Police Department, that is represented here today, to go back and say, you know what, you are in violation. You are disturbing Mr. Caldwell and Mrs. Caldwell and others in the vicinity. They get that warning, and if they continue to violate it, certainly we would take on other levels of enforcement because we would begin to say, okay, you are going to have to conform to this level now.

If they want to continue to ignore that, essentially what you have – if an entity like ones we have seen in the past continue to violate something like this, they are going to be run completely out of business. Not only that, what the committee did was to make sure that if that company does go out of business and another entity tried to start that business back up that they could not go back and start that business the same way. It would run with the land. It would actually be – they would be done for completely. Am I correct in that, Mr. Attorney?

Mr. Hagemann said that's correct, Mr. Cannon.

Councilmember Cannon said we could probably go around and around all day. I think you make some valid points, by the way, and I think at the committee's first swing at this to try to tighten up what was beyond looser than what you have made mention of, we have done just that. So we just continue to try to move this forward in a way to say here's something we can serve up right now that can strike a balance to help this community overall. We would hope that the Council would consider it. We continue to ask questions because I think there are even more questions right now.

Councilmember Kinsey said I just wanted to reiterate what you said. There are very, very few bars and restaurants in this city that don't comply with the existing noise ordinance. But when Legal staff looked at the existing one, they realized it was 25 years old. It was really outdated. Also wanted to make sure everybody understood that the noise ordinance covers far more than what we are discussing today. It's good work. I really appreciate what Legal staff has done, certainly Mr. McCarley, Mr. Hagemann, Mr. Campbell, but also Alicia Davidson, who put

together that book for us. It was very thorough and very good. Thank you, Alicia. But, Police and Code, it has been over a year now. A lot of work has been done, and I really do recommend this ordinance to you.

Councilmember Turner said I want to first say thank you to the committee, and I had the opportunity to meet with and speak with Ms. Kinsey when she first brought this to us, and I thank the committee for at least taking that as a consideration to deal with the cases that was causing the problem and not punish everyone. The concern – if someone could help explain to me the rationale behind. You increased the decibel tolerance between the boundaries of the business or persons that may be violating it versus the old decibel limits were lower. What was the rationale behind that because I guess Mr. Caldwell thinks what he is hearing now under the old or current policy is too loud to allow him to have tolerance of it. How do we expect him to not complain under the current new policy?

Mr. Hagemann said frankly we expect that he will complain under the new policy, and if the one establishment that has been the focus of a lot of this discussion operates like it historically has operated we anticipate it will be put into the noise mitigation program, and the rules for that business will be tightened down. Our goal is to eliminate the problem so that Mr. Caldwell is not subjected to unreasonable noise.

Going back to the first part of your question, the current ordinance, again, sets decibel limits than what are proposed here, but it says that you measure that at the residential receiving property, which may be some distance away from the business. I mentioned before the Police have found that to be a real challenge because that decibel limit is so low in an urban environment that the ambient noise is generally ten decibels plus louder than the limit, and when the Police go out to a residential property with a noise meter and it's kicking over the limit, they can't fairly say that what is causing it to trip over that limit is the business a block away or the ambient noise from cars and buses in the street. So we concluded that having a higher limit at the sound producing property is going to give more accurate readings of the real impact of the noise because you have taken out of play all the intervening ambient noise between the noise producing property and the receiving property.

Councilmember Turner said let's say the closest resident that is adjacent to the producer of this noise. Never had a complaint prior under this current policy. With the new policy, you can ensure that family or person is going to start complaining, so it won't really matter if Mr. Caldwell is two streets over. To me, we are creating a problem in my opinion. And, I get your point where you want to be able to enforce it because we are allowing them to raise their volume to be able to do that, but in doing so, some of the citizens we haven't heard from that did not complain that felt it was tolerable chose not to call, you can rest assured they will call now with allowing them to have a higher volume.

Mr. Hagemann said a couple of responses. One, we suspect that having gone through this experience with the committee along with staff and committee members that the industry is now attuned to the fact that they were causing a problem, and we expect a fair amount of self-policing because they are not going to want the Council to reopen this based on them starting to act worse than they may have been in the past. We don't anticipate creating more bad actors as a result of this ordinance.

Second, the first proposal that we submitted to the committee drew a pretty low line, and what we realized was that trying to write a regulation that protects against the most sensitive situation inevitably brings in a bunch of businesses and requires them to change their conduct when they were not causing problems in the past. So where we have attempted to go with this and the decibel limits that are written in the ordinance is it's a standard that we think and some of the Council members actually tested it. We took them outside, and they listened to what 85 decibels sounds like right there across the street, down the way a bit. We think it's a reasonable limit, but certainly we know that in some instances that limit is going to be too high, and we will have to come in and develop a tailored solution when the business is right on top of a residential use.

Councilmember Turner said, Mr. Caldwell, could you come for a second, please? The reason I'm asking you to come back here because, one, we received a lot of different emails – a lot for

and a lot against, but to hear you say tonight that you are still against what is being proposed as a new ordinance. Can you point out exactly what it is that you think has not been official to you?

Mr. Caldwell said I just explained to you that the ordinance gives these establishments the ability to play music seven days a week, 18 hours a day, 365 days a year. Now, would you like to have that next door to you? I live within 50 yards of two of them, and the third one is less than a half a block down the street. My experience with the Police is that when you call them they come. They have no apparatus to measure the noise level. They make a subjective judgment – walk in the place, walk right back out. I have had policemen to tell me that this is just a minor thing. We have got more important things to do.

Mayor Foxx said, sir, I'm sorry. We have to ask you to stay within response to the questions.

Councilmember Turner said thank you, sir. Mr. Hagemann, I wanted you to go back and make this point for us, and I think you heard exactly what he is saying. I think what the City is saying is that we believe under the new policy that is being proposed that issue will go away because they can play music anyway, and we don't have a policy saying they can't play music and perform and do what they do as a business, but we do have a policy saying they cannot violate our law based on the noise law on the decibel level.

Now, you are indicating to us that you are concerned that when the police officers come they don't have the property equipment to measure that decibel. They are using their own personal judgment. I'm going to ask our assistant city attorney to address that issue and tell us how we plan on challenging that so you can understand exactly how they feel like this policy will help you with that issue; okay? So, he is going to speak now. You can't talk any more unless someone on this Council or myself ask you a specific question for you to address.

Mr. Caldwell said I understand the question. Maybe I can answer it.

Mayor Foxx said, I'm sorry, sir. The question has to be posed to you.

Councilmember Turner said the question has to be posed to you, and I have not done that at this point, so if you could just wait there. Are you with me, Mr. Hagemann?

Mr. Hagemann said I believe so. As I said before, we believe that we have given City staff more tools than they have right now to effectively solve problems like the one Mr. Caldwell has experienced. The businesses that he is speaking to if they conduct themselves in a way that is causing problems to him we have built a mechanism for dealing with that problem in a different way than we are dealing with it right now. Right now it's a Police Department only program, and frankly noise is a significant issue no doubt, but it's true that in many cases the Police have more serious things that have happened in this community to respond to than a noise complaint.

That is why Pat Mumford and Walter Abernethy have stepped up and volunteered to take over the problem solving aspect of this proposal. They would come in, and as you know with some of the things that show up on your agenda, the In Rems and other matters, they have a lot of experience and are effective at assessing a situation and working it and working it and working it until they solve the problem. What we contemplate is they would come in and figure out what is the appropriate tailored solution to the specific businesses located where they are that may be affecting Mr. Caldwell and his neighbors and come up with tailored requirements and regulations that will allow Mr. Caldwell to enjoy the peaceful use of his property but not hammer a bunch of other businesses that aren't causing a problem.

Councilmember Turner said could you address, please, the number of days of operation that he is concerned with, please?

Mr. Hagemann said it is true that the ordinance as written on its face sets decibel limits that apply between 8:00 a.m. and 9:00 p.m. on weekdays and 11:00 p.m. on weekends. We have no experience of any business in Charlotte playing outdoor live music for that many hours a day seven days a week 365 days a year. One of the other things that might come out of a chronic noise producer referral is a specific limit on the number of days of the week or the days of the week that a business that is causing a problem might be able to operate, so we have built into this

proposal a lot of flexibility to deal with situations that we may not have contemplated and be creative in how we solve those problems.

Mayor Foxx said we actually have another speaker who has come since Mr. Caldwell has come in, and we also have the budget hearing that is supposed to start at 5:000, so I would like us, if we can, to get through this agenda item. Ms. Carter, I'm going to recognize you and then probably ask the speaker to come and then Mr. Cooksey.

Councilmember Carter said I wanted to say thank you for the care and skill that the staff, the Police, and the committee have demonstrated. I am very sensitive to responding to neighborhoods, and I think this ordinance truly does it, but it also respects and is sensitive to the creative class that we are trying to nurture in this city. The initiative, the inventiveness, and the creativity of this class is very important to the success and ongoing of our community, and looking at people who have a time – a diurnal, nocturnal schedule – that is very different from mine but very endemic in the younger folks, and I am appreciative of the working together that is indicated.

But, I have two problems with this. Number one, what do we do in an urban situation where there are condos and apartments that are directly adjacent, and it has already been mentioned that there are some bars, etc. that are close to single residences, but we are looking at very urban core that is now mixing residences and bars? The second question – cumulative noise, which is what Mr. Caldwell has addressed – three different locations producing noise that might be over that decibel level at his home, so those two questions would be mine.

Mr. Hagemann said I think your questions perfectly point out the challenge in drafting an ordinance. It is striking the right balance, trying to anticipate the myriad of different situations each of which are unique. Going with your first question – this chronic noise producing program is available for any commercial establishment, any industrial establishment, and we know of at least one in downtown Charlotte where a business – it is not even outdoor music. It's indoor music, but because of the way the facility is structured and doors opening, cause a real problem to guests in one or two hotels downtown. We had conversations with the proprietors of that establishment, and they understand that they are going to have to come in and work with us to try to come up with a solution. So this chronic noise producing mechanism is designed to bring the creativity and flexibility to bear to any identified commercial or industrial noise situation that exists today or might appear on the horizon sometime tomorrow.

Councilmember Carter said cumulative noise.

Mr. Hagemann said, again, an example of why it's so difficult. There is nothing that specifically speaks to cumulative noise. That would be part of the challenge that Neighborhood and Business Services would have to figure out when they are looking at a unique situation. Is the problem created solely by one business, is it a number of businesses that they may need to bring in together and collaboratively figure out the best way to solve the problem so that everybody is a good neighbor while not unnecessarily stifling the vibrancy and creativity that you were describing.

Councilmember Carter said I'm very grateful for the appeal process and hope that Council will review the impact of this ordinance.

**Phil Rossi, 2217 Laburnum Ave.**, said, number one, I would like to say it's good to see you again, Mayor Foxx, Councilmember Peacock, who was here a minute ago, and Councilmember Carter. I appreciate all the work we did together with the North Carolina Clean Diesel Campaign and support on behalf of the environment and helping to keep our air clean. Thank you for your continuing efforts on that front. I have been volunteering as a campaign manager for Save Charlotte Music, which is a volunteer-based organization created in response to the originally proposed changes to the existing noise ordinance that happened several months ago. Our mission basically has been to represent the voice of the music community and operate as a resource for the City of Charlotte to help create a noise ordinance that works for all stakeholders including residents, musicians, business owners, customers, and visitors to our city. We know the task of rewording a 25-year-old policy is not an easy objective. Save Charlotte Music understands that and wishes to recognize support from several key members of the Community



Safety Committee, specifically the committee chair, Patrick Cannon, Councilmembers Andy Dulin, Michael Barnes, and Edwin Peacock; and from the City Attorney's Office, Bob Hagemann. It might have been a two-minute conversation, a question about the proposal Save Charlotte Music submitted, or a series of ongoing dialogues throughout this process, but at the end of the day, it was obvious you not only valued the input from our organization but you were truly concerned about creating a working solution for the public. You offered sound advice in how to navigate these waters, listing concerns both large and small, and ultimately worked in concert with us – pun intended – to develop a solution which works for all stakeholders involved. Save Charlotte Music generally supports the currently proposed noise ordinance. We had one specific concern that Councilmember Cooksey illustrated very well about the ambiguous statement a business may be a chronic noise producer without having violated this article. We would like continued clarification and obvious concerns the public would have about that kind of undermining the rest of the principles illustrated in the article. But we look forward working on a go-forward basis with the City of Charlotte and more closely in the future as our brand kind of changed, our mission focus kind of shifts to really become a valued asset in order to ensure City-sponsored events incorporate not only local and regional musicians and bands but also utilizing national acts that will truly be supported by the community and thus feel the increase in attendance, notoriety, regional exposure, and ultimately more tax dollars for the city. So, in an increasingly flat world where we as a city compete with others to top livability lists, grow our creative class, and achieve job producing corporate relocations, music is a part of our city's winning pitch, but only to the extent that we support and nurture it.

Councilmember Cooksey said in talking with Councilmember Kinsey and the City Attorney I understand there will be a six-month report on this. I'm going to be particularly interested in seeing how many of these designations of a chronic noise producer there are and how many get appealed – how many folks say I'm not – and what happened with them there. But, in light of that review, I will go ahead and support the ordinance as presented.

Mayor Foxx said there has been a motion and a second on this. Is there any further consideration?

Councilmember Cannon said I just want to add one thing, if I might? There was a question by one of the members of the body who asked about decibel meters and if police officers would have those decibel meters. The answer to that is, yes, they will have those. So when and if there is a problem out there, they will be armed and ready to deal with that accordingly.

Councilmember Dulin said one question for Bob Hagemann. Bob, can you bring us up to speed on what this will do to downtown establishments that have music? Same blanket?

Mr. Hagemann said, yes, this ordinance applies citywide, yes.

Councilmember Dulin said, Council, I'm very concerned that we have worked really hard to make downtown Charlotte a place where people want to come. We have people coming from Virginia and South Carolina and all over the east coast to come to Charlotte as tourists now and enjoy our music scene, our restaurants, our sports venues, and we are getting ready to host a relatively large convention in 16 months. We want to tell them to turn the music off at 9:00 at night? So, I'm a little concerned about that – that we are putting too much of a blanket over the whole city for one or two troublemakers.

Mr. McCarley said the short, simple answer is that although most of the conversation has been about the outdoor amplified sound what you are talking about by and large – 98% of the clubs and the performances will be indoor amplified sound, and they will be fine.

Councilmember Dulin said that helps me a lot, Mac, and Mayor.

Mayor Foxx said I think we have had a lot of discussion today and actually previously, so all in favor say aye.

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

Councilmember Dulin said, sir, one more comment. I will look forward to the six-month look-back.

The ordinance is recorded in Ordinance Book 57 at Pages 118-128.

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## **BUDGET PUBLIC HEARING**

### **ITEM NO. 2: PUBLIC HEARING ON PRELIMINARY FY2012 AND FY2013 STRATEGIC OPERATING PLAN AND FY2012-2016 CAPITAL INVESTMENT PLAN**

Mayor Foxx said we thank those of you who have come far and wide tonight to be part of this discussion. We have quite a list of speakers who wish to be heard on our budget, and let me start out by making a couple of comments about it. For the last several years, the City Council has had to deal with the very same budget environment that has plagued governmental levels from the County to the State to the Federal government. Two years ago our City budget had a \$1.8 billion aggregate in terms of revenue, and last year our budget was \$1.6 billion. So we have seen a tremendous drop in terms of revenues through the City.

Through that time, one of the things that has happened is the City has made tough decisions all along the way to keep us in a position to maintain our AAA bond rating to be able to continue providing services to citizens and even innovating in some ways. I'm reminded of our recycling program, for instance, that we now use bigger bins throughout the city. We collect that recycling every couple of weeks, and the change from collecting it weekly even with bigger bins is resulting in a savings over the next ten years of about \$40 million. So, we have tried to reinvent where we can. The credit for working through that belongs to this body, the City Council, to the staff, particularly to our city manager, Curt Walton, and to the budget director, Ruffin Hall, and to the finance director, Greg Gaskins, and all of the folks who work with them as they have done a great job of estimating our revenue levels, a great job of helping us calibrate to those and make adjustments along the way.

Three very quick points about the FY2012 budget for citizens who are watching. The first is I believe there is general agreement on this dais that we should keep a revenue neutral budget. That is to say that we follow the practice of previous Councils and adjust our revenue levels consistent to year-to-year revenues as opposed to capturing some of the increased value that comes from having a revaluation occur this year. That is a policy decision that then drives a lot of other decisions that roll up into the total budget picture, but I think it is the right decision for the citizens of this city.

But, having said that, there is also a consequence to that, and one of the consequences is as we look at our capital budget, the budget that pays for transportation improvements and for neighborhood improvements and affordable housing, one of the things that a revenue neutral budget does is it essentially eliminates our ability to put a referendum on the ballot next year, which is the year we would normally do such a thing or in future years. So, in effect, this year if we move as we are moving, we will reduce the property tax rate and then in a future year, we will have to examine our revenue picture and make a determination about when and how we would move forward with a capital budget.

I think there is some strategy to that, and that is that we are all having to make decisions on a year-to-year basis given the economic picture and giving ourselves some time to make that decision in a future year make some sense. I will suggest that the Council consider conducting a review of our capital program over the next six to eight months to look at how we categorize things. For instance, many neighborhood improvements are curb and sidewalk and gutter type of improvements that could potentially be considered transportation improvements, and maybe we should be taking a look at how we categorize things for our capital budget as well as perhaps taking a look at what a future capital referendum might look like.

The final point I will make, and this has been widely discussed already, is I do think one of the decisions we made last year about the school resource officers should be reconsidered at least for

temporary help to the school system. We had some very good, thoughtful suggestions that were made last week in our adjustment period on how we might get there. There is still some work that has to be done on some of those ideas, but I think that if we can find a way to plug that hole for a year or two, not shift that cost to the schools, it's going to make a dramatic difference there. So those are my comments at the outset. They are consistent with what we have been saying for the last several months, and I will turn it over to the Budget chair, Michael Barnes, in case you have any further thoughts.

Councilmember Barnes said I appreciate it. Thank you so much. I don't have any additional thoughts at this point. We obviously did our adds and deletes last week. I appreciate the service of the committee members and our staff support including Mr. Ruffin Hall, who is likely on his way home. No, he's there. He's hiding. I would be happy to hear from the public now, and I appreciate the opportunity.

Mayor Foxx said with that we will go directly to our list of speakers.

**Kirsten Sikkelee, CEO, YWCA Central Carolinas, 3420 Park Rd.**, said on behalf of the YWCA, thank you for the City support of youth learning centers, which are located in eight fragile neighborhoods. We operate 50 out of the 52 weeks of the year -- each weekday after school, Monday through Friday, and for the full during teacher workdays, school holidays and summer camp. We believe summer programming is critically important since academic gains can be lost during the summer months. We focus on academic success, literary initiatives, and character building. The City currently invests \$134,546 to operate eight centers. That figure comprises 15% of our operating budget. The vast majority of the families that we serve earn less than \$10,000 a year, so we are able to offer these high quality programs at no cost because they would not otherwise be able to afford them. YWCA leverages this investment by the City, and the credibility it confers to inspire the remaining 85% of philanthropy, which is a funding picture of foundations, individuals, companies, and our United Way. I know a new budget will be a challenge to balance and approve, and I realize that flat funding may be the best case in most scenarios. However, we have requested a 3% increase, which equals \$29,000, moving the percentage of support by the City from 15 to 18% of our funding for youth programs. We continue to recover from the funding cuts of 2008/2009, and this support added to that of our other partners would be most helpful to our viability. We are grateful for the City's partnership, and we thank you in advance for thoughtfully considering our request.

**Wade Steen, FOP Lodge #9, 1201 Hawthorne Ln.**, said I am the managing partner of Steen and Company, a CPA firm licensed to practice in the State of Ohio. I was engaged by the Local Fraternal Order of Police to do a high level review of the City of Charlotte's finances. What they asked me to do this evening is to come down from Columbus and share the highlights of that report with you. So that you can know a little bit about my background so you know who this person is in front of you, a quick summary of what I have done because when I say I can understand exactly what you are thinking I truly can understand exactly what you are thinking. I am an elected City Council member myself in the City of Burlington. It's a suburb of Columbus, and I recognize Councilmember Mitchell from his picture at the National League of Cities, a newspaper that I get every two weeks. I also served as the elected County Treasurer in Franklin County, which is where Columbus is. In that capacity, I collected taxes, pursued delinquencies, and managed investments. I was the deputy state auditor for the State of Ohio, overseeing the audits of all local governments in the State of Ohio. I was also Franklin County's chief financial officer and prepared their comprehensive annual finance report four times. All were awarded the certificate of achievement by the Government Finance Officers Association. I work on behalf of the National FOP. I also work for the IAFF. I also work for colleges and universities in addition to other governments and nonprofits. I have worked for the City of Columbus FOP, Dayton FOP, Little Rock FOP, FOPs in the State of Washington, Idaho, Missouri, and throughout Ohio. With that, I think the handout has been passed around. I would like to just go through, if I could. It's the one that starts like this, and I apologize to the audience in advance, and this is not meant to be a criticism, but this was intended to be a PowerPoint where all could see, but I did not get a return phone call from the City when I left a message today to ask how to do that, so they have been provided to Council. I think the FOP would be glad to provide them to anyone else who would like to see them.

Mayor Foxx said, sir, you have 48 seconds. I'm sorry.

bvj

Mr. Steen said, Mr. Mayor, if I could, I think the FOP has signed up five speakers because they did want to make sure that you got this information. They feel it's important. They care about the City, and they would like to at least have the results shared with you. The first chart is a summary of the general fund total fund balance for the City of Charlotte. This comes right out of your audited financial statements, page 32 of the CAFR. Is everybody following with me? Basically what the chart says is that your fund balance has been increasing. It looks like 2009 was a little bit of a rough year and 2010 the year ended 6/30/10, ending fund balance \$155 million plus. You're doing pretty well. If you go to the next chart, this is a comparison of your budgetary results for the year on a cash basis.

Mayor Foxx said, sir, I'm sorry. That's the time you have. Are other speakers prepared to continue through this PowerPoint.

**Todd Waither, FOP Lodge #9**, said I'm president of Lodge #9. I waive my time to Mr. Steen.

**DeWitt McCarley, City Attorney**, said that is not the way your rule is written for a public hearing. Each person desiring to speak can speak, but it's a three-minute rule.

Mayor Foxx said let me ask Mr. Steen are the other speakers not going to speak if you speak? Is that the idea here?

Mr. Steen said, Mr. Mayor, that is my understanding. They wanted to just – they didn't want to dominate the evening, but they wanted to make sure that you at least got the highlights of the report. That's why they signed up the way they did.

Mayor Foxx said if the Council has no objection I would ask you – I will give you another five minutes and ask you to answer the following question: If you had an additional five minutes, what would you say? I assume then that speakers 2, 3, 4, 5, and 6 will not need to speak; is that correct? All right, we will do that.

Mr. Steen said, Mr. Mayor, do you want me to try to wrap this up in five minutes – is that the directive?

Mayor Foxx said yes.

Mr. Steen said then let me go to conclusion, and then we'll go back to the charts because I think the conclusion is the most important. I considered Charlotte to be very much a peer of the City of Columbus. The long and the short of my analysis is the City of Charlotte should be commended. You have a sizable fund balance. Your ratios are all very good. You are a AAA rated city as is the City of Columbus, but in terms of financial strength, in terms of ratios, in terms of fund balance, and in terms of cash, you are better off than Columbus is. So what I'm going to do is go through the charts quickly to show you how I came to that conclusion.

The next chart is a comparison of your budgetary results. You can see in the last year the City of Charlotte anticipated losing \$25.8 million, but in reality the loss was only \$10.8 million. What I found interesting on this chart is that for the last six years the City has always budgeted to lose money. They anticipated losing money, but through the years they actually came in the positive. Through the years they came in the negative, but you are still doing well. If you go to the next chart, this is operating revenues over operating expenses. This comes from the statement of revenues, expenditures, and changes in fund balance right out of your audited financial statements. We eliminate transfers and other resources, and you can see for the last six years you are strong. Your operating revenues are covering your operating expenses. The one thing that was interesting when I shared this with the FOP was they go how can this be positive, Wade? You just showed us a chart that showed negatives in 2008 and 2010. In 2010, you had transfers out of \$26.8 million. That is what took you into the negative. In 2008, you transferred out \$56.2 million from the general fund to other purposes. I'm not saying you can't do that. That's what took that positive result on the chart to the negative result.

Now, I do some ratio analysis off your balance sheet. This comes off page 32 in your 2010 CAFR. Primarily I'm looking at what the percentage of fund balance is to expenditures, both the

reserved and the unreserved. I won't read the chart to you, but what I would point out is if you look at ratios in 2005 and then and look at the ratios in 2010, they almost mirror each other. So, as I shared with the FOP, if there is a sentiment on Council in 2010, that should have been the same sentiment you had in 2005 because your numbers are no different. Your ratios are the same, but the ratios are very solid, good ratios. The next chart is an asset to liability ratio, and let's cut to the chase. In 2010, the ratio is 4.75, which means for every dollar in liability you have almost \$5 in assets. That's fabulous. Most governments that I work with try to get to about two – three is good. Five is outstanding.

The next chart is the general fund cash to expenditure ratio. I read in some of the material that was provided that you look for a 16% ratio, which is about two months. The GFOA recommends anywhere from 5 to 25%, eight weeks, ten weeks, 12 weeks. If you were three months, it would be 25%. I took operating cash to operating expenditures, and you can see in 2010 the ratio is 33%. That's \$149.5 million in cash to \$469 million in expenditures. The ratio is about the same as in 2009. It's been sliding down a little bit since '07 and '08, but, again very good numbers. The last thing I looked at was I was provided some cash information, and this is where quite honestly it got a little tricky because in our request – the FOP made a request from the City for what are just the cash balances, and, in addition, what are a list of all of the funds that you use. Well, I got a list of the funds that you, and I got cash balances as part of the interest distribution that you do on a monthly basis, but then last week I got a spreadsheet, and I have got a copy of it. The staff will know it. It shows the cash balance, and the important thing here is this information tied to your audited financial statements. This information though was not what was provided to us earlier, so I thought I must have erred because it says it includes the treasurer's cash, Fund 110, and petty cash, Fund 115. So I went back to the list of funds that was provided to the FOP, and I can't find a Fund 110 or a Fund 115, and I apologize to Council if this sounds critical, but it's a very simple request. Please just list out every fund that you have and a brief description.

I'm hired by police officers, who are not trained accountants. They are just trying to understand the financial situation and have a meaningful conversation with Council members and others. So we went back and said, okay, that's fine. Let's just look at the cash. So I did a couple of cash flow graphs, which I'm assuming your investment officer would do. The first one shows – am I about on time?

Mayor Foxx said you are almost out of time.

Mr. Steen said then I would draw your attention to two charts: the one that says all cash because your daily cash by month rolls up and down like a mountain or a hill, but your total cash by all funds is climbing like crazy. I'll stop, sir. I appreciate it.

Mayor Foxx said are there any questions for this speaker?

Councilmember Cannon said you were in the middle of your sentence. I need for you to complete that sentence, please.

Mr. Steen said what I did was I took the two different cash numbers just because I wanted to see what the difference was. That's what this chart is. It shows this is the impact of Fund 110 and 115.

Councilmember Cannon said you are into two sentences now.

Mr. Steen said I'm sorry. I'm from Ohio.

Councilmember Cannon said it was about the all cash you were saying.

Mr. Steen said, yes, the all cash – I would have expected to see a similar cycle, but the all cash number is climbing like crazy at the end of the chart, and I didn't have time to analyze that and explain it, but I'm sure that internally you are going to be looking at that. You have a lot of – I can't compliment the City enough. When I compared your numbers to Columbus', you are beating us; you really are.

Councilmember Cannon said thank you so much.

Mayor Foxx said, by the way, I know there is a team of staff and police officers working on public safety pay plan issues. I assume at some point in the next several months that will come back.

City Manager Walton said probably by the end of the year, first of January.

**Arrington Mixon, 831 Queens Rd.**, said I am the board chair of Children's Theatre of Charlotte. I initially moved to Charlotte in 1982 and have raised my family here. I spent the first 28 years of my career in the financial services industry until retiring about a year ago. I give you this brief introduction to let you know that I understand deeply the difficult choices that the recent environment has placed on all of us. Five years ago I was drawn to the board of this organization because of their stellar reputation in the region. There was something extraordinary about this dedicated team of staff and volunteers, and I wanted to be a part of it. The mission of the Children's Theatre is to enrich the lives of young people, ages three through 18, of all cultures through theatre and educational experiences of the highest quality. We have done that by growing with Charlotte and serving its ever-changing community. Charlotte-Mecklenburg Schools has recognized us as a notable, educational resource, and we are one of their highest valued partners. You should also know that the theatre is run like a business. We have balanced our budget for 29 consecutive years through both good times and challenging economic environments. We have made the necessary adjustments to ensure that we continue our legacy of service. During 2008, we faced the most financially challenging environment in our 63 year history with the economic collapse that affected us all. We were proactive, swift, and purposeful in the actions we took to ensure our financial integrity. All programs were examined and realigned. We reduced our operating budget by 15%. Staff positions were eliminated. We froze salaries and then we cut them by 5 to 10%, and 401k retirement matches were eliminated. With these painful but necessary decisions, we have continued to offer the kind of high quality and impactful programs our community has come to expect from us. The City of Charlotte's partnership with the Children's Theatre has lasted 40 years, and we have deeply appreciated the support. Six years ago when we moved from Morehead Street to ImagiNon, City Council elected to continue to fund the theatre because of the unique public/private partnership. Even though we believe there is still merit in the funding partnership between the theatre, library, City, and County, we have accepted the inevitability of the City phasing out its commitment. Our executive director, Bruce LaRowe, will explain in more detail our request and rationale to you. Thank you again for your years of support and for your consideration tonight.

**Bruce LaRowe, 1337 Cavendish Ct.**, said our request is straightforward. We are asking you to lengthen the phase-out of Children's Theatre funding from three to six years. Our reasons for six years is simple. Children's Theater funding has been compared to the Levine campus model, which was a total of seven years from point of notice to completion of phase-out of funding. That notice was in 2005 with four years to raise the replacement funds and three years for funding phase-out. The first attachment in your packet represents our request to the City and uses a comparison with the cultural organizations in the Levine Cultural Campus. You may also remember that \$83 million was raised to fund the operation of the Levine Campus. Children's Theatre received no funding from that campaign. We accept the challenge of replacing the \$283,000 of annual City funding but need more time to accomplish it. The second spreadsheet shows financial challenges Children's Theatre has already faced, which prompt the 15% operating budget reduction that Ms. Mixon referred. The additional loss of City funding represents an additional 7% cut to our budget on top of the previous cuts. The purpose of the handout is to note that we have dealt with these reductions, but we urgently request the City to extend out for six years to allow us time to generate funds to offset the City funding phase-out. The institutions on the Levine Campus add a great deal to the city. Children's Theatre has served this community for 63 years. We are asking for a similar timeframe and business model to transition in this still volatile economy. A summary of our case is at your seat tonight. Additionally, we have included a letter from a parent who is asking for your positive response to our request, and she shares her feelings about the impact Children's Theatre has had on her son and her family. This letter represents one parent and child of the 300,000 who participate in Children's Theatre's programs each year. I would also like to acknowledge the individuals who have joined us here today by asking them to stand and show their support for our request. Thank you for your support, for the 40 years, and for your consideration of our request.

Councilmember Barnes said by the way I think we all appreciate the value of arts in the community, but for the sake of comparing apples to apples I wanted to have the City Manager respond to different treatments of the Levine Cultural Campus and Children's Theatre in ImagiNon. You all will recall that we talked about this briefly in our last budget meeting, and I thought the Manager made some fairly enlightening points regarding the different treatments, so if you could share again with us, Mr. Manager, what you described last week regarding the treatment.

City Manager Walton said the cultural campus occupants were in formerly City-owned facilities, and the cultural facilities model was that we would pay the operating costs of those. That includes Discovery Place even though it's not technically in the cultural campus. As we developed the cultural campus model about five years ago, the decision was made to transition the operating costs that the City was funding for those towards the capital, so basically in exchange for getting new facilities and the capital funding for those, the cultural facilities in the Levine Campus and Discovery Place started over the six-year phase-in to pick up their own operating costs. The difference is really is ImagiNon is not part of the cultural campus and is not a city-owned facility, so essentially we are maintaining a building that we do not own. We do own all of the buildings of the cultural campus.

Councilmember Cannon said how long have we, as a city, I should say, have they been funding the Children's Theatre?

City Manager Walton said I don't know, Mayor Pro Tem. When the Children's Theatre was on Morehead, we owned that building, and we provided the operation and maintenance. When it moved into ImagiNon a few years ago, Council made the decision to go ahead and continue to fund the operation and maintenance, so I don't know how many years we have been doing it.

Councilmember Cannon said over the last five years has the City been engaged in funding?

City Manager Walton said yes.

Councilmember Cannon said during that timeframe the City has not owned the facility.

City Manager Walton said correct.

Councilmember Cannon said but it has been continuously funding them.

City Manager Walton said correct.

Councilmember Cannon said, Mr. LaRowe, I have a question for you, sir. Thank you for being here, sir. Are you asking for any additional funding from the City of Charlotte?

Mr. LaRowe said we are not asking for additional funding. We are agreeing with the phase-out of the \$283,000. We are asking for an extended period of time for that phase-out to occur.

Councilmember Cannon said basically this isn't for additional money that you are asking from the taxpayers.

Mr. LaRowe said it is not.

Councilmember Cannon said you are essentially asking for a different set of terms, if you will, in terms of spreading that out in order to be able to accommodate a better business model; is that fair to say?

Mr. LaRowe said yes.

Councilmember Cannon said that number will look like what per year instead of what per year from the City of Charlotte?

Mr. LaRowe said \$47,000 a year.

bvj

Councilmember Cannon said instead of?

Mr. LaRowe said \$95,000 a year; in other words, half – six years instead of the three years.

Councilmember Cannon said would you repeat that, please?

Mr. LaRowe said the recommendation is for \$95,000 a year phase-out. We are requesting it be \$47,500 a year phase-out over six years instead of three years. It still phases it out in totality. Might I make one other comment, or is that appropriate?

Councilmember Cannon said, no, sir, I can't have you do that.

Mr. LaRowe said I'm available if anyone has questions between now and your straw votes.

Councilmember Howard said, Mr. LaRowe, first thing I had a brief conversation with the Manager, and I want to go on the record that it is not kind of the Children's Theatre against staff. It was Council who actually directed them to start going in this direction. I asked staff if you guys had conversations with them over the last year to try to figure out something, and it wouldn't have been appropriate because we directed them last year to start this process. I just want to make sure it's not kind of all directed at staff because it's not in the Manager's budget. Help me understand this chart. You are trying to make an apples to apples comparison, and somewhere around the second row where it says "phase-out timeframe for the City", it says Levine Campus is three years but you are asking for six. Everything else on this chart makes sense to me. Why is it 4, 3, 7, and yours is 1, 6, 7? What's the difference there?

Mr. LaRowe said because we do not have the notification and enough time to begin raising the offsetting money, which in the Levine Campus was four years to raise the endowment funds by the community, which generated the \$83 million. We were not given that length of time to prepare for the phase-out.

Councilmember Howard said I guess I don't understand it. Explain to me. So, with the Levine Museum, every three years they were going to take a third away until they got to seven years? Is that the way it worked that every year a third goes away?

Mr. LaRowe said once the funding phase-out started it was a third a year, but there was four years before any phase-out began and that gave the time to raise the money, so we were essentially saying we will start to phase-out now and raise the money over that course of time, the full window being the full seven years as was equivalent to the Levine Campus.

Councilmember Howard said they kind of got a four-year head start, and they started phasing out those last three years of the seven years.

Mr. LaRowe said they did get a four year head start and also with the community's commitment to raise the offsetting money, which we accept as a burden on the Children's Theatre to raise the offsetting funds.

Councilmember Howard said you are asking for – the difference is you are asking for six years to phase it out.

Mr. LaRowe said correct.

Councilmember Howard said that would happen in the same year.

Mr. LaRowe said excuse me.

Councilmember Howard said with the same results that everybody in seven years will be off – will not need or get City assistance.

Mr. LaRowe said, yes, sir.



Councilmember Howard said so it's not a third, third, third; it's a sixth every year.

Mr. LaRowe said correct.

Councilmember Carter said two points for my colleagues. If we do one-sixth every year, we are committing fewer funds than in one year, particularly a critical year, than we would be this year coming up, so you are paying out less. If you do that, as inflation hits, and I'm sure it's coming and it is substantial right now, you are paying in cheaper dollars on down the road. So, it's something to consider. This is a very generous offer in a way for us.

Councilmember Dulin said it's been made pretty plain to Council that one of the reasons the Manager recommended that we phase this out is the City does not own that building. It's a County-owned building. Can you fill Council in about where you are in your discussions with the County and what they have told you about picking up the expense of their building?

Mr. LaRowe said we do not have any plan or any target with the County yet for a phase-out or for a phase-in. The County, as you know, is going through significant conversations with the Library as to the future of the library – will they become County government or not. I might hope in a year, but I do not know at this point if there is an opportunity for a transition down from the City and a pick-up from the County. At this point, our contract is with the Public Library, and we are paying our full commitment to the Public Library.

Councilmember Dulin said but you have had no conversations with the County, who is the landlord, about this subject.

Mr. LaRowe said I have had conversations with the budget director, and the budget director says we will look at that, but this is the tightest year we are facing, and at this point, we are not in a position, and Mr. Jones' budget does not reflect any treatment at this point as it relates to the Children's Theatre in ImagiNon.

Councilmember Dulin said that's interesting to me as a Council member and also as a user of your product. The Dulin family has enjoyed our times at the old building, too, because my kids are a little bit older. But I need to let you all know that this money the City is paying to maintain a very nice building – I mean I like that building; glad it's there – but a very nice building that we don't own. We are maintaining that building with dollars we could be spending for roads, dollars we could be spending for potholes, spending on equipment to fund our Police and our Fire. I mean those are general fund dollars that could be spent literally on anything that this Council needs to spend City dollars on for City things.

I'm not saying I'm not going to support it at the end. I just want to make sure everybody knows what we are looking at here, and, gosh, y'all are fighting a heck of a good fight. It's a worthy fight. I don't blame you. I would down here asking, too. I think it's a little bit interesting though that the County has not been brought into the conversations. I have not heard from a single County Commissioner or chair or staff member about it. Heard from some former County folks and good friends. So, thank you for coming down and thanks for – this is a good lesson for the kids that have come down, too, to help fight for the Children's Theatre. I'm glad they are here to see this debate and see this discussion, so thanks, moms and dads, too.

Mr. LaRowe said you should remember we are prepared for your funding to phase out to zero. We are just asking for a little bit longer time. We understand the economic reality that you are facing and the reality that you don't own the building, but we are asking for a lengthier time.

Councilmember Burgess said, Curt, can we do that?

City Manager Walton said you can do anything, Mr. Burgess. It's a policy decision that the Council could choose to extend it from three to six.

**James Rich, 11533 Five Cedars Rd.**, said I'm going to speak fast and ask you to listen fast. I have been told that most persons speaking for this body regarding money are here to ask for some of it to be spent on their projects and that very few speak up otherwise. So I'm here today to represent that minority who do not accept the idea that local government should satisfy an

ever-increasing lust for more services. There are a few things which local government must do in order to serve its population. They are water and sewer and garbage collection, protection of our lives and our possessions through law enforcement, judicial system, and fire and rescue, and a reasonable road system. After these three items are totally met, if there is any money left over, we can look at items which affect our quality of life such as parks, arts, recreational, and self-improvement facilities. Finally after meeting those needs, if there is still money left over, we might look at expenses for the purpose of promoting Charlotte as a safe place to work and live. Unfortunately for years now the City Council has considered promoting the monopoly called City government as being more important than fulfilling the first three items I mentioned. It's time for this present Council to change that path. While our water, sewer, and garbage system is excellent and self-funding, our law enforcement and judicial system still is greatly lacking. Just because the State has chosen not to provide adequately for the judicial system to keep criminals off of our streets does not excuse the City from its duty to the citizens and businesses that the City is supposed to serve. The Council has chosen things like rail system over improved paved corridors; not seeming to understand that most of the riders of that system still must drive considerable distances to make use of it. Just look at the parking lots around the rail stations if you have any doubt. Further, the previous City Councils have chosen convention centers, arenas, and specialized museums over improved law enforcement, roads, and lower taxes. The only justification would be to promote the City and its leaders to a higher level of notoriety across the political structure of this land. One example would be the CIAA's \$200,000 per year expenditure. Now, that's logical in order to bring more money in to our hotels and restaurants, but also it is totally logical to finance this expense from the money brought in from taxes paid to the hotel and restaurant industry and not from the residents who need better police protection and roads. Another example of bad decision making would be the amount of money spent for arts. While a thriving city should have good arts facilities and programs for its citizens, they should be self-supporting, not receiving over \$3 million each year including ImagiNon plus an additional 1% of capital expenditures. In a time of great wealth, these quality of life expenses might be justifiable but not in a day when many of us cannot afford the cost of gas to get to these facilities. Then there is one-half million dollars spent for City memberships and subscriptions, and what about the new \$1 million for things that the City Manager may have forgotten to put into the budget and for the \$300,000 for things that the Council doesn't even need to approve. In closing, I'm thankful for the philanthropic attitude of many here, but unfortunately it's my money that you want to give away rather than digging into your own pockets.

**Dan Farris, Bicycle Alliance, 600 Rose Valley Drive**, said I am the chairman of the Charlotte Area Bicycle Alliance. Thank you, Mayor Foxx, Mayor Pro Tem Cannon, and other City Council members for once again supporting bicycling in this community. We have had once again another very successful Bike Charlotte Week here in Charlotte thanks to all of you and to Ken Tippet, the bicycle coordinator for the City, and for many, many others who have volunteered their time and efforts, including our organization, to make this successful. Also thanks are due to Councilmember Andy Dulin. Andy represented you in issuing a proclamation this Saturday at the Soldier Ride. The Soldier Ride is a part of the Wounded Warrior Project, whose goal is to help wounded veterans fulfill and get back on their feet literally and figuratively, and it's a great project. We support that. One of our board members rode. We supported one of our board members riding in the Soldier Ride, and we hope it will continue every year in Charlotte. Once again, Councilmember Dulin, thank you very much. Now, to the budget. We are looking to the future, CABA, the Charlotte Area Bicycle Alliance. We feel like we have made some progress with your support and help and with the staff, but we are concerned, and the concern involves the future. Our understanding is City Manager Curt Walton has shared with you that there might now be a bond issue in 2012, and what I want to urge Council to do is to find ways to make sure we do have a bond issue in 2012. Of course, the bicyclists and representing the bicycling community, we are especially concerned with the transportation part, and we think it's vital for all of our citizens – not just the cyclists but the motorists and the walkers and all of our means of transportation. So this concern is something that we hope you recognize and we hope you are going to use all the powers you have to make sure that we find a way to have a bond issue in 2012 because otherwise we are afraid both literally and figuratively that the progress we have made in bicycling in this city that the wheels may start to slow down or stop. Thank you again for all of your past support, and please support finding a way to find this bond issue for 2012.

May 23, 2011

Zoning Meeting, Business Meeting, and Budget Public Hearing

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**Martin Zimmerman, Charlotte Area Bicycle Alliance, 1616 Bonnie Ln.**, said I'm the executive director of the Charlotte Area Bicycle Alliance. I work with Dan Farris every day of the week and sometimes on Saturdays and Sundays often on policy issues, not only at the City level but the County level, the State level, and even nationally. I don't have a lot to add to what Dan Farris has just said. I guess to be perfectly specific we have had many discussions with the CDOT staff on an ongoing basis. We are aware and we have been witnessing their TAP hearings. I note the last one I believe a vote is coming up on the 13<sup>th</sup> of June. We are aware they are asking for the \$100 million on the bond issue. We support the \$100 million for the kinds of reasons that Dan Farris has given. I think the only other thing I would add is, yes, you are in a position as policy makers to look hard at the policy. Yes, you also have numbers. I kind of sympathize with you because you have to somehow make tough decisions between numbers and policies. I think our position is you have got the numbers. Even the gentleman from Columbus, Ohio, seemed to be pretty strong along those lines. We are not professional economists, but from what we hear, we do have the numbers to float the bond issue. The citizens have been supporting the bond issues over a period of years. Looking back at the charts, it goes back more or less 20 years of consistent support for transportation bond issues, so we ask you to give serious consideration to staff's recommendation of \$100 million for the 2012, and we wish you the best of luck. It's going to be a tough call for you, I'm sure.

**Eric Davis, 3300 Foxcroft Rd.**, said on behalf of my colleagues on the Board of Education and our 138,000 public school students, 70% of whom live in the City of Charlotte, I appeal to you to support the Mayor's position on the school resource officers and to continue that funding in the 2011-12 year. While I can relate to your financial challenges and certainly respect the City Manager's position and understand our separation of duties in the formal education system, it's clear that the citizens that we both serve recognize that all elected officials in our three local governments impact positively or negatively to the education of our students. We are, in fact, partners in their education. Your neighborhood development, transportation, public safety policies impact directly to the education of our students and the environments that our teachers teach in. The schools within the boundaries of the City of Charlotte are just as much a part of the City as the parks, offices, homes, and restaurants that are under your care and watchful eye just as every other municipality in Mecklenburg County continues to protect. So every one of us benefit from a strong, healthy public school system. But this issue is even more critical now in 2011. I need not remind you of the strain that our school system is under; that we have been forced to lay off hundreds, thousands of teachers, teacher assistants, assistant principals, facilitators creating an explosion of class sizes and skyrocketing the number of students each remaining teacher must educate. In the coming year we face the confluence of budget cuts from multiple funders and the cumulative effect of multiple years of budget reductions. The system cannot be stretched any further without repercussions long term to our students, our citizens, and our city. Although the County appears to support our request to a certain degree and we are hopeful that the State may lessen the blow, even the best scenario will require us to cut over \$50 million in funding on top of the \$180 million we have cut the past two years. No other local government has been so damaged by funding cuts as our public school system, but it is your support of our school resource officers if just for next year that could provide the additional support to weather the depth of the crisis and preserve those teachers, teacher assistants, and programs such as Bright Beginnings that our current students need most. Thank you for your past support of our school system, thank you for preserving our school system for today's students and for those CMS students that 50 years from now will occupy this chamber.

**Jay Privette, 11106 Knight Castle Dr.**, said I have been told that Charlotte doesn't have the money to pay for \$6 billion of upcoming road upgrades, but City finances are in great shape because we still have AAA bond ratings. I was told how my City Councilman has been blocked from moving \$800 million from there and \$2 million from here, etc., etc. in order to pay for central services, but nowhere was cancelling the light rail extension up to the University area mentioned as an option even though that would free up between \$800 million to \$1.5 billion dollars in capital expenditures and tens of millions of dollars per year in operating costs. The loss would be a transportation system that would carry less than 1% of Charlotte's commuters and a rail line that can't carry freight or be rerouted to allow for changing demographics. Countless governments across the country and around the world are rediscovering that rail transit is a 19<sup>th</sup> century technology that can't compete in costs, flexibility, or convenience. The other more modern forms of transportation that replaced it decades ago. Both the John Locke Foundation and the Cato Institute have determined Charlotte subsidizes the Blue Line to the tune

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of just over \$20 per passenger, roughly six times the subsidy of bus transit. City officials have addressed regarding this issue have returned touting the success of Charlotte's light rail solely on the basis that ridership is higher than originally projected. I repeatedly have been told by a representative of this Council that the only thing that mattered is that 70% of the voters voted for light rail. I wish to remind Council that the turnout for this vote was very light and the public was sold on premises that have proven to be false. I was also told by a representative of this Council that the light rail is about land development, which can be substantiated since contractors, land developers, and land owners were the primarily contributors of the campaign to promote light rail. That raises the ethical issue of why are Charlotte taxpayers being forced to develop land for the benefit of a wealthy, politically connected cabal. I have also been told it is impossible to defeat light rail because powerful downtown interests want it. I assume the person that I was talking to was referring to organizations like the Charlotte Center City Partners and the Charlotte Regional Visitors Authority, which, by the way, contributed \$5,000 to the campaign to promote light rail even though they get their money from taxes. These organizations gorge handsomely at the trough of government for advancing downtown interests even if all they are promoting is a net zero swap with money that would have been spent in the suburbs.

Councilmember Howard said while we still have the chair of the School Board here, Mr. Davis, I just wanted to thank you, Eric, for all your hard work. We don't often get a chance to interact with other elected bodies. I think we are going to try to see what we can do on this one, but thank you for all the hard work you guys are doing. It's not an easy thing right now.

**Shannon Binns, 1413 Briar Creek Rd.** said I think some of you know I'm the founder and executive director of Sustain Charlotte, a community based nonprofit I founded about a year ago. I also wanted to speak to the issue of the transportation bond and whether that will be included in next year's budget. The bottom line I really want to ensure that as others have said that you look hard to find funding even in difficult times for a new transportation bond for a number of reasons. In the name of time, I will just share four that are top of mine for me. First, as I think you all know, great world class cities prioritize investments and transportation infrastructure to ensure the mobility of their growing populations. Why? Very simply because mobility is a fundamental aspect of economic development. In short, when mobility suffers, so does economic development. Second, voters in this community have a long history of approving transportation bonds making it clear that improving our transportation system is a priority for our citizens and they support transportation investments. Three, this is a statistic you may not know. Increased traffic congestion in Charlotte costs us \$525 million per year in wasted fuel and lost time according to the Texas Transportation Institute, and this is a tremendous cost, something we have to continue to work towards improving. Finally, we have a 25-year Transportation Action Plan, as others have mentioned, that is currently being updated, and you will be asked to vote on that soon. This plan requires investments in our transportation system that average \$100 million per year, and we simply cannot afford to take a year or two off and fall behind if we want to achieve the goals of this plan. We must invest each year to ensure our mobility, our economic development, our health, and our quality of life do not suffer. Charlotte is still growing, and our transportation network must grow with it.

Mayor Foxx said with that, that concludes the speakers who signed up for the public hearing on our budget, and I want to thank all the speakers. In some cases there were questions back and forth, and that is because the Council is really trying to absorb the feedback we are getting, but it's great that you showed up, and we appreciate it. We are going to turn back to our business and to Item 12, which is a federal grant for additional police officers.

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### **BUSINESS MEETING (Continued)**

#### **ITEM NO. 12: FEDERAL GRANT FOR ADDITIONAL POLICE OFFICERS**

[ Motion was made by Councilmember Cannon and seconded by Councilmember Peacock to ]  
[ approve the Charlotte-Mecklenburg Police Department's application to the U.S. Department ]  
[ of Justice for \$3.8 million over four years to fund 13 police officers (\$2,252,120 federal and ]  
[ \$1,640,655 City. ]

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Councilmember Kinsey said I'm struggling with this a little bit because we used our money to hire 50 police officers, I believe, and that money is going to have to be found to pay those officers when the ARA money runs out and now we have this on top of that. I understand this may help us going forward because we anticipate maybe hiring more officers, but I'm struggling with it. I don't know what I'm going to do with it, but maybe I can ask the Manager to address that. Where are the funds going to come from – not only for the 50 officers but these additional 13, I believe, if we approve this?

**Curt Walton, City Manager**, said the first funding for the 50 that we received in 2009 that is where the school resource officer recommendation comes from. It's a shift of dollars, and my recommendation from the school resource officers to the 50 that have already been added to the neighborhoods. So if we ultimately decide not to do a cost shifting then we have about a \$5 million hole in 2015.

Councilmember Kinsey said for the 50?

City Manager Walton said for the 50. There is a plan in place, but if you don't ultimately agree with the plan, we'll have to figure out Plan B for how we fund those in 2015. These 13 the timing is similar. It would be part of a year for 2015, and a much smaller number, about a million dollars, so the applications are due on Wednesday, and if we are successful, we would bring back a plan for accepting the officers and funding the officers when we get to that point, probably in the fall. I can address the immediate cost for next fiscal year and maybe the next. How we would address the million I couldn't be specific with you yet as to what we would do in 2015, but I think that number is at least a lot more manageable than the \$5 million that we are going to inherit.

Councilmember Kinsey said with the original 50 we are looking at a \$5 million hole.

City Manager Walton said I believe that's right.

Mayor Foxx said just to clarify. If the Council were to use some of the resources that are being suggested for the next year for school resource officers that does not preclude the ultimate plan you just described; is that correct?

City Manager Walton said depends on the phasing. If you decide to fund one more year and not start the phasing until next year, we are still going to be short, but if you say one more year and you fund it from existing resources and then catch back up with the recommendation then we would be okay.

Mayor Foxx said in the later case if we were to forestall the reductions this year in the school resource officers and pick up where we would have been had we kept moving through your plan then –

City Manager Walton said then we can stay on plan.

Councilmember Howard said or you could catch up the year after next or you can catch up in that last year. You just have to catch up before the phase-out would have happened. It was a three-year phase-out.

City Manager Walton said there was a three-year phase-out because in the third year we have the costs for these officers. So in the first year if you replaced the funding source, but then in the second year continue the phase-out, which would basically be a double impact in the second year, and then I think it's between two and a half and three for the third year. As long as you stay on the recommended cycle, even if you replace the first year, we're okay for 2015. If you shift the whole cycle one year, we'll come up short in that third year.

Councilmember Howard said or after one year you do a two-year phase-out, and it just has more you have to catch up on.

City Manager Walton said if you fund it this year you would essentially have a two-year phase-out that would begin July 1, 2012.

Councilmember Dulin said those numbers work out. It was \$958,000 – this is off the top of my head – for this coming year for the school resource officers, not including the crossing guards, which, by the way, I was pleased with the work we had done to try to save those, and I'm sorry it didn't move forward. But, that second year, Mr. Howard, it was \$958,000 and then \$1 million, so if we pay for them this year and let it roll to the second year then the School Board is going to be on the hook for \$1.958 million, and my guess is we are going to be sitting right back here listening to it again. If you push it up two years, it is going to be the whole kit and caboodle for them in year three. It's tough. We have to continue to talk about that a little bit, but I'm right confident that they can't do 958 this year and \$1,958 million the following year is going to be just as difficult. We learned in our budget meeting the other day that the County is sitting on \$100 million contingency fund.

Councilmember Cannon said I won't continue to hammer that piece that has been hammered on the numbers and what not, but what I will do instead is to acknowledge our police chief, Rodney Monroe, who is here this evening, and thank you for being here. I do want to ask you this question, if I might. Relative to the request that is coming, how do you see this helping us in the way of reduction of crime?

**Chief Rodney Monroe, Charlotte-Mecklenburg Police Department**, said one of the focuses of this particular grant is directed toward community policing initiatives. One of the strategies we have employed over the last two years was the focus on chronic offenders and chronic property offenders and having the opportunity to create a group of officers that will continue to focus on those chronic property offenders. We still have over 300 individuals that need our constant attention that travel across our division lines. They are robbing, breaking into houses in one division one day and another division the next day. Having the resources to go after them on a constant basis. You know, we talked a couple of years ago even once we received the 125 that real number was 250 additional officers. So at some point, this helps move us closer to that particular number in a more phased-in process versus three years just trying to ask for them then.

Councilmember Cannon said that's good, and I think the community needs to hear that because still one of the critical issues on the minds of the residents here in the City of Charlotte and Mecklenburg County abroad is making sure they are safe throughout this community. Also this is not a bad thing to do relative to a certain convention we have coming up having more able bodies to help us in that process certainly isn't a bad thing.

Councilmember Barnes said, Chief Monroe, welcome. Had a question for you regarding what would be the projected number of police hires you would make or ask of us over this period of time. This grant is to provide funding for four years for 13 officers. Over that same period of time, how many officers would you anticipate needing to hire. I believe we have got a new police division in the works, so what would be your expectations regarding this –

Chief Monroe said we are still working towards that 250 goal in order to create that 15<sup>th</sup> division – that south division and that northern division. Currently the south division is just so large. It needs to be broken down into two divisions. The same way with the north and University division. They need an additional division. So, these additional 125 officers the goal that we are looking to receive. Any time we can move toward that number on another funding source other than just the City I think it behooves us to take advantage of that.

Councilmember Barnes said just to make sure I understand what you are saying you would anticipate needing those folks in place by 2015.

Chief Monroe said that's the goal to move toward that, yes.

Councilmember Turner said I thought Mr. Barnes' question was going to answer my question, but I don't think it did. Let me make sure I understand. Chief, your objective based on the federal grant you said how many officers. Let's take away the grant. Let's forget the 40 officers that grant would cover. How many officers you would like –

Chief Monroe said 125.

Councilmember Turner said so including the 40 that would be additional, right?

Chief Monroe said no.

Councilmember Turner said at this point we are not budgeted to handle.

City Manager Walton said we have not considered those.

Councilmember Turner said so that would be an additional.

Chief Monroe said yes.

Councilmember Turner said we will have to come up with a way again to maintain those 40 officers after the four-year period of that grant?

Chief Monroe said yes.

Councilmember Turner said as well as the 125 that we normally prepare for as new employees or hires for our future budget. That still leaves you short by quite a bit of officers.

Chief Monroe said yes.

Councilmember Turner said your projections for that amount of hires is based on what?

Chief Monroe said based on crime levels, based on geographical areas of coverage, based on population growth. We are trying to retrofit ourselves for years past. We just believe that number based on all of those factors is where we came up with the 250 number. Council was so gracious to go ahead and allow us to move forward on half of those officers last year, so, again, the plan hasn't changed. Whenever we see opportunities to invest in that plan that is what we hope to be able to do, and I think the COPS grant gives us an opportunity to invest in our continued plan.

Mayor Foxx said we have had a motion and a second on this item and some good discussion about it.

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

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**ITEM NO. 13: EMERGENCY RELOCATION PROGRAM**

[ Motion was made by Councilmember Barnes and seconded by Councilmember Kinsey to ]  
[ approve the Housing & Neighborhood Development Committee's recommended new ]  
[ Emergency Relocation Program, and authorize the City Manager to negotiate and execute ]  
[ a contract with the Charlotte Housing Authority formalizing the phasing out of the current ]  
[ relocation program. ]

**Stephanie Kelly, City Clerk,** said for the record I need to note that the funding source that is on the RCA noted only the innovative housing funds, however, the new emergency relocation program will be funded with both innovative housing and community development block grant funds, and the contract to phase out the current relocation program will be funded with budgeted community development block grant funds. I needed to point that out for the record.

Councilmember Cannon said how does that impact anything in terms of financing this? Are there any impacts, Curt?

**Curt Walton, City Manager**, said the reduction of the cost of this program as a result of this action was what helped us accommodate the reductions in community development block grant monies, so I think it's a positive thing for us financially going forward.

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

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**ITEM NO. 14: FY2012 AND FY2013 TRANSIT OPERATING BUDGET AND FY2012-2016 TRANSIT CAPITAL INVESTMENT PLAN**

Mayor Foxx said I'm going to ask this Council for a motion to recuse me from Item C-1.

[ Motion was made by Councilmember Barnes, seconded by Councilmember Carter, and ]  
[ carried unanimously to A) recuse Mayor Foxx from Item C-1. ]

[ Motion was made by Councilmember Barnes, seconded by Councilmember Carter, and ]  
[ carried unanimously to approve FY2012 and FY2013 Transit Operating Program, which ]  
[ was approved by the Metropolitan Transit Commission on April 27, 2011; B) approve the ]  
[ FY201-2016 Transit Debt Program, which was approved by the Metropolitan Transit ]  
[ Commission on April 27, 2011; and C) approve the FY2012-2016 Transit Capital Investment ]  
[ Plan, which was approved by the Metropolitan Transit Commission (MTC) on April 27, 2011, ]  
[ which includes: 1) Buses, 2) Other Revenue Generating Vehicles, 3) Asset Maintenance, 4) ]  
[ Bus Facilities and Amenities, 5) Rail Equipment and Facilities, 6) Safety and Security ]  
[ Equipment, 7) Miscellaneous Other Capital, and 8) Rapid Transit Program. ]

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**ITEM NO. 15: FY2011 HOUSING TRUST FUND ALLOCATION**

[ Motion was made by Councilmember Barnes, seconded by Councilmember Carter, and ]  
[ carried unanimously to recuse Councilmember Howard from this item. ]

Mayor Foxx said we have several speakers on this item. I also want to know if there is a presentation on this or are we just letting it ride.

**Curt Walton, City Manager**, said, no, sir, there is not.

**Pat Garrett, 4601 Charlotte Park Dr.**, said thank you for letting us talk about our seniors' projects. Tonight you are being asked to support two seniors' projects. One is the Westinghouse seniors and the other is the Wesley Heights seniors' project. I want to first draw attention to the fact that you got in your package our new logo. We hope you'll wear it and people will ask you what it means, and what it means is, yes, in my backyard. We are trying to change attitudes about affordable housing. You got our most recent annual report, and it gives you several prominent folks who are talking about the important of affordable housing including former Mayor Gantt and Rabbi Judy Schindler, Mary Wilson, Rev. Casey Kimbro, Mike Riser, and others, so we hope that you will notice that. As I said, we are asking for support for our two senior communities, and I would like to ask – we have a number of board people, residents, and staff people here, and I would like for all those folks to stand for just a second. These are the people who make it possible for what we do. They will be speaking as we go down the list.

Mayor Foxx said there has been a request to make sure you identify who is a board member.

Ms. Garrett said board members stand. Staff members stand.

Mayor Foxx said, Pat, can you just make sure you identify them before they speak just so we know?

Ms. Garrett said, all right, I'll do that.

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**James McCoy, 1145 Kohler Ave.**, said I am understanding that we are to speak on the building where we live. It is very nice, very beautiful. We have ceiling fans with lights and energy saving bulbs. We have smoke detectors and carbon monoxide detectors – two in each room. We have carpet on the floor and beautiful tiling in the dining area and bathrooms. It is very nice, and more than that, it is very reasonable, so we are so happy to have the building that we are in. They keep it up real good, and so we are just pleased to be there.

Ms. Garrett said all of our resident speakers are from the Gables.

**Perry Jordan, 1145 Kohler Ave.**, said I am so happy to have the opportunity to thank whoever made this property for us possible because it is beautiful. It gives us more security, and it's good to know that people still care about seniors. It's elegant actually, and I feel safer there because of the fact that we are in an enclosed building and the grounds are lovely. I have met lasting friends and made friendships. It's wonderful. I think they should be everywhere. I love it.

**Myrtle Alexander, 1145 Kohler Ave.**, said I have a handicap accessible apartment, and when it says accessible, it is. Even to the peep hole, there is a high one and a low one, so you know I use the low one. All the cabinets are within my reach. Everything is just at my fingertips. It's a wonderful bathroom. There is a shower you just don't want to get out of. Everything is wonderful. I have nothing but good things to say about it. The security is wonderful. The managers are wonderful. If there is a problem, you report it. It may be some simple thing like a dishwasher. Within an hour or so, someone is there to see about it, so all I can say is I'm happy I'm there, and I have met good friends. It's a wonderful, wonderful place to live.

**Helen Shropshire, 1145 Kohler Ave.**, said I'm a product of the Gables, and I am so happy to be there. I moved from a place where it was beginning to get to be drug infested. I was afraid to even sit on my patio, but since I have been here, I feel so safe and secure. I have so much access to different things. I can go to the end of my floor and there's a patio to sit on. I can go downstairs to our study. We have a computer room. I can't use it. I don't even know where the mouse is, but everyone enjoys it, and it's just like a big family there, and I feel so secure. I lay down at night; I don't want to even get up. It's just beautiful. Once I get up, I'm happy because we have so much there to do, and our management is so good. They are beautiful. I just hope when the good Lord puts me to sleep, I will still be there. I don't want to move nowhere else. I just want to live there the rest of my life. It's just a beautiful place, and I thank the Lord for it, and I appreciate this opportunity to get to say something about it. Thank you so much.

Ms. Garrett said thank you, ladies, for speaking about the Gables. I know they enjoy it. Just for your knowledge of all of the senior rental that is available in Charlotte, there is only a 1% vacancy. What the ladies are talking about is once they go, once they come to the apartments, they stay. You can't get them out. They are not going anywhere, so we are happy to have them. We have a couple of other speakers.

**Bert Green, 435 Louise Ave.**, said you guys have got to love sitting there listening to the results of good decisions made by this body in the past. I'm here tonight to tell you you are going to have a chance. We are serving you guys up in baseball parlance what is known as a high fast ball. You can knock this one out of the park. You have a great opportunity tonight to fund two wonderful seniors' projects. As you have heard, the past work of the partnerships not only speaks for itself but encourages other folks to speak for it as well. The two neighborhoods that you are going to be working in, that these units will be located in, 126, I believe are in the Wesley Heights community and the Westinghouse area of southwest Charlotte. I think we have learned here tonight the difference that good housing makes, and the partnership has an incredible reputation for building an excellent product and spending our money wisely and working hard for this community. We should be proud of them. I'm proud to serve on the board of directors. I'm proud to be here tonight to remind you that we have the opportunity to leverage the money we are putting in here almost 5:1. That is a great opportunity for us to bring other resources to the table and to our community, to strengthen the housing stock that we have here. The other thing I want to add is we also have an opportunity to have an organization who has a good history of building architecturally friendly products and giving them the opportunity to make a signature architectural addition to a major entrance to the Wesley Heights community and to the Johnson C. Smith University campus area. It's going to be a signature piece at a main

entrance to those communities, and we have got good folks working on that. I just want to thank you for the opportunity to come here tonight and encourage you to support the partnership and their good, hard work.

**Lee Cochran, 2601 Lawton Bluff Rd.**, said I'm the CFO for the Housing Partnership, and along with Jeff Brown, we are just here to answer any questions you have got. I think they have kind of said it all, so we will just defer and let you ask any questions you have.

Ms Garrett said you did receive a letter, electronic letter, from Jeff earlier.

Mayor Foxx said any further questions for this group.

[ Motion was made by Councilmember Cannon and seconded by Councilmember Barnes ]  
[ to approve Housing Trust Fund commitments for two multifamily low-income tax credit ]  
[ developments: Westinghouse Senior Apartments (\$1,764,273) and Wesley Heights Senior ]  
[ Apartments (\$927,647) for a total of \$2,691.920. ]

Councilmember Dulin said I have a question about the Westinghouse Senior Apartments and its siting as related to public transportation. Is it on a bus route, etc., etc.?

Ms. Garrett said, yes, it's on two bus routes.

Councilmember Dulin said are those bus routes secure? CATS every now and then tries to trim security wise going to be there long term and not on a list for trimming.

Ms. Garrett said the area is growing, so I would hope they won't discontinue that. The other thing is all of our residents get services from the CATS little bus. At times, we get services for that, or if they need some sort of medical services, they ride on one of those vans – those kinds of things.

Councilmember Dulin said with all due respect to Mr. McCoy these three lovely ladies sitting next to you, that's a heck of a sales force right there. People ought to hire y'all to come down here and speak for them because this body is not about to say no to y'all – at least this chair is not gonna. Thanks for coming down, ma'am, and, sir. I know it's difficult for you to be mobile sometimes, and these steps are difficult, but we appreciate you coming down. That really means something to us.

Mayor Foxx said we have a motion and a second.

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

Mayor Foxx said this is actually a big deal. This is actually the first work product we have seen in terms of a recommendation on Housing Trust Fund from the Coalition for Housing, so congratulations to them as well.

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**ITEM NO. 16: ONE NC GRANT AND BUSINESS INVESTMENT GRANT TO ELECTROLUX**

[ Motion was made by Councilmember Barnes and seconded by Councilmember Mitchell ]  
[ to approve contracts with the NC Department of Commerce (NCDOC) and Electrolux for ]  
[ \$325,000 for a North Carolina Grant from the State to Electrolux, adopt Budget Ordinance ]  
[ No. 4664-X appropriating \$325,000 from a One North Carolina Grant to Electrolux, and ]  
[ approve the City's share of a business investment grant to Electrolux for a total estimated ]  
[ amount of \$222,650 over five years. (Total City/County grant estimated at \$629,839). ]

Councilmember Barnes said I just wanted to say that I actually had a meeting this morning with some of the folks at Electrolux, and they continue to be very excited about being in Charlotte and continue to look forward to growing as this grant will allow them to do and create an additional

200 jobs that pay an average of \$94,000 per year. They are going to be adding on about 55,000 feet on the back side of the complex, so this is a wonderful development for the city and for the University Research Park, so I wholeheartedly support it.

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

The ordinance is recorded in Ordinance Book 57 at Page 129.

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## **ITEM NO. 17: APPOINTMENTS TO BOARDS AND COMMISSIONS**

**Development Review Board** – The following nominees were considered for one appointment:

### Transportation or Urban Planner Category

1. Nicole Storey, nominated by Councilmembers Barnes, Burgess, Cannon, Carter, Cooksey, Dulin, Kinsey, Peacock, Turner
2. Kevin Vogel, nominated by Councilmember Howard

Results of the first ballot were recorded as follows:

1. Nicole Storey, 6 votes – Councilmembers Barnes, Burgess, Cannon, Cooksey, Dulin, Kinsey
2. Kevin Vogel, 2 votes – Councilmembers Howard, Peacock

Ms. Storey was appointed.

### Landscape Architect Category (as an alternate)

1. Bradley Sikes, nominated by Councilmembers Barnes, Burgess, Cannon, Carter, Cooksey, Dulin, Kinsey, Peacock, Turner

Results of the first ballot were recorded as follows:

1. Bradley Sikes, 8 votes – Councilmembers Barnes, Burgess, Cannon, Cooksey, Dulin, Howard, Kinsey, Peacock

Mr. Sikes was appointed.

\* \* \* \* \*

## **ITEM NO. 18: MAYOR AND COUNCIL TOPICS**

Councilmember Dulin said I met today with a gentleman whose name is Roderick Gee. He is in the property management business and a real estate residential broker and owns some rental homes. This was concerning the rental ordinance that we worked so hard on. He came up with – and I have a big packet that he put together. He has come up with some very good points about how the rental ordinance – you know, there are some gray areas that are starting to affect some rental owners and some renters that are trying to do what they can to add to neighborhoods and to be good neighbors and to be good owners, and he asked me if I would take another look at it. I listened to him and then agreed to bring it up tonight. The Community Safety Committee obviously did some very good work on the rental ordinance. I was pleased with it, but I can't remember when we have a look-back.

**Curt Walton, City Manager**, said it is coming up, and we were on the internal calendar planning to do that in June, however, there is a bill in the General Assembly that would take our ability to regulate rental property away, and that's why we were waiting to see where that bill went. We can do either. We can bring that forward, but our suggestion would be to see if that bill passes because it may be a moot point.

Councilmember Dulin said Mr. Gee was pleased that I met with him today, and I have done what I said I would do. What I will do is follow back with him where we are with June and the General Assembly. Number two, this happened tonight, you guys. I don't know if anybody else noticed it, but while we were listening to the people from the FOP one of the FOP members not currently working – he is a retired CMPD, now working for the School Board, but he was carrying his sidearm on his holster in plain clothes, and that just tweaked me a little bit. We have CMPD in here that protect the City and protect us and protect this building. We have these sheriffs that are obviously in and out of this building, and now that the School Board is a resident of the building, I guess their people can come in and out. But it hit me a little bit that this guy was carrying a sidearm on his belt and not covered, and he is a sworn officer, I guess, so I guess he could come in here with his gun, but I think that if a sworn officer comes here in plain clothes they ought to have it covered. I had a quick moment with the Chief a moment ago and asked him if he would agree with that, and he does agree with that that if an officer comes in here in plain clothes with his firearm it ought to be covered, and I don't know if I need to send that to committee or if I am just making a statement here that I didn't appreciate it.

**Curt Walton, City Manager**, said I don't know the degree to which we can regulate that, but to the degree we can, we will do that. I will talk with the Chief and find out.

Councilmember Dulin said maybe I was the only one that noticed, but I thought it was a little bit arrogant for whatever reason. Thanks for letting me have my say on that

Councilmember Mitchell said just for a little clarification on one of the last agenda items we approved – the CMHP housing project. It's Wesley Heights Way named out of Wesley Heights. I don't want it to be confused because it's actually in Seversville community. I just want to make sure the citizens know that this is Seversville community, but it's named after Wesley Heights Way.

Councilmember Peacock said, Mr. Mayor, today at 2:30 we had our Environmental Committee meeting. Most of us know that we spent almost three years deliberating the tree ordinance – three years on this body, five years for our citizens' advisory committee. Staff reported some interesting information to us today. First of all, our committee took action today to move forward to the full Council some of the tree canopy coverage goals and the supportive strategies we are trying to implement in the city, but, Mr. Mayor, you would appreciate to know, and I think we learned that for cities east of the Mississippi we were well above the tree canopy goal they had set from American Forest.

But one thing that staff did not point out to us, and we'll be happy to share this with you and you will see it forthcoming is that we have the best canopy among the top 20 cities in the United States by almost ten points, so we have a strong lead, and we are looking to maintain that, and that's the purpose of the tree canopy goal, but I thought that especially Mr. Mitchell being on the national stage, National League of Cities, should know that. I'm going to get that statistic to you as soon as possible, but we are proud to report that. Not many people would think that about our city.

Mayor Foxx said I think that is a very good point. We often don't brag enough about some of the good things that happen in this city, and that's a great statistic. Thank you for letting us know that.

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**ITEM NO. 19: CLOSED SESSION**

[ Motion was made by Councilmember Barnes, seconded by Councilmember Cannon, and ]  
[ carried unanimously to go into Closed Session pursuant to NCGS 143-318.11(a)(3) to ]  
[ consult with attorneys employed or retained by the City in order to preserve the attorney- ]  
[ client privilege and to consider and give instructions to the attorneys concerning the ]  
[ handling of the case of Florence Dubios v. City of Charlotte, Midwest Investors Group, ]  
[ Inc. d/b/a Metro Staffing, and Malaki YaaqobYsrayl, 10-CVS-5580. ]

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**ADJOURNMENT**

The meeting was adjourned at 6:42 p.m.

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Stephanie C. Kelly, CMC, City Clerk

Length of Meeting: 2 Hours, 36 Minutes  
Minutes Completed: July 27, 2011