

LUNCH BRIEFING

The City Council of the City of Charlotte, NC, convened for a lunch briefing on Monday, January 9, 2012, at 11:54 a.m. in Room 280 in the Charlotte-Mecklenburg Government Center. Council members present were: John Autry, Warren Cooksey, Claire Fallon, LaWana Mayfield, James Mitchell, and Beth Pickering.

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

The meeting was adjourned at 12:20 p.m.

DINNER BRIEFING

The City Council of the City of Charlotte, NC, convened for a dinner briefing on Monday, January 9, 2012, at 5:23 p.m. in Room 267 of the Charlotte-Mecklenburg Government Center with Mayor Anthony Foxx presiding. Present were Councilmembers John Autry, Michael Barnes, Patrick Cannon, Warren Cooksey, Andy Dulin, Claire Fallon, David Howard, Patsy Kinsey, LaWana Mayfield, James Mitchell, and Beth Pickering.

Mayor Foxx said we have several items to take care of today, including the finance and audit reports as well as a closed session. Given that today we did have our first lunch agenda briefing, for those that weren't able to make it, if there are items that you want to pull, we'll give you a chance to do that. We'll handle it exactly the same way we handle the other items.

Councilmember Barnes said I have a question regarding Item 19 and Item 22. Regarding Item 19, I was curious as to whether there are any success stories that we can highlight with Community Link to help justify the transfer of the funding from UFS (United Family Services) over the Community Link. Does that make sense?

City Manager, Curt Walton, said yes. I think that is something that, specifically, we may have to get back to you in a report. The metrics are good, but we may not know the individual success stories.

Mr. Barnes said in fact, with both the UFS and Community Link, I'd like to know with the contributions that we've provided them over the years, say the last two years, what success stories could they highlight to justify continued funding? With respect to Item 22, I was curious as to whether the Amick reference in A, the rejected low bid, is affiliated with the Amick Equipment, Inc., which is referenced in B, the apparently lowest responsive bid. Are those two entities affiliated?

Mr. Walton acknowledged Councilmember Barnes' request for information.

Councilmember Cannon said I have Item No. 16, Briar Creek Sewer Phase II Construction. It says that Oscar Renda Contractor failed to meet the established goal, but earned the requirement number of good faith effort points. How many points did they meet, and what is the actual number you're supposed to meet?

Mr. Walton said they met 170 and they were supposed to meet 165.

Mr. Cannon said the bids range from \$17.6 million to \$26.9 million. The second lowest bid was \$3.9 million more than the low bid; did they meet the goal of four percent or better?

Mr. Walton said I think they hit four percent; they hit right at it.

Mayor Foxx said just so you'll know, when we get to consents tonight, we're going to go through the consents that have not been pulled. We will vote on those. We'll go through the rest of our business agenda, and we will come back to the ones that have been pulled at the end of our work agenda.

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ITEM NO. 1: FISCAL YEAR 2011 FINANCIAL AND AUDIT REPORTS.

Mayor Foxx acknowledged the City Manager for the finance and audit reports.

City Manager, Curt Walton, said we present to you annually the results of our annual audit for fiscal year that ended June 30, in this case July 1, 2010 through June 30, 2011. We are required by law to have an outside audit done; that's what our discussion is tonight. I will turn it over to Chief Financial Officer Greg Gaskins to lead it off.

Chief Financial Officer, Greg Gaskins, said on Friday you were sent this document which is the City's Comprehensive Annual Financial Report (CAFR), 214 pages long, for your reading enjoyment. You'll be happy to know I'm not going to cover all 214 pages. However, if in your perusal and reading, you discover things in here that you want to know about, we'll be more than happy to discuss individually any part of this document with you. There will also be some opportunities to talk about some of the things I say tonight in the Budget Committee later on. If there are questions about that, we can refer to them there.

I'm going to try to give you, instead, a brief overview of what the CAFR is as Part 1. We're going to let our independent auditor talk to you a little bit about his role and what he found in the audit as Part 2. And in Part 3, I'm going to give you just the briefest financial results. Those of you who have been on Council for a while will find those very familiar parts that we typically report on at this point in time. Once again, if there are detailed things later on as we go through this that you want to know, we will be more than happy to discuss those with you.

Mr. Gaskins used PowerPoint for this presentation. A hard copy can be found on file in the City Clerk's office.

Let me talk for just a second about what the CAFR is and why this is important. This document, the Comprehensive Annual Financial Report, contains the financial statements for the year for the City, the external auditor's opinion that you're going to hear from him directly in just a moment. Statistical information about the City and Federal and State awards of grant information, it's required. Why do we have this? In North Carolina, there's a statute that requires that this type of information be available and be presented every year on an annual basis. Every local government entity in North Carolina has to present this type of data. It follows the Generally Accepted Accounting Principles (GAAP) that are established by the Government Accounting Standards Board. What they're simply saying is every unit across the United States uses the same type of terminology, the same type of expression of documents, so that there is transparency for citizens and for people who review the data, and that what we do is like what other units of government do. That makes it much easier for them to do a comparison, one unit to the next.

Now, who uses this? Various legislative and oversight bodies use this – for example, the North Carolina Local Government Commission, which is the agency responsible for fiscal overview of local governments in North Carolina and for the issuance of debt in North Carolina. They have used these documents very significantly in terms of making determinations that we are in compliance with the rules and regulations for the state of North Carolina. In addition, investors and creditors who, for example, buy the City's bonds for various projects that we might do – roads, police stations, whatever – they use this to make sure we're in compliance with what we say in the bond documentation when we sell those bonds. Citizens also use these as well as the press, obviously, when they're writing their stories for the benefit of citizens.

Lastly, management itself uses this. Councilmembers, again, who are familiar with the number of years, know that many times the documents that were used here, these numbers appear in other type of presentations that we have for Council.

With that, Part 2 is to talk for a second about the independent audit. That statute requires that we go through the RFP process to select a firm, in this case, Cherry, Bekaert & Holland, to do an independent audit and for that independent auditor to come to you and tell you what he found.

I'm happy to report to you before Eddie Burk from Cherry, Bekaert, & Holland gets up here that he found that we have done a very good audit. If that were not true, then we would probably be spending a lot more time on this presentation. With that, I'll let Eddie come up and talk to you. Then we'll finish with a little bit of information about the financials themselves.

Eddie Burk, Cherry, Bekaert, & Holland, said what I'd like to go through very briefly tonight is first, from our perspective as your independent auditor, how the audit went this year. I've got some comments, and I'll discuss them very briefly on the results of the audit. Then there is some required communication that, as your independent auditor, we're required to discuss with you on an annual basis. I'd like to go through basically what those areas are and what those communications would be.

Mr. Burk also used the PowerPoint presentation of which a hard copy is on file in the City Clerk's office.

First, we received full cooperation from the City staff when we were doing our work. Needless to say, due to the size of the City, this is a very large engagement, takes a substantial amount of hours, takes a substantial amount of time and coordination, not only between Cherry-Bekaert but the staff. We ask for a lot of information throughout this process. Again, I'm happy to say that the staff was very, very helpful throughout this process. There's a substantial amount of information that we do ask for, and we ask that it be prepared and ready when we begin this process. I'm also happy to say that the City staff did provide that information to us timely. When we did come to start our work, it was ready, and we were able to begin our audit on a timely basis. The books were also closed out and ready to be audited when we came. From your perspective, what that means is that the data that you're being provided throughout the year can be relied upon at that point in time. There were no audit adjustments that we proposed when we were doing our work, meaning the City does a good job at closing out their books throughout the year. Overall, from my perspective, the audit went very, very well this year.

The City did receive a clean opinion on its set of financial statements, or an unqualified opinion. That is the highest level of assurance that we, as the CPA firm, can provide on a set of financial statements. What that means, the third parties that are relying on this statement that your CFO just discussed, we feel like as your independent CPA auditor, they can rely on those statements. Financial statements, if you look at them, indicate that the City is financially sound. It has adequate reserves moving forward. Also, there are various debt service requirements required to be met based upon the revenue bonds that you have outstanding. As a part of our audit, we audit that, and I'm happy to say that the City is in compliance with all the covenants you're in. Because of the Federal and the State funding that you do receive, and because of the North Carolina Statute, you are required to have a compliance audit. That really comprises three different areas. First, Yellow Book which is the opinion we express in regards to the City's compliance with North Carolina General Statutes. The second is our Circular A-133 opinion having to do with your compliance with the Federal dollars that you are receiving and spending on an annual basis. Third, the State's Single Audit Implementation Act Opinion, which has to do with the money that you are receiving from the state of North Carolina and whether or not you are spending that money in accordance with requirements that go along with it. The City in all three cases did receive a clean opinion. There were no material findings noted, and there was no control of deficiencies noted in regards to the grant areas throughout the year.

From the required communication perspective, this is actually a separate letter that you will be receiving. Basically, there are a number of things that we are required to discuss on an annual basis with you. First, what our responsibilities are in regards to the standards. Secondly, the significant accounting policies, accounting estimates that were used, and whether or not there were any changes that occurred during the current year; whether or not there were any difficulties that we encountered while we were doing our work this year; whether or not there were any material adjusting journal entries; and any other matters that we feel like ought to be brought to your attention. The only items discussed in that letter of any significance were two new standards that had to be implemented. One was a reporting standard having to do with GASB Statement 54. And there was one new auditing standard, SAS 115, which had to be implemented in the current year. That was discussed with management early into the process. Those were fully implemented with no issues at all in the current year.

That concludes my comments at this time. At this point, I will turn it over to your CFO who will actually go through the financial statements and go through some of the highlighted numbers.

Mr. Gaskins resumed the PowerPoint presentation with slides on Page 4. Before we go to that point, I'd point out that, again, the Councilmembers who have been here a long time know that I get to stand up here, but the people who do the hard work are Teresa Smith and her accounting staff – we've got some of them here. Teresa, would you and your people stand up. These are the people who really do the work. The reason that I had them to stand up is for the twenty-sixth consecutive year, we actually won an award for this report. In other words, for the transparency, for the compliance with the rules and regulations, for the presentation, we are awarded this particular award. What's really good about that is we were compared to all the other people that look at these types of financial standards, etc., and it's really good to be able to show people that you have met and exceeded those compliance standards in terms of reporting and transparency. So, we're very proud of this award.

Let's talk just briefly about a couple of the results, and I want to make a couple of remarks simply because they may be timely to factors that Council has faced and will face in the near future. Related to the general fund's actual services and revenue, it shouldn't be a surprise that fifty-seven percent of those services come from property taxes; that is, has been, and remains our principle source of revenue funding for the general fund. Sales tax, which is thirteen percent on here, has varied some in the past years. Once again we talked about the fact that sales taxes have some real challenges in the economy in the last couple of years; that has been, to some extent, but this picture remained relatively stable over the last ten years.

In terms of expenditures, also there should be no surprise that sixty-two percent of the general fund revenue is for public safety. This has actually gone up from 2002 where it was about fifty-nine percent. Again, with solid waste being number two at about ten percent. These are relatively stable numbers even though there's been a slight pickup in public safety expenditures.

When it comes to this next chart, I want to talk for a second about fund balance. Each year we spend a lot of time, particularly at budget time, about fund balance.

Councilmember Dulin said can you go back one? That public safety number is important, obviously to us but to the community, too, who don't know that we spend that much money of our budget for safety which is number one. How many more years can that thing grow before we can't handle it? We've used the term 'unsustainable' a couple of years ago; of course, that's a term that really gets people nervous, including me. How much gap have we got there?

Mr. Walton said that's a very good question. You have addressed the primary area which was the public safety pay plan as it currently exists was unsustainable because it had five percent steps and three percent market adjustments for most people. That was well in excess of the market. When the Mayor appointed the Budget Task Force that Cindy Patterson chaired, they found that to be the number one concern going forward along with the lack of a capital program after November of 2010. We have appointed a staff committee that's been working with a consultant on the public safety pay plan. That's gone very well. We'll be back in February to present those findings to you, but it will slow the growth of public safety from the compensation perspective.

Mr. Gaskin continued the PowerPoint presentation with slides on Page 6. Each year as we're talking about adopting the budget, we generally talk about fund balance. Fund balance is simply that amount of funds that we have set aside for emergencies, truly real emergencies during any fiscal year. We have a policy of sixteen percent related to fund balance. As you know, from time to time, that has been discussed about that policy. We find in terms of research that this is a moderate fund balance for a city of our size and challenges. Depending upon your city size and your particular circumstance, that amount can vary in terms of what percentage is an appropriate percentage. What I'd like for you to think about in terms of this and what this means, if in the year we had a Hurricane Hugo or something similar to that, or some type of terrorist act which is, as we know, a real threat in these times, this is where you go to get the money to get through that year when you have one of those type of emergencies, or in some cases multiple emergencies. The other thing for you to think about is, as is true with most conservative businesses and everyone else, you also never want to go to zero, even if you had one of these emergencies, you

would hope that it would never take you to zero. So that your real bottom line may be somewhere around three or four percent, you hope you never have something that would take you all the way to zero because there would be a lot of pressure on you in terms of rekindling that funding. So, this is about the \$84 million for you to think about, and I put that up there so I could show you this chart. This is 2007-2011, there is a sixteen percent policy, and there are some numbers. Let me point out what's significant about these numbers. In 2007 and 2008, the actual economic growth and activity in Charlotte-Mecklenburg was greater than anticipated, which resulted in more revenue than anticipated. That's not what happened in 2009 and 2010. Conditions were bad in '09 and '10. Management and the Council made decisions to hold back money, to not spend as much for fear that there would be even greater shortfalls in revenue than we could handle. Most particularly, those Councilmembers who were on here know that there was a real concern about whether the State would release all of the funds that were actually intended in the budget. So, that was a conservative approach to make sure that we did not run out of money in those years. It took Council action to do that. If you look at 2011, there's a combination of these factors at work. Sales taxes did actually drop below low projections. There was less sales tax. It impacted that, but there was conservative management holding back some revenue which still kept this thing slightly above sixteen percent. So, if you look at these years you can see that fund balance is at sixteen percent. It gives you a way to think about the decisions that you are making in terms of what the base reality is for managing your fiscal affairs. This involves policy and decisions; as we get into the budget we'll be having these same kinds of discussions again this year. That's the reason I point that out. This is something that is looked at by the rating people, by people who are buying our debt, by people who observe your numbers, they look at what your relative performance is in terms of these fund balances and how you are managing your fiscal house in terms of this.

Councilmember Barnes said from '07 to '11, was the actual dollar amount approximately \$84 million during each of those years?

Mr. Gaskins said we'll get it to you. It was probably slightly smaller in the first year.

Mr. Barnes said once you give me the number, I'm just curious as to whether it generally ranged from \$82 million to \$84 million?

Mr. Gaskins said you want it just for these years?

Mr. Barnes said yes.

Mr. Gaskins said we'll produce that number for you.

Mr. Dulin said I have the same question just for the purposes of information for the new Councilmembers and whoever else in the room. I just wanted to put a number to 16.9% so that we know what we keep in the bank and don't ever touch.

Mr. Gaskins said what Council has done in the past is always they're comparing that number to what type of pressures or dollar pressures that might be against. That's sort of how that policy decision was made.

Councilmember Fallon said when I go back to public safety again, is a part of the problem the 125 policemen we got with the stimulus money, does that figure into that taking us over the top?

Mr. Gaskins said it does figure into the cost.

Ms. Fallon said yes, because we didn't get any more grant money with that. It was just the one time.

Mr. Gaskins said I think the Manager would tell you that part of that is already taken care of in your plan.

Mr. Walton said we're not seeing the financial impact of that yet. We got federal funding for three years which takes us, I think, for another year. We've accommodated that going forward,

so we are prepared to fund that ourselves. But it wouldn't be a cause; at least we've got the revenue to offset it.

Ms. Fallon said so, that won't take us over that top?

Mr. Walton said right.

Mr. Gaskins said let me tell you about one other issue because it came up this year, and it's related to another number that we cite a lot. It's the issue of debt. At the federal level, that has been a very hot topic, about debt. And we need to understand the difference between the local government debt and what the federal government treats in term of debt. We cannot print money, which is how the federal government is able to fund their budget which is on a cash flow basis. So, the City, years ago, took a very conservative approach; that is, they dedicated revenue. They said we're going to take these amounts of revenue and set them aside to support the capital program. That is completely independent from the operating program and the money necessary to support the operating program. I want you to think about what we are saying: for roads and police stations and all the things that are a part of our capital improvement program, for all of its issues, we have designated a certain amount of revenue that is going to support the building of those functions. We have a model that shows up that the revenues are going to be sufficient to repay that. What we're doing is we're being efficient in terms of buying thirty- and forty-year facilities and not paying for them in one year. The primary reason for doing that on the practical side is because that allows you to have an even tax rate instead of spending a whole lot of money in one year and having a very high tax rate, and then the next year going down and not funding those. So what you are doing, you are getting a more even tax rate rather than one that went up and down like that. The other thing that you get from that is you're getting real security in terms of the way you issue debt. Those people who are buying that debt see that the revenues are there to pay for it, and there's not a question about whether that debt will be threatened. This also protects citizens in terms of when they vote on something, they actually know that the revenue is there to pay for it. There's not a question about whether two years from now for that very item, they're going to have to pay higher taxes. There's tremendous dissimilarity between what the federal government talks in term of debt and what we are talking about in terms of debt on a local level.

Mr. Gaskins continued the PowerPoint presentation with slides on Page 8. In the next chart, if you look at these, the raw numbers are large. If you look at that general fund number, \$1.4 billion, you have to relate that to what the sizes of our budget are and how we have had to fund capital items that were necessary for the needs of the citizens. We compare those numbers and you start looking less compared to other people, we have a very moderate debt load related to our revenues and to the needs that we're spending the money on. Another point to make here is you will see in Water/Sewer and Airport, and in Public Transit, which is larger total debt than the general fund debt, those are supported by revenues that are created by those entities. In other words, they create the revenue through their fees and charges that support that debt. In our particular case, if you think about Charlotte, one of the reasons this number is large is because of the tremendous growth that the City has had and the need to provide a lot of facilities in a short period of time. But the total cost is lower because 30- and 40-year facilities are paid for over a great length of time. That keeps the overall rate structure low compared to our competitors. The other thing you see is as conditions change, we start to even out, then your growth rate on this debt will go down. It will go down because, in fact, you're not building as fast as you were at the time we were dealing with huge population needs that we had. However, the management of this for the City of Charlotte and our methodology has been considered so strong that we have the highest credit rating that is available to us, AAA credit rating in the case of the general fund, and through the other funds, it's the highest available for that type of credit. For example an Airport credit, because of the airline industry, is not considered something that you would have a AAA on. That's just by the nature. So giving you that we have manageable levels of debt, good policies, and we have managed it well, and the fact that this economy remains a strong economy relative to the others, all of these factors have contributed to us remaining a AAA entity, even though the general economy has been challenged nationally and locally. So, this is a good thing for this reason; we are able to borrow at the lowest possible cost. When we have capital items that we need and our cost for borrowing is lower, that keeps our taxes lower. As you know, with the federal government challenges, for the first time ever in the history, this year our credit was actually better than the U.S. federal government's credit. We have a great place to start in terms

of where we are financially. It doesn't lessen the challenge, but I would rather be in our shoes than the shoes of any other person that does what I do.

Councilmember Cooksey asked when will the PDF be available on line?

Mr. Gaskins replied tomorrow morning.

Mayor Foxx said first of all, Greg and Curt and your entire teams, and Ruffan, I should throw you in there, too, in your last generation as the Budget Director. You guys have done an incredible job of helping us steer through some very choppy waters. You're to be commended for that. Secondly, given the financial position we've been in, to be able to do that while adjusting our tax rate down to a revenue-neutral level I think is an additional challenge, and you guys were able to help us do that. The issue now going forward is what are we going to do to preserve the AAA bond rating for the City. That's where there are some hard choices on the horizon for us relative to our tax rate, relative to our capital plan, relative to a lot of things. We've done a great job to be able to outdo the federal government in terms of our credit rating. But to sustain that, we're going to have to really take a hard look at our financial house in the next few months. This is a happy story today; it's going to be a little more painful in the next few months.

Mr. Barnes said, speaking of the pain, I've had a preliminary discussion with our Interim Budget Director about having the Budget Committee host about four meetings around the City to make our citizens aware of the potential upcoming capital budget, the potential upcoming operating budget, so that people are informed as possible about what we will be doing over the summer in terms of assessing the City's financial needs. I would hope that Council and the Mayor would support that effort.

Mayor Foxx said I think it's a great idea.

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ITEM NO. 2: MOTION TO GO INTO CLOSED SESSION

[Motion was made by Councilmember Howard, seconded by Councilmember Cannon, and]
[carried unanimously, to go into closed session pursuant to NCGS 143-318.11 (A) (4) to]
[discuss matters relating to the location of an industry or business in the City of Charlotte,]
[including potential economic development incentives that may be offered in negotiations.]

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The Council reconvened at 6:25 p.m. Councilmember Barnes said the point I was going to make, as I understand it, the prevailing unemployment rate is highest among people who do not have a college education; in fact, it's double digits for those folks. For folks who have a college degree, I believe it's four or five percent.

Councilmember Mayfield said I think it's the GED even.

Mr. Barnes said they're in the crowd that's in the double digits though.

Ms. Mayfield agreed.

Mr. Barnes said what I'm suggesting is that as a part of the discussion that David mentioned and the issue that LaWana brought up, that we actually have an opportunity, I think, if we take this up at the retreat, to talk about how to deal with the chronically unemployed. I'm not sure that the City can impact that as much as we'd like because ultimately what needs to happen is people need to get an education. I look forward to that discussion.

Councilmember Cooksey said relative to the larger points that we're drawing out from what we just did in closed session, keep in mind, given the number of jobs presented, they could come here tomorrow and hire everybody locally within a week, and it won't change our unemployment percentages because we're talking about thirty-five to forty-five thousand people unemployed.

Councilmember Mitchell said some jobs are better than none.

Mr. Cooksey said yes, for the sixty-eight people hired it's going to be great; I don't discount that at all. But if you're talking about the impact on the City, it's not going to move the number.

Ms. Mayfield said yes, but it can move the conservation if we start having it moving forward.

Councilmember Howard said last week, I intended to ask permission from this body to have the issue of the Red Line referred to the Transportation Planning Committee. We had a presentation on that last month. There's a lot of movement going on with that in the communities as a whole, and before we can take up that issue as a committee, we need to hear from the whole Council that that is referred to us, so I'd like to have kind of a vetting of the proposal that's been put forth by the State referred to that committee.

Mr. Barnes said are you talking about the issues that we heard from the fellow? I thought we had referred it to that committee.

Mr. Howard said I thought we did, too, but we didn't do it formally from what I understand.

Mr. Dulin said, Mr. Howard, clearly that is in the mission statement of your committee. But with what the committee's got going on now, you can put that work in there as well.

Mr. Howard said okay, but it's more about staff time that's allowed to work on it. That was not clear that we did so the staff could spend the required time on it.

The dinner briefing recessed at 6:28 p. m. to move to the Chamber for the regular business meeting.

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BUSINESS MEETING

The Council reconvened at 6:45 p.m. in the Council Meeting Chamber of the Charlotte-Mecklenburg Government Center with Mayor Anthony Foxx residing. Councilmembers present were John Autry, Michael Barnes, Patrick Cannon, Warren Cooksey, Andy Dulin, Claire Fallon, David Howard, Patsy Kinsey, LaWana Mayfield, James Mitchell, and Beth Pickering.

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INVOCATION AND PLEDGE

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

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AWARDS AND RECOGNITION

ITEM NO. 3: RECOGNITION OF THE POLICE ATHLETIC LEAGUE (PAL) MIDGETS AND THE PAL JUNIOR MIDGETS FOOTBALL TEAMS WHO COMPETED IN THE POP WARNER LEAGUE; ALSO, RECOGNITION OF THE PAL CHEERLEADING TEAMS WHO COMPETED IN THE MID-SOUTH POP WARNER SECTIONAL CHEERLEADING COMPETITION.

Mayor Foxx said tonight, we want to recognize the wonderful work of the Police Activities League (PAL), an organization that for many years has done so many good things to promote positive alternatives for children in our community. I'm going to ask Jeff Hood, the Executive Director from PAL, Captain Carl Bannerman, Board of Directors Member of PAL, and CMPD Officer Tony Crawford to also come forward. We'd like you to introduce these wonderful guests who are with us tonight.

Jeff Hood, PAL Executive Director, said on behalf of the Charlotte-Mecklenburg Police Activities League staff and its 850-plus youth members, we thank you for taking the time to recognize two of our championship football teams and two of our championship cheerleading squads. Before I present the teams and their accomplishments to you, with this being National Mentoring Month, it is also fitting that I acknowledge that these programs also offer so much more than athletics as our committee and hard-working volunteer coaches also serve as positive role models and mentors to many of our young men and our young ladies. These volunteers aid and support PAL in picking up kids, tracking school work, keeping parents informed, and yes, also working them very hard in practice and pushing them not to give up, both on themselves or in life. So first, I want to say thank you to all of our coaches and parents that give so much of themselves to make all of this happen. I also want to say thank you to two other individuals that, without their support, this wouldn't be possible. Officer Tony Crawford, one of our athletic directors, and then another gentleman who is not able to be here right now, Detention Officer Larry Edmond. These two gentlemen spend a great deal of their time away from their families, even over and above the time that they are supposed to be at work; they also give of themselves volunteering their time to make sure these kids get what they need from this program.

I would like to recognize first – and if you guys would stand when I recognize your team. We have the Pop Warner Optimist Bowl Champion PAL Raiders Junior Midgets who were 8-0, and those kids are ages 11-13 years old. They were coached by Octavious Brown who was their head coach. We have so many things going on at PAL; some of them are in other programs so they weren't able to make it here tonight. So, there may be representation from some and some may not. Octavious Brown was the head coach; and Officers Demarco Jeter, Stefan Rucker and Bernard Pompeii served as the assistant coaches for the PAL Raiders Junior Midgets, 8-0, Pop Warner Optimist Bowl Championship Team.

Our second undefeated team was the PAL Raiders Midget Team which consists of boys ages 13-15. There were thirty-four boys on that team, and their record was also unscathed, being 7-0. They were coached by Coach Preston Whitley, assisted by Jerome Mason and Dwayne Ingram, and Coach Robert Lee and Coach Russell. Please give them a hand as well.

We also have our PAL Raiders Cheer Squad, Junior Midget Team, ages 11-13, who were two-time winners – Pop Warner Sectional Champions as well as Pop Warner Regional Champions. They were coached by Coach LaToya Powell and assisted by Coach Stephanie Andrews.

Lastly, we have our PAL Raiders Cheer Squad Junior Pee Wees, ages 8-10 years old, and they also were Pop Warner's Sectional and Regional Champions. They were coached by Coach Shequera Miller. I'd like to present to you a small smidgeon of our participants in the PAL Youth Athletic Program.

Councilmember Mitchell said these kids are successful, a lot due to their parents. So for the parents who gave your time, your money, your prayers, to these youth, thank you so much.

Councilmember Cannon said inasmuch as Mr. Mitchell did the right thing to acknowledge the parents, I want to make sure we acknowledge Mr. Jeff Hood, who happens to be here tonight, who is the Executor Director, for not just what is an opportunity for athletics, but also an opportunity for education. It is the Police Activities League, but inasmuch as there is a place in there for sports, there's also a place in there for academics. He's been about that program, trying to make sure that these young men and young women have an opportunity to engage in their education to the fullest. Thank you so much, and let's have a big hand for him.

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CONSENT AGENDA

ITEM NO. 4: CONSENT AGENDA ITEMS 12 THROUGH 27 THAT MAY BE CONSIDERED IN ONE MOTION EXCEPT THOSE ITEMS REMOVED BY A COUNCILMEMBER.

Mayor Foxx said we're going to do this a little differently for those of you who have watched this in the past. We're going to pull them out as normal, but for those that require more

discussion, we're going to save to the end of the meeting. So, we do have items 16, 18, 19, 22, 25, 27-E-, 27-F, and 27-G. (pulled for public speakers), 27-H. (pulled by Council) as well as 27-D that's been pulled by staff. Is there a motion on the balance of the items?

[Motion was made by Councilmember Cannon, seconded by Councilmember Barnes, and]
[carried unanimously, to approve the Consent Agenda as presented with the exception of Item]
[Nos. 16, 18, 19, 22, 25, and 27-D, 27-E, 27-F, 27-G, and 27-H.]

The following items were approved.

12. Contract to the lowest bidder, Blythe Construction, Inc. in the amount of \$13,442,624 for the Freedom Drive (NC 27) Widening Project.

Summary of Bids:

Blythe Construction, Inc.	\$13,442,624.00
Blythe Development Co.	\$13,479,860.00
DeVere Construction Company, Inc.	\$13,628,038.95
Sealand Contractors Corp.	\$13,736,971.37

13. Contract to the lowest bidder, W. M. Warr & Son, Inc., in the amount of \$161,192.63 for the East Ford Road Sidewalk Project.

Summary of Bids:

W.M. Warr & Son, Inc.	\$161,192.63
RJJ Construction, LLC	\$172,684.71
Carolina Cajun Concrete, Inc.	\$173,108.10
Econ International Corp	\$174,314.80
United Construction, Inc.	\$188,708.30
Advanced Development Concepts, LLC	\$198,966.35
J.W. Grand, Inc.	\$213,679.51

14. Contract to the lowest bidder, Bullseye Construction, Inc., in the amount of \$387,648.80 for the Central Avenue/Medford Drive Storm Drainage Improvement Project.

Summary of Bids:

Bullseye Construction, Inc.	\$387,648.80
Blythe Development Co.	\$399,575.00
Landsdown Earth & Pipe, Inc.	\$402,039.44
T.K. Browne Construction Co., Inc.	\$435,551.02
Siteworks LLC	\$441,125.09
Sealand Contractors Corp.	\$488,963.26
R. H. Price, Inc.	\$564,863.20
United Construction, Inc.	\$566,106.20

15. Three-year unit price contract to the lowest bidder, TP Environmental Products & Services, LLC, in the amount of \$325,000, for the purchase of Bison 300 Degreaser.

Summary of Bids:

TP Environmental	\$15.95/gallon
Lakepoint Environmental	\$20.08/gallon
Tri-Chem Specialties	\$18.50/gallon

17. Three-year contract to the lowest bidder, Sunshine Cleaning Service, Inc., in the amount of \$643,901 for cleaning of the airport exterior areas such as parking lots, decks, and terminal roadways.

Summary of Bids:

Sunshine Cleaning Systems, Inc.	\$643,901.00
Incredible Maintenance, Inc.	\$711,000.00

Pro Solutions LLC.	\$865,000.00
Capital Cleaning Inc.	\$1,184,325.00

20. Authorization for the City Manager to negotiate and execute a contract with Parsons Brinckerhoff for the Charlotte Region Managed Lanes Study-Phase 3 for an amount not to exceed \$500,000.
21. Authorization for the City Manager to negotiate a contract with Siemens Transportation Systems, Inc. for the five-year Light Rail Vehicle (LRV) Overhaul Program, at an estimated total cost of \$6,500,000.
23. (A) Service contract with No Limits Lockwood for vehicle lubrication and related services for an initial term of three years not to exceed \$210,000 annually; and (B) authorize the City Manager to renew the contract for up to two, one-year terms with possible price adjustments as stipulated in the contract.
24. (A) Resolution approving an Interlocal Agreement with Cabarrus County, the City of Concord, and the City of Kannapolis (“the Cabarrus Entities”) for Public Safety Radio System Interoperability and Infrastructure Services; and (B) Budget Ordinance 4805-X appropriating \$485,550 for additional program revenue.

The resolution is recorded in full in Resolution Book 43, pages 473-474.
The ordinance is recorded in full in Ordinance Book 57, page 476.

26. Resolution authorizing the refund of property taxes assessed through clerical or assessor error in the amount of \$5,580.33.

The resolution is recorded in full in Resolution Book 43, pages 477-478.

- 27-A. Acquisition of 22,368 square feet of Storm Drainage Easement, plus 4,790 square feet of Temporary Construction Easement, at 1124 Marbel Street, from East Coast Properties, LLC, for \$48,700 for Allenbrook/Westridge, Parcel #88.
- 27-B. Acquisition of 148 square feet in Storm Drainage Easement, plus 1,345 square feet in Sidewalk and Utility Easement, plus 621 square feet in Temporary Construction Easement, at 2004 Beatties Ford Road, from Dublin Realty Company, Inc., for \$12,525 for Beatties Ford Road Business Corridor Improvements, Parcel #2.
- 27-C. Acquisition of 13,950 square feet in Fee Simple and in existing right-of-way, at 1124 Marbel Street, from East Coast Properties, LLC, for \$16,500 for Thomasboro/Hoskins Neighborhood Improvement Project, Phase 4, Parcel #63.

Mayor Foxx said for those items that have speakers, we’re going to go ahead and do those now. Is Boyd Falls here; he’s actually signed up for all three of these items, Nos. 27-E, 27-F, and 27-G. Mr. Falls was not present at this time.

ITEM NO. 27-E: RESOLUTION OF CONDEMNATION OF 216 SQUARE FEET IN SIDEWALK AND UTILITY EASEMENT, PLUS 456 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT, AT 613 MCDONALD AVENUE, FROM BOYD P. FALLS AND WIFE, MAXINE G. FALLS, AND ANY OTHER PARTIES OF INTEREST, FOR \$2,275 FOR MCDONALD AVENUE SIDEWALK, PARCEL #22.

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

This item was reconsidered later in the meeting.

ITEM NO. 27-F: RESOLUTION OF CONDEMNATION OF 656 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT, AT 525 MCDONALD AVENUE, FROM BOYD P. FALLS AND WIFE, MAXINE G. FALLS, AND ANY OTHER PARTIES OF INTEREST, FOR \$1,975 FOR MCDONALD AVENUE SIDEWALK, PARCEL #27.

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

This item was reconsidered later in the meeting.

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ITEM NO. 27-G: RESOLUTION OF CONDEMNATION OF 334 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT, AT 421 MCDONALD AVENUE, FROM BOYD P. FALLS AND WIFE, MAXINE G. FALLS, AND ANY OTHER PARTIES OF INTEREST, FOR \$1,075 FOR MCDONALD AVENUE SIDEWALK, PARCEL #35.

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

This item was reconsidered later in the meeting.

Mayor Foxx said we will save the rest for after the balance of the meeting.

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PUBLIC HEARING

ITEM NO. 5: PUBLIC HEARING ON PROPOSED AMENDMENTS TO CHAPTERS 2, 15, AND 19 OF THE CITY CODE RELATED TO THE DNC.

Mayor Foxx said let me offer a little bit of context here, and then turn it over to the City Attorney who will also further introduce this item. We have several speakers tonight. It is not a surprise that we would. This is an important issue that involves the balance of first amendment rights as well as free speech. From the time that we got word of the Democratic Convention coming to Charlotte, our City Attorney's office has been working diligently to look at our protest ordinances to insure that the appropriate balance has been struck. A proposal has been put on the table, the Council got a review of that proposal last week, and tonight is an opportunity for the community to weigh in on that proposal. The current schedule would have the City Council taking this item up for consideration on January 23rd. So, tonight, we're really looking to hear from the community on this. Mr. Hagemann, I'm going to turn it over to you.

City Attorney, Bob Hagemann, said as you indicated, shortly after we were awarded the DNC back in February, the City Attorney's office, the Police Attorney, and CMPD began a process of reviewing the City Code, looking for items that needed to be strengthened in anticipation of the DNC. We come to you with these proposals with two goals. First, to give law enforcement the tools they need to protect people and property; second, to insure that we respect and protect our citizens' and visitors' first amendment rights. We do not think those two goals are mutually exclusive. As we presented last week, there are three ordinances in this package. I'll briefly highlight the key points.

There's a proposed amendment to Chapter 2 of the City Code that would create a mechanism whereby the City Manager could declare an event an extraordinary event. The idea behind this, and this is copied or modeled after what Denver did in 2008, it would allow for setting different permit application deadlines and a content-neutral process for allocating or issuing permits when the demand for permits at a location and time exceed the capacity for everybody to do what they would like to do. For example, there will be parades during the DNC. Not every group can parade at the same place at the same time. We anticipate having an application deadline sometime this spring. Any group that wants to submit an application would then go through a

lottery process, and we would allocate times and days for those groups to parade in the City of Charlotte.

The second ordinance is amendments to Chapter 15. These are largely public safety-related provisions. The first is a prohibition on camping on City property in rights-of-way or other controlled City property. Second is a prohibition on certain obstruction devices, devices that can be erected that obstruct streets and sidewalks such that vehicles and pedestrians cannot pass through. Third is a prohibition on the possession and use of certain defined noxious substances. Fourth would authorize the Police Department to establish police lines and barricades and make it unlawful for citizens to cross those lines or barricades. Fifth on the list is the prohibition on bonfires on public property or in the public right-of-way. Finally, in this chapter, is a prohibition on unauthorized attachments to public or private buildings.

Chapter 19 is the chapter that directly regulates pickets, public assemblies. I would note that the ordinances have been around since 2004 in their current form. The City has been challenged on a couple of occasions in Federal court, and our ordinances have withheld those challenges. The amendments here are not intended to further restrict speech. They're primarily prohibition on certain conduct and items, particularly items that can be used in a way that is dangerous or threatening to the public and to property.

Shortly after we presented the ordinances to you, we reached out to the North Carolina Chapter of the ACLU, we shared the drafts with them, and we've already received some comments. We're in dialogue with them and will continue that dialogue until your vote. We also look forward to hearing the comments, ideas, and suggestions from the public tonight. We, along with the Charlotte-Mecklenburg Police Department, will take those into consideration and, if warranted and appropriate, will recommend to you changes to what's been put before you.

Mayor Foxx said again, the Council has had a bit of a briefing on this to this point. So we will go right into the speakers.

Angie Ford, 418 Neill Ridge Rd., Matthews, said I'm an advocate with Homeless Helping Homeless (HHH) here in Charlotte. I asked to speak today out of concern over some of the proposed amendments to the City Ordinances. I understand that the proposed changes have come out of concern for safety and public order during the Democratic National Convention, but I am concerned about the possibly unintended effects that some of them may have. Mr. Mayor, you have just declared 2012 to be the year of all neighbors. So, I'm asking you all to join me in looking at a couple of these proposed provisions through the eyes and lives of some of our homeless neighbors. Section 15 – 28A says 'it shall be unlawful for any person to possess any noxious substance with the intent to use the noxious substance to interfere with a lawful assembly. I certainly agree with the spirit of this proposal, but I wonder how the intent of the possessor is going to be determined. Will this be left to the intuition of each police officer if their own guidelines cannot be spelled out so that individuals will not inadvertently communicate an intent which they do not actually have. It's of special concern when the definition of noxious substance is so broad as to include any substance that is foul or offensive to human beings, such as but not limited to garbage, trash, and refuse, etc. Who determines what substances are foul or offensive? If someone picks up trash from an area and puts it in a bag which they hold, they will then possess it. Members of HHH do this all the time as part of our contribution to keeping Charlotte beautiful. What will prevent that action which was intended to be positive from subjecting them to arrest? Section 15-27-A also talks about people possessing items with the intent to cause trouble. I have the same concern on how the intent of a person will be determined. Most people will find no need to be in possession of a lot of the items on the list, but a person who is homeless may very well be in possession of a padlock, for example, to secure their possessions in a locker during the day, or for their bicycle. But padlocks are included in the list of items possession of which will render one subject to arrest. I ask you to review these provisions very carefully, reword them when necessary, so that Charlotte does not end up incarcerating people who are simply homeless and, thereby, making the people's convention a convention for only some of the people. Thank you, Mr. Mayor.

Paul Walker, 1835 Thomas Ave., said I'm here this evening to call attention to how the current proposed ordinance amendments may result, as Angie was saying, in arresting people who are homeless; therefore, essentially criminalizing homelessness. I make this comment with respect

to the City officials and employees who have worked to make permanent housing resources available through McCreach Place, and very soon Moore Place. Both are excellent examples of how private and non-profits and government can work together to address critical concerns. I also support and applaud your attention to the details of creating a safe environment in Charlotte for persons attending the Democratic National Convention. My specific concern is that action taken based on perceived intention will result in people who are still living on the streets, many with significant disabilities, being arrested simply because they are there. Some members of this population still sleep outside, construct temporary shelters from the elements, and carry their belongings with them from day to day. It appears in this document that these individuals would be in violation of this ordinance. Additionally, I encourage you to urge the law enforcement officers on the front line during this critical time to be assigned from the cadre of individuals who have completed the 40-hour training offered by the mental health system in town. It addresses behavioral symptoms, mental health issues, and how to resolve those in a more peaceful and productive way. Many of the officers who have been through this training have found it to be quite valuable. Clearly, the people that I describe as being homeless and challenged face life with significant difficulties. Securing housing and employment with an arrest record creates an additional barrier. I urge you to consider alternative language that reduces the probability of innocent bystanders being caught in a vague, legal net.

Scottie Wingfield, 2004 Atherton Heights Ln., said thank you Councilmembers for allowing me to take this gag off my mouth. I hope you allow us a lot of other spaces like this before this very controversial and very important issue is decided on the 23rd. This is very important that the community gets to discuss this. This was not widely publicized before this event. That's a problem. This should be at the very top of the website. This should not be 'you have to go click-click-click-click' to find the agenda. I'd like to encourage all Occupy Charlotte, community members, and everyone who encourages free speech in this country to please stand. Thank you for your support. My name is Scottie Wingfield, and I'm a resident of Charlotte in Councilmember Kinsey's district. On Friday I had a very cordial conversation with Councilmember Andy Dulin. He actually answered his own phone instead of allowing it to go to voicemail. And he was gracious enough to spend some time talking. Although Councilmember Dulin has expressed his desire to pass this ordinance and put an end to the camping as demonstration, he said one very important thing. He said that he understood that first amendment rights apply 24/7. So my question is, if our rights to free speech and free assembly are not bound by time, then where is the public forum in which we can exercise these rights? It seems to me, Councilmembers, that it is your duty to provide a space where free speech and free assembly can be practiced by everyone, not just lottery winners, 24/7. This space should not be a private space or a local coffee shop or a 24/7 Walmart, as we might have to seek out if you don't allow us a public space. It should be a public space that you have sworn to protect. Chapter 15 of this ordinance states that Councilmembers are to protect City property. I say that City property is the people's property, and the people's property is public space. Public space and public parks are not supposed to be free speech zones which are actually selected speech zones where only groups, we have no rights as individuals here, are chosen from a lottery that can speak. Since when do only lottery members have first amendment rights? Also, in Chapter 15, it states that the City has an interest in maintaining the safety of persons who use City property. The overnight Occupiers, and all Occupiers like myself who can't stay overnight at 600 E. Trade Street, these are community members. These are your fellow citizens who are using City property. So if it is your duty to protect City property, if this is true, then why hasn't the City been more helpful in protecting the safety of the overnight Occupiers? Why has the CMPD been so resistant to help us with issues of theft? Why has the CMPD openly ignored the use of drugs on the grounds of this public forum?

Mayor Foxx said thank you very much, I'm sorry that's your time.

Ms. Wingfield said I'd like to be yielded time by some of the other people scheduled to speak later that would yield me some time. On the website it gives the topic of a principle speaker, and that 3-minute speakers can yield their time to a principle speaker of 10 minutes long. I have important things to say; I hope you can listen to me.

Mayor Foxx said I totally respect the right of everyone in this room to say what they want to say who signed up within three minutes, but it comes to the disadvantage of other people if one goes over that three-minute limit, so we're going to respect the three-minute rule.

James Lee Walker II, 601 Lamar Ave. #2, said a lot of people did sign up to speak this evening. I believe Scottie believed that she was following the rules. I believe that we, as Occupiers, believe that we've been following the rules. Yesterday at the Day of Love, the Walker family pulled up, veterans piled out. My sister, Elena, spoke on camera about her PTSD, and how without my family, she would have been homeless like a lot of her friends who ended up in the street, and eventually dying because they came back and had no support beyond the VFW that was ample enough to assist them. At Occupy, we've discussed with people that had no idea of the services that were available in the City because they were afraid to go ask someone because they were afraid that they smelled too bad to ask them. At Occupy Charlotte, none of us said that because we get accused of smelling all the time. I have a tent full of suits because I'm an actor; I have to leave my tent wearing a suit. And why would you live in a tent and not wear a suit? I know that the ordinances, most of them are going to be at the discretion, as far as how they're followed, of the CMPD. I picture my nephew running through downtown Charlotte with a big backpack on and hearing the word 'stop,' and doing like the young thugs do, running and getting arrested for resisting arrest. And running because why would a cop stop me because I have a backpack on? Why would a cop stop me, why would a cop arrest me, because I have no idea where to sleep tonight? Up Trade Street right now, there are three women who are gearing up to sleep on those benches right after the Transit Center. And I imagine those women might possibly be arrested tonight, and I worry about that; but I also worry about the fact that making the rules for an occupation means that we're going to tell you how to make a protest. The way these things are worded seems like if you are trying to be an activist, if you're trying to protest, you're going to be stopped from protesting. Because if you're not a politician, and you can't afford it, we can't afford to have you heard. I think that's wrong.

Ayende Alcala, 1642 Amanda Ln., Rock Hill, said I'm a husband-father working at a local high school. I'm here today to voice my opposition to this that you have before you. I couldn't help but listen to how we begun this evening by giving thanks to those troops who are fighting overseas, putting their lives on the line so that we may enjoy freedoms here at home. And when that moment came, I couldn't help but think of my foremothers and forefathers who fought in a land so that they could enjoy equal rights and those things that were granted to them and the most precious documents of this nation. As I look across this Council, I see a great diversity of faces, and I would like to think that each and every one of us have a great honor and a great debt to pay to those brave individuals who are willing to stand up and fight what they believe to be right. That's what I feel like we're doing here today. We're trying to open that space so that the next generation can come behind and voice their opinion, so we can truly live up and have those things that are granted to us in our Constitution as citizens; those to be available to us as they were outlined. Edmond Burke said that whenever a separation is made between liberty and justice, neither is safe. I truly believe that this ordinance is a threat to both of those. The decision you have before you may, at first glance, appear to be inconsequential, but the reality in the grand scheme is, it is anything but that. The decision you have before you is not whether to allow Occupiers to sleep in a tent in a park or to allow citizens to assemble in the parks of this City coming up to and through the DNC. The decision you have before you is if this land we call America is truly the land of the free and the land of justice for all. The decision you have before you is to determine if those rights that we proclaim to the world, those ideas that we project across this planet that we hold up as the basis for our greatness, if those are real American values or are those just rhetoric. For if you affirm this vote and pass this ordinance, you will be stripping those basic rights away from those citizens and those who will be coming here to participate. Thomas Jefferson said a free people claim their rights as derive from the laws of nature and not as a gift from their chief magistrate. I humbly ask you to please not vote this ordinance through. I must also say that even though I ask you not to vote this ordinance through and to live up to the great ideals that this nation was founded, I will end by saying this: In the grand scheme, our freedoms, rights, and liberties are endowed to us by our Creator. No matter how you vote, no matter what the law or ordinance you may put in place, we, the people, will never be defeated. We will endure, we will exercise our God-given rights; we come from a long tradition of brave and blessed individuals. In closing, the cost of liberty is less than the cost of oppression.

Dennis Peterson, 8721 Bodkin Ct., said this ordinance change isn't for the folks in the room. It's not for the Occupiers of Occupy Charlotte who are here, it's not for the Tea Party, or caution. We all know it's being written for the folks that we're expecting to come to our fair city in

August and September. It's sad that our society has gotten to this. I'm asking you to please not to punish the law-abiding citizens of Charlotte because we've got hooligans in the nation, whether it be Oakland or Madison, Wisconsin, who have proven that they have no respect for public and private property. We're worried that they're going to take those actions here in Charlotte. Please do not punish us. I'm worried. Under this ordinance what happens to Cub Scout Pack 186 that wants to participate in the Hickory Grove 4th of July parade? Are they going to be able to participate going forward or are we going to force the church to have to pay for police protection? Why can't we come up with a temporary ordinance to only deal with the problem at hand – the folks that are coming to Charlotte? Leave us alone.

Jason Bargert, 820 E. 20th St., said I just want to quickly address the parts of these ordinances that concern me the most. The first one as it reads: camp or camping means the use of City property for living accommodation purposes such as sleeping or making preparations to sleep, including the laying down of bedding for the purpose of sleeping, or storing personal belongings or placing any tents or temporary shelter on City property. Temporary shelter means tents, tarps, or any type of structure or cover that provides partial shelter from the elements. This will make being homeless against local law. Can this Council legislate against poverty in good conscience? Secondly, permit required: no public assembly or parade is permitted unless a permit allowing such activity has been obtained and remains unrevoked. What right does this Council possess to override Constitutional law by requiring a permit for public assembly. This is an unacceptable breach of civil liberty granted to us by the Bill of Rights. In passing this ordinance, the Council will also in effect be authorizing a police attack on the peacefully-assembled citizens at 600 East Trade Street, who plan, I assume, to defend themselves and their right to peacefully assemble. This will be a most shameful event. It is unfortunate that the mere use of our civil liberties threatens our governing body to such a degree as even to create these obviously and directly oppressive ordinances only to protect their vital interest as a governing body. This Council has, in its first few sessions, championed and sponsored a multi-national corporation with a laundry list of bloody human rights violations and corporate malpractice, and with full knowledge. Now, I'm asking you not to champion the elimination of our civil liberties. We are not off to a good start.

Matthew Ridenhour, 5935 #F Quail Hollow Rd., said I just want to speak for a second on some concerns I have with the proposed amendment. Let me first say I do understand the motivation for the ordinance, and I do support the idea behind the ordinance; I really do. However, there are a few things I take issue with as far as the broad language contained within this proposed ordinance. One thing, as the previous speaker mentioned, was the shelter. If you're having a rally or some sort of meeting in uptown Charlotte, and you want to set up one of those temporary sun shelters, that's now going to be banned according to the language within this document. It also states that no hammers, wood, cables, etc. are permitted. Let's say you're having Speed Street or First Night, and those guys are setting up stages. Does that mean they're not allowed to have a hammer or wood? Of course not. That's not why this is really written. However, it's broadly written and is open to interpretation. A bike lock is also not permitted, so if you're having a rally or you're going uptown to assemble with a lot of other folks, and you ride your bike uptown, and you lock it up with your lock, are you now in violation of the ordinance? Technically, you are. I know that's not the intent behind this ordinance; however, with the broadly written language, you are in violation. Regarding the camping, I would suggest that perhaps we could do away with a lot of the wordiness by saying something to the effect that any protest, rally, or parade must not begin before 7:00 a.m., and must be concluded by 10:00 p.m. – or something to that effect. If people want to come out there every day and set up their tents or sun shelters, or things of that nature – tarps or whatnot – that's fine. They have to take it down at night time and bring it back the next day. I think that will cut down on a lot of the camping issues that are going on and being addressed within this ordinance. Lastly, I'd like to remind the Council that law-abiding citizens are the only ones who are going to read this. Guys like me who have set up rallies uptown with no incidents, with 1000-2000 people in attendance, we're the ones that read this. We're the ones that are going to be trying to follow the letter of the law. Those people who are bent on destroying public property or causing problems during the DNC or anytime in the future, they're not going to be looking up on the Char-Meck website to find out whether or not they're going to be in violation. They fully intend to violate already-existing laws. Lastly, you're not just writing this for the DNC or for this Council. You're going to be writing this ordinance, because there is no expiration date on this, for many Councils to come. So how you're interpreting this document may not be how it's going to be interpreted in

the future. I would caution with some of the broad language that's being used within this document to, perhaps, rewrite it and make it a little bit more specific and keeping in mind that the law-abiding citizens are the ones who are going to be reading this. So, let's not make it so hard for them to peacefully assemble.

Jim Bauman, 4940 Oak Pasture Ln., said I'm a truck driver, and Mayor Foxx, I've met you before at Siemens Energy. I think a lot of people look at a lot of the Occupy people like they don't want to work. I sense there's a lot of tension here. I really like you as Mayor. But really, the First Amendment – I actually looked it up to make sure it was real – you know, the Congress isn't supposed to pass laws to deter the freedom of speech, the freedom of press, the right of people to peacefully assemble or to petition government for redress of grievances. Really, as an Occupier mindset, I don't like things like free trade. I looked up, today, the US Dept. of Labor. In China, in 2008 and that's as far as they go back, they worked for \$1.36 an hour. I don't think we should allow our corporations to source labor that cheap or we, as the working class, have to compete with that. I'm not against China at all. We just need to find a better way than just letting go of all of our jobs; because, what don't they make over there anymore? They make everything – shoes, computers, everything. Things like that. Things like the war. This country acts out of fear. It calls itself Christian; I'm personally not religious, don't go to church. But I just know that we're acting out of fear, and I'd rather die taking a chance than all these things, you know. And neither party represents change. I'd like a more aggressive agenda. So I think a lot of people are going to come into this city from other areas, like this other fellow said. Your job, in my opinion, you have to anticipate. What if a 100,000 people want to come into town to join this movement. How are we going to make this to really stand out as being an A-plus city where we accommodate that? If you say you can only assemble from 8:00 a.m. to 5:00 p.m. during daylight hours, if there are 10,000 or 100,000 people, they can't reasonably get in and out of that area in that time. I think our city could look really good if we could somehow figure out a way to all work together where we can anticipate a lot of people coming that are not happy with either political party. A lot of people agree with corporate personhood; that's the root of the all evil, I think, in our country. Why would we have limits on how much individuals can give? Like, if I owned a company, why should I be able to give my \$4,000 to a Senator, and then also my company can give another \$100,000? That's not fair.

John Rudisill, 1312 Myrtle Ave., said I address you tonight on the plain purpose of this ordinance, to reduce the free expression of a political movement. Occupy Charlotte is an extension of the larger Occupy Wall Street movement. By characterizing the free expression thereof by occupying public property belonging to the people, for the people, and of the people as camping, it's as if the people in front of the old City Hall are on a recreational lark. By attempting to portray these true patriots of freedom criers as vagabonds engaging in nothing more than a free-loading crash site to avoid a park fee or camping permit, you seek to suppress political speech and message that the daily presence and weekly protest by Occupy Charlotte attempts to express. It's not enough to attempt to constructively evict the occupiers by making it inconvenient, by refusing to allow on-site sanitary toilets. In an attempt to maintain the pretense of a world-class city, we could not bear to provide a porta-john since we will never deserve that status as long as we continue to deny our citizenry a public toilet not linked to the sale of food, goods, or gas. No, these passive-aggressive tactics do not sufficiently discourage the occupiers, to make them melt away in the cold and rain. The immediate applications in attempting midnight raids to route the occupiers might give a hypocritical appearance to the smiles of our Mayor and political cronies in the shadow of the DNC, much less spoil the investment of their corporate partners from bringing Charlotte and the nation the best political convention dollars can buy. Some of you may have wandered out to East Trade Street to get to know whom you seek to evict, as I have. You may have met, talked, or played a game of chess, or even shared a meal with Eric, John, Jason, Quest, or Ghost. These folks are our children or those of your constituents, and they gave up dead-end jobs without promise of a future other than minimum wage and a chance to keep feeding the consumers' economy that maintains the outrageous bonuses and income of the ruling oligarchy in order to wake the conscience of the nation and effect real change, not just change in the ruling class. I know that despite my words, you will pass this ordinance, even if a few of you have the political courage to decline to silence the pleas of the republic clans and scabble to fashion a solution to a non-existent problem. I know you will pass the ordinance to keep Charlotte a nice place to raise your kids. I'm just glad that I had, growing up and living in Charlotte, people of courage and conviction and conscience who stood up to segregation, the suppression of political expression and freedom of thought, who guided

Charlotte to become a leader of the new South, not one of its laggards. People like Harvey Gantt, Kathy and Marvin Sparrow and the Red Hornets, and George Daley who defended them against Nixon's henchmen. And Robert Schrader of the Visulite Theater. Leaders – political, legal, and cultural – who helped us gain a reputation for tolerance and freedom of expression and being more than a Sahara of the Bozart. That is what I implore you to do tonight, to show that rare courage to act when nothing does the least harm to our liberties and freedom.

Beth Henry, 3066 Stoneybrook Rd., said I'm concerned that several of the proposed amendments are broad and overreaching, aimed at strictly controlling protest activities, and that they outlaw even peaceful activities. For example, the ban on gas masks, helmets, and other protective gear would deprive peaceful protestors engaged in basic passive resistance techniques from protecting themselves from bodily harm. As others have said, the Chapter 15 provisions on camping could effectively ban homelessness. There are several other overbroad provisions. The one banning utility knives by participants in a parade or festival – lots of folks walk around with pocket knives and that prohibition could result in getting people arrested for participating in a march without thinking to get rid of their pocket knife. That seems overbroad to me. I'm really concerned about having a lottery to allocate protest permits. What is this about free speech zones? I thought our whole country was a free speech zone. I really think it's in Charlotte's best interest to vigorously, and in the DNC's best interest, to vigorously protect the rights to freedom of speech and assembly during the convention. At a time when money is speaking so loudly in the political process, it would be both wrong and unwise to limit the ability of regular citizens to make our voices heard. Money stranglehold on our democracy has animated both the Tea Party and the Occupy Movements and upset millions of other Americans who aren't affiliated with either movement. So many of the issues our country needs to address are in a stranglehold – issues like financial reform, energy policy, permanent war. We can't get anywhere on these issues because certain groups of people are making too much money on them. As long as money is speaking so loudly in our political process, the will of the majority of Americans is not going to be accomplished. So while so many people are upset at the huge role that money is playing, it's the wrong time to crack down on citizens' speech.

Chris Bakis, 6510 Idlebrook Dr., said living conditions and the quality of life for the citizens of the United States have fallen so low that spontaneous camps known as Occupy – enter city name have sprang up nationwide. Some call these camps Obamavilles. One of these so-called Obamavilles, or Occupy Charlotte, are currently on city property, public property, not private property, in front of the old court house. Mayor Foxx and City Manager Walton do not want this Obamaville to be there during the Democratic National Convention because it will certainly embarrass President Obama, the namesake of what some people called Obamavilles. Some consider these people a nuisance. However, this Occupy Charlotte camp is, in fact, one of the most profound examples of the right of free speech guaranteed by the United States Constitution ever in this country's history. Because, these camps are, in fact, statements expressing absolute discontent of political cronyism and how selfishness of the powerful has resulted in the worst economy since the Great Depression. This is why the founding fathers included free speech in the Bill of Rights and made it the first right. Now, Mayor Foxx and City Council is going to make very profound speech illegal. Making speech illegal. This panel of twelve consisting of ten Democrats is going to perform the most undemocratic piece of legislation I have ever heard of. At the very least, each of the three amendments within Agenda Item 5 should be voted on separately and not all in one bill; not as sort of charlatan bundle as in the arena bundle.

Laurel Green, 7630 Zermatt Ln., said the first thing I have is a several hundred signatures on a petition. Some of them are hard-copy done out in front of East Trade Street, and some of them were done online. I'd like to first read what people signed to. 'We, the undersigned, support the free speech rights of Occupy Charlotte. We believe that the encampment at 600 East Trade should be allowed to continue as a form of political expression. We are currently living through a time of deep political and economic crises. Our political system is at a standstill with politicians in debt to their corporate sponsors. Meanwhile, economic inequality is at its highest point in history. The top one percent average over a whole big number in annual family income, while the bottom ninety-percent-average is just \$31,000 annually. Given our media, money-dominated political system, this inequality exacerbates the lack of power that those at the bottom of our economic system. The citizens of Occupy Charlotte are camping out to raise these concerns. Their right to do so must be protected if we are to claim that this is a community that values democracy, that values government of, by, and for the people. While some city police

forces have forcibly attacked local occupations, we hope that Charlotte will continue to follow the model of Irvine, California, where an ordinance was recently passed explicitly allowing their local occupation to continue. As Irvine's mayor, Sukhee Khan, said, 'it's important as a city to respect and facilitate free speech rights for everyone.' To date the City of Charlotte has allowed the protestors to stay at 600 East Trade Street. All we ask is that the City continues to do so, to support Occupy Charlotte's right to do so. In the words of the first amendment, 'petition the government for redress of grievances.' That's from several hundred Charlotteans. My comments on the ordinances are, I'm really concerned about the word 'intent.' I'm concerned about empowering police department to divine the intent of protestors. I think that's a setup that doesn't lead to a positive outcome. Cities all over the place have been trying to pass ordinances against protests and tried to legislate the protests away. It's not working. I'm just suggesting that the City of Charlotte try something different and try dialogue. I'm going to try something different. As a citizen, I'm coming here and asking you to please represent me. Part of the reason why I'm part of Occupy Charlotte, as there are a lot of other people and we all have different reasons, I think what I learned as a child, what my daughter learned in the Charlotte school system about what democracy was, about a representative democracy, it's failing – it's not working. So that's why I'm asking you to please represent me.

Michael Wood, 701 Royal Ct., #611, said I've heard some people say that they want their lawn back. The problem with that is that it's not your lawn. It's the people's lawn. It belongs to the citizens of the City of Charlotte and Mecklenburg County. Now, you want to make an ordinance to take something else away from the people, to put it in a little glass jar so the people can see it but not ever use it for its intended purpose. You call it preserving it, much like something else you put in little glass jars. But it's an ugly site, all these tents and their tarps. You can't help but notice every time you go by. The point is to notice, that they are not ignored even when they are silent. They're just camping in tents; that's not protesting. Why? Because you've never seen it before? A black woman refusing to give up her seat on a bus was not a form of protest until someone did it first. A group of young men sitting at a counter refusing to leave until they were served was not a form of protest until someone did it first. Sit-ins, marches, hunger strikes were not a form of protest until someone did it first. Peaceful, non-violent, civil disobedience was not a form of protest until someone did it first. An opportunity exists for Charlotte to be the first – the first to communicate, the first to cooperate. The first to act differently than cities have before it. You are already on this path. Up until now, Charlotte has reacted differently than so many other cities in the US, and we have seen the fallout of the other cities reacting. As the DNC draws nearer, millions of eyes across the state and the nation will look at Charlotte and the actions of its leaders. And leaders you could be by being the first to recognize these Occupy protesters, lead by initiating a dialogue between yourselves, the protestors, and CMPD to meet the needs of all three groups, both for the DNC as well as Constitutional rights in general.

Jeremiah Desousa, 5600 Tuckaseegee Blvd., said I spoke with you guys at your initiation. My problem is the fact that when you guys were sworn in, part of your swearing in was that you would uphold the Constitution of the State of North Carolina as long as it did not infringe on the rights of the Constitution of the United States, which is what this ordinance would do. It would violate our rights to free speech and freedom of protest. This country was built on the backs of protestors. It was built on the backs of people standing up for what they believe in. If Dr. King did not go to jail, there would be no equal rights. If Mohammed Ghandi did not decide to go on a hunger strike, there would be no civil rights in India; there would not be an independent state. What you guys are proposing to do is protect the one percent by saying we'll just make them disappear like New York did with their homeless population where I came from. There are too many people out here that are struggling for you guys to go and pass an ordinance directly affecting us. It isn't going to affect the people on the City Council. It isn't going to affect the people in South Park and Ballentyne. It's going to affect the people of the west side of Charlotte. It's going to affect the people of the south side of Charlotte, the people in the projects. It's going to affect the people who are on Tryon. Where are they going to go? Are you guys going to provide housing for them? No, you're going to go back to your glass houses, and you're going to live your lives. Anybody who has ever gone down to 600 East Trade Street knows that we, out of all the protests, have never had a problem with the police. We've never had a problem with the City. I've spoken to members of the Council who agree with us. We have a plan enacted to put grass back in the City. We need to come together, and we need to work together. We're not so far apart that we can't come to a consensus. This overnight occupation is not a bunch of campers. I have two jobs; I am a father; I am a veteran. But for this ordinance to pass

is taking away my son's future and my grandchildren's future. This is wrong. Deep in your hearts you know it's wrong. We're not here working against the City; we're in here because we believe there is social injustice.

Todd Zimmer, 1704 Truman Rd., said I'm a native of Mecklenburg County; I grew up in Charlotte. I learned about democracy and free speech in the school here. So, I'm going to be somewhat naïve and talk to you guys about that tonight. We live in a democracy, and we seek to be a beacon of what democracy looks like to the rest of the world. Our society's most treasured right of all is the right to free speech. When the world's eyes turn to Charlotte this fall, what are they going to see? The Democratic National Convention is supposed to represent the functioning of our democracy. Our system cannot function without freedom of speech, participation, and association. Events like the DNC should showcase those freedoms and the diverse opinions and perspectives that make our country great. Indeed, that's why we have protections for free speech, so that we can exercise them at forums like the Democratic National Convention. It saddens me very greatly that members of this Council seek to pass special laws that restrict free speech instead of protecting it. Many of the regulations proposed seriously challenge our first amendment rights. If these regulations, which have been challenged by the ACLU, are passed, they clear the way for unreasonable searches and seizures, up to police to judge intent which is a problem. It criminalizes the peaceful free speech members of our community have been free enough to enjoy at 600 East Trade Street for the past few months, and yes camping overnight is a form of political speech. This same restriction against sleeping in public places criminalizes homelessness at a time when there is greatest need in our community. Bear in mind these special restrictive laws will remain long after the DNC has ended. Finally, there's discussion of awarding protest permits through a content neutral lottery. This process would criminalize the speech of those citizens who wish to participate in democracy but are not awarded a permit. Freedom of speech must be available to all who wish to enjoy that freedom. Mr. Hagemann has said in the paper today he feels he has been generous with regard to first amendment rights. With all due respect, our freedom as Americans to demonstrate and participate in democracy should never be left up to generosity. Free speech and peaceful assembly should always be protected and should not be limited by this body or any others. Thank you.

Peter Grotticelli, 1475 Bailey Hill Rd., Eugene, OR, said I, like everybody else so far who has spoken, oppose the amendments to the City Code in Item 5. I will explain why, but it's in a bit of a roundabout way though. It has to do with two issues, and then you'll see just why I oppose them. The first issue is the borders of different countries like the borders between the US and Mexico, for instance, or the border along the Mediterranean Sea between the countries of Europe and those of Africa. Those are problems; they should be abolished because they keep the problems out of our faces. If those borders were removed, people would begin to migrate up north, and all the problems going on over there would be right in our faces, and we would have to do something about it immediately. The second item, and you'll see where I'm going with this, makes up helpless to provide basic needs; that is to say such as millions of pages of complex law that exist. Federal, state, and local levels, including ridiculous building codes, also the land ownership laws, certain people own land who in fact inherited it from people who fought for it and took it from other people. There's also the law that requires you to pass through certain medical schools to practice medicine. I think to have a system of apprenticeship and successful examination over the course of your lifetime would not sacrifice the quality of care. I could talk more about it later if anybody wants to talk to me after the meeting. I could explain that in more detail. There's a bunch of ideas that I've got, actually. The point is all of this stuff is not possible. The borders will remain, all these ridiculous laws and regulations will remain under the states; they will not go away, they're not even on the agenda, they don't talk about it on TV. Nobody knows about this stuff; it's just some strange people like myself that have these ideas, so I totally don't respect the state at any level – the federal, state, or local. To have a mechanism involving a bunch of people walking across the country – I'm with a group called Woccupy - this is not their particular agenda, it's just my personal agenda, but we're going to grow and divide, and then like occupy some land straddling the border of the US and Canada and have our own autonomous collectives independent of other nations; I have a whole scheme in mind. Please talk to me whoever's out there after the meeting.

Jenny Marienau, 1704 Truman Rd., said I think I'm probably going to echo a lot of what people have been saying tonight. But it's probably not a bad thing to hear it again. So I oppose this amendment to the ordinance that would basically limit our first amendment rights.

Basically, this ordinance would remove our rights to free speech, to freedom of assembly. Obviously, there will be a way to do a lottery so that certain protestors will be allowed to protest. But that effectively criminalizes everyone else who wants to protest. Essentially, you have to think about whether or not you're trying to create criminals at the DNC; that's exactly what this ordinance would do. Take me, for example. I ride a bike. I keep my keys on a carabiner, and I intend to protest at the DNC. Under this ordinance, all those things could be illegal, but that's all up to the decisions of police officers, and I don't really feel comfortable with that. So, you will be taking away the freedoms of people's speech and first amendment rights. So, consider that.

Michael Zytkow, 9216 Willoglen Tr., said I've heard a lot of you talk about this as a DNC-related ordinance, except I've read this multiple times, and I don't see the words DNC anywhere. I don't know if my 'Where's Waldo' skills are up to par as they used to be, but I don't see it anywhere. What I want to know is when I read this ordinance, there's not one reference to it. I've heard many of you try to sell this ordinance to the public under the guise that it's necessary for the DNC. Most of the citizens I have talked to are under the impression that these changes would only be in effect during the time of the DNC. I don't see anything in this document that suggests these ordinances will only apply from September 3 through 6, 2012. If it is truly the case that you are concerned only with the DNC, then I would question why the rules just don't apply to the period in which the DNC will be here. It seems clear that not only will these rules be implemented eight months ahead of the DNC, but that they will remain here as a permanent gift to the citizens of Charlotte. Long after those affiliated with or protesting the DNC have left our City, we will be left a gift from our City Council and Mayor that permanently modifies our abilities to express ourselves under the first amendment. Guys, I know the holiday season is over, but I want to personally thank you for presenting the City with a gift that keeps on giving. I don't see why these ordinances could not simply have an expiration date. Otherwise, I would invite you all to be more upfront and honest about what we are talking about here. There's already so much confusion as to how our lives will be affected by the coming convention. Most of us anticipate a massive influx of people. From what I understand, the DNC has reserved every public park in the City for the three weeks before, during, and after the DNC. Will our citizens be able to enjoy their daily walks and bike rides? Will they be able to take their family out for a picnic? I don't see why this is necessary. Do members of the DNC really love parks that much that they need to reserve them all? I didn't even know that this was possible. If so, I would like to formally ask if I could reserve every park in the future. I'm wanting to throw a cookout; I think there's a lot of people that would join, so you can talk to me later about who I can talk to. I'm very concerned with something that some have talked about and some have not – about backpacks, coolers, and scarves. I have a three-year-old son that has accompanied me to many protests. I believe, as I hope you would, that we should raise our future generations to value the rights guaranteed to us by the first amendment. I often carry toys and food for him in a backpack; I've seen others carry required medicine or pamphlets in their backpack. We have brought coolers before to provide water to our senior citizens on a hot day; on cold days we wear scarves to keep warm. Yet, under the new ordinance, backpacks, coolers, and scarves are essentially barred from any protest. It amazes me that if I am walking down the street with my son, wearing a backpack and a scarf, it's ok, but it's as soon as I start to express myself, for instance, chanting against the DNC, police officers will legally be allowed to arrest me unless I remove my backpack and scarf. We are giving a great deal amount of power to the police to decide intent. I think this is awfully vague. You all can reassure me all you want that the police will be responsible in their judgment, but if recent history serves us, I would have to disagree.

Steve Barker, 6517 Yateswood, said most of you guys, I've never seen before really until I started coming to Council. Even when the elections were coming up, I didn't know none of you guys' faces except Mayor Foxx, and I've seen Mr. Howard's political side. What I could really say, I'm going to make this real quick, is that now that I do know, and I think we need to start really concentrating on letting other people know. That means everybody. Basically, making sure everybody knows who these people are, what they're doing, and why we voted for them. That means you-you-you-everybody. This is why people are incensed. I'm sitting up there listening, I'm thinking like, maybe the Duke Power CEO and Bank of America and Wells Fargo CEOs should be here because maybe that's who we should be talking to. I'm going to leave it at that.

Joseph Seymore, said I'm a member of the Walkupy. What that is, is we started in New York, and we're going all the way down to Atlanta, Georgia. I myself started in Richmond. I was

asked to speak here today on behalf of the parades and festivals, and when I read that over, I thought it was ridiculous as hell. You can't have a backpack. Okay, what if I'm a college student, and I'm walking through town. And they're having a big parade or festival going through, and I need to go through them to get to my class or to get home. So, you're going to arrest me because I have a laptop, a text book, and a study guide. What am I going to do? I'm going to harm you with knowledge? I don't think so. I really doubt it. Okay, and if I am going to a parade or a picnic, and I have cooler. I'm going to have me a chicken sandwich, I'm going to have me some chicken legs, maybe some potato salad, some kool-aid. You think I'm going to give up my chicken leg to hurt you? No, I'm going to enjoy my chicken leg and eat it. I'm not going to harm my chicken leg; that's delicious. I think it's ridiculous how you're putting all this in, and you can like, 'okay I'm going to arrest you because you got a cooler, I'm going to arrest you because you got a backpack, or bike chain.' I need to lock up my bike so people don't steal it. That's my transportation of how I get around. Y'all got your little fancy automobiles; I use a bicycle, man, I'm poor. Okay. I think it's ridiculous. I want to shout out to the homeless people around here. If they're walking through, they are hungry and they're looking for a dollar so they can get a sandwich or something. They got backpacks, and you arrest them. The police officers are going to be real stupid when they go through the bag and hauled out some dirty drawers. Thank you for your time.

Sean Maupin, 600 East Trade St., said I'm a long-time listener and first-time speaker. Just wanted to start out by thanking the City of Charlotte for having me down here. I'm a traveler, I've been here for like three weeks. You have a beautiful city. I've fallen in love with this city since the time I've been here. I really can say that I understand the phrase 'southern hospitality.' I'm obviously going to echo what they said. We're a bunch of concerned citizens looking at your little bill here, what you want to propose, your ordinance. We know some key issues here. I'm a staunch right Republican, I'm not going to lie. I'm Republican and conservative as it can get. That being said, your ideas of your free speech zone, does that sound American to you guys? Making a bike lock illegal? That doesn't sound American to me, either. The idea of a lottery for the right to redress your grievances to your government? This doesn't sound American to me. You know that's not right. We all each know that's right. I understand you guys are going to have a nice little festival down here in September. I'm not going to lie. My job in life is to bring thousands upon thousands upon thousands of people to this fair, beautiful city just to protest the DNC. That's my job in life. I'll do the same for RNC, which reminds me, January 17, Occupy Congress up in Washington, DC. My question to you is, when are you going to stand for the people? You look at the NDAA (National Defense Authorization Act), you look at the SOPA (Stop Online Piracy Act), you look at all these acts – every last one of them strips away the initial rights of the people here. I'm not a rich man; I'm a poor man. But I'm a damned, good man. I will work my ass off to make this world the best place I possibly can. It doesn't matter what ordinance you enact. It doesn't matter what law you set up in my way. I'm still going to be a good person. I'm still going to fight for the rights of the small man, for the people that need their voice echoed. I ask you to do the same. I know you're good people, and I know you will do the right thing.

Craig Glisson, 3713 Rosedown Dr., said this is the first time ever being in a City Council meeting, and it's been quite an experience. I'm with Woccupy, the walking occupation, started in Zucotti Park November 9. We've been marching from NYC to DC, from DC we left December 1, and we're headed towards Atlanta. We're just standing in solidarity with Occupy Charlotte. The biggest concern for me personally is the vagueness in all the language. I'm just going to give you an example of what happens when you have vagueness in language, and how when you give the authority to people that don't necessarily understand what's happening here in a City Council meeting, what happens when you have vagueness of language. As we were marching in from Winston Salem, it took three days to get into Charlotte. As we were marching into Charlotte, it was about 6:00 p.m., and we were about two blocks away from 600 East Trade Street when we stopped and waited for the rest of Occupy Charlotte to meet us. We did not happen to know that we were standing in front of Bank of America corporate headquarters. We did not know that. However, when we were taking a look at the mural, several police officers and security officers who, under vague language, surrounded us and pushed us away from this brick three feet from the window. Had we had known that was Bank of America's corporate headquarters, we would not have been intentionally in their way. However, with vague language, what happens, it gives the authority to people that aren't here, that don't care as much as City Councilmembers may, to take actions that will severely hinder people's first amendment

rights. That's what happened that evening. After they pushed us away three feet, it was just an act of nonviolent civil disobedience to stand in front and say, 'no, this is our first amendment right to stand here peacefully.' Garth Kaiser was arrested and so was Sarah Handeside. They were both arrested because of vague language. People say that Occupy Wall Street or Occupy encampments are not saying anything. Then I overheard one person say that just being out there holding a sign, not saying anything, is a act of freedom of speech. Eighty percent of language is non-verbal. It's the things that we don't say. Just in honor of that, I have thirty seconds left, I just want to have a moment of silence for Sarah Handeside and Garth Kaiser.

Lyndon Hudson, 320 Ray Dr., Rising Sun, MD, said I'm an Iraq War veteran. I'm also with Walkcupy. The problem that I see with this ordinance, I just see it as another form as taking away and oppressing our freedom of speech. I am not happy with the system the way it is. Everything from the time I started going to school, and everything I learned, is quite contrary to what our country's actually doing now, and what I have witnessed. I have been over there in the waters of the Arabian Gulf. Before me I see an open ocean. Behind me I see oil platforms. I stood there wondering what am I doing there. I still wonder what is going on in this country. Everyone I talk to are not happy with our government, they're not happy with what's going on in our political system. I see these people. I'm here for all of them. I'm here for their freedom of speech. They're addressing their grievances, and they're getting assaulted for it and beaten down. I got beaten down by a police officer for standing up for their freedom of speech, protecting college students in Boston. I've got a scar on my hand for the rest of my life.

Bo Han, 1652 Belmont Creek Pt., said actually, I am a long-time citizen of Charlotte. Love the City; love the sights; love the people here. I am in support of Occupy Charlotte, and I will also say that I'm speaking as an individual. We have a lot of problems in this City and this nation. Every time I pick up the Charlotte Observer, I tend to see problems within the City, and the one that worries me the most is teachers. Every year, it seems that they're about to lose their jobs. And we just saw the boys from the Optimist Bowl, and I was fortunate enough to have a brother to win that several years ago. The teachers there that shape these young men's minds, it's hard to do it when they don't even know if they're going to have a job here in a couple of weeks or a couple of months or next year. Basically, I can't say why I occupy in three minutes, so I'm not even going to go there. But I will say that when I see this prohibition of camping on City property, I will say I will not consider that camping. But I will consider it as showing we're not going anywhere until things change. I want to see change; I know the people here want to see change. Even though the Occupy people might not believe in the Occupy movement, even though still the people that say they don't believe in the Occupy movement, I know they want to see change, too. Thank you for your time and have a great night.

Devin Goins, 435-A Drury Dr., said I'd like to speak tonight, not just as an Occupier, but as a citizen of Charlotte, North Carolina. This ordinance is awful for many different reasons. One of the things that bother me the most is the fact that you want to make camping on City property illegal. I'm homeless. Anywhere I fall asleep in this City, I'm going to be considered camping on City property. I can't help where I fall asleep. I don't have a home to lay my head. This whole thing with making bookbags and all these things illegal, not only am I homeless, but I'm a college student. I keep my books in my bookbag. I keep my personal belongings in my bookbag because people tend to steal from homeless people. I can't help that my livelihood follows me everywhere I go, but once again, that's illegal to you. This just irks me. This is supposed to be a country where we have certain rights and freedoms, but every day, our rights and freedoms are threatened by people who we voted to protect those rights and freedoms. Why do we even vote?

Edith Garwood, 4793 Chesney St., Concord, said good evening, my name is Edith Garwood. I'm not going to go through a lot of what I said because I couldn't say it half as well as the people before me said it. But I did come down here tonight, and left my family with soup on the stove, because I had to stand here just in support of the Tea Party, in support of the Occupy movement, in support of myself, and for you guys. I'll just mention a couple of things that I jotted down that I don't think people have mentioned yet. It might be a little positive way of looking at this. Times person of the year is the protestor. This isn't just the protestor overseas, but here in our own backyard. Those protestors were inspired in part by our long-held democratic values of freedom of speech, association, and due process. I just find it ironic that as people are losing their lives overseas in the struggle to gain basic freedoms, espoused by us as fundamental democratic values, that cities here in the US are actually throwing up impediments

to these very rights for their own citizens. Now there are cities across the country facing the same concerns as Charlotte when it comes to the Occupy movement and other protests, but they haven't passed resolutions with impediments for freedom of speech; but they've actually passed resolutions in support. Irvine, California, was mentioned earlier. Cities and other towns across California, those have passed resolutions in support of the Occupy movement. LA, the second largest city in the US, passed a resolution that said it would 'stand in support for the continuation of the peaceful and vibrant exercise in first amendment rights carried out by Occupy Los Angeles.' Seattle, Washington, a nine-member City Council resolved to support the Occupy Seattle protest. They stress that while condemning any act taken by protestors that would interfere with police, they would actively take steps to address the concerns. 'The city will review its banking and investment practices to insure that public funds are invested in responsible financial institutions that support our community.' Pittsburgh, Chicago, Cleveland passed a resolution supporting the Occupy movements, saying that they recognize and support the principles of the Occupy movement and the peaceful and lawful exercise of first amendment as a cherished and fundamental right in the effort to seek solutions for economically distressed Americans at the federal, state, and local levels. It would also minimize economic insecurity. The City Council was requesting in the resolution that the concerns be forwarded to Congressional leaders and President Obama. The City of Charlotte should not be afraid of protestors or Walkupiers with the upcoming DNC, but be proud of the fact that it was citizens from Mecklenburg County that were brave enough to pass the first resolutions in 1775 that paved the way for the Declaration of Independence.

Charlie Schmidt, 1715 Wilmore Dr., said good evening Mayor, City Council members, my name is Charlie Schmidt. I am a member of the Civil Rights Clinic at the Charlotte School of Law. We've been working closely with the ACLU and the National Lawyers Guild to monitor – especially anti-camping ordinances around the state and around the region. We feel we have concerns with these proposed laws. Specifically, as you know, the first amendment is a fundamental right; therefore, courts look at any sort of regulations upon it with strict scrutiny not wanting those ordinances to be overbroad or vague as member have stated here. Again, the sections in dealing with the pitching of tents, having animals at a protest, having any sort of masks, bike locks, helmets, these things tend to be overbroad, the language is very vague. As we discuss and previous speakers have discussed, it's left to the intent, an intent that is to be determined by police. So if a family comes to a protest or comes to a march or demonstration, there's a kid on a bike with a helmet, the same sort of scenario plays out that others have pointed out. These laws can be interpreted to say I cannot show up at a protest with my helmet, on my bike, with a backpack, which I am frequently around town doing going back and forth to school. Also, instigating a lottery system and the appeals process as it's written within this ordinance, it says that if a permit is denied, the appeals process is internal. It seems very vague and doesn't explain what that means. There could be too much control within one or two City officials, such as the City Manager or the Chief of Police. I know that the NC Court of Appeals has very recently looked at other ordinances and permitting process, and when you limit it or put control into the hands of one or two officials, you can run afoul of fundamental rights and the protections that are afforded there. That bringing up the point of, again, as well as the retroactive nature of this, other cities know the challenges to this have looked at the problems with applying this retroactively; in other words, the Occupy protestors and others already being on site and having that now be retroactively unlawful behavior. What we will be doing with the Civil Rights Clinic, we will be putting our issues into a formal memo and submitting them to City Council. We welcome questions and issues you may have. Thank you.

Keke Hancock, 6008 Florence Ave., said my name is Keara, which is Keke for short. I'm a citizen of the United States, and I am an Occupier and I stay in Charlotte, NC. I have an issue with police officers. It's not so much of who they are personally, it's so much of how they portray themselves as a whole. I don't think they're scared, really, because they have more technology than we have. To enforce the rules of not having bookbags. I can see if we had a gun, but bookbags and locks, etc., I don't approve of that, either. Me, I'm one of the youngest Occupiers. I used to be a problem child, but I've never been in trouble with the law. I try to stay away from police officers because of the authority they try to have, and me personally, I just rather refrain getting into it with them about simple and minor things. I'm not a criminal, I don't use weapons, I would never hurt anyone. But, I fear them personally. I would never call them to help me. When I was a child, they used to be friendly and nice, but as the world goes on, things get different and worse, because I just feel like I just can't deal with them as whole. That is what

they portray to be, more authority than anyone else. They look for the safety of themselves as a whole, as the CMPD group, but they're not looking for the safety of others, I don't think. The rules they want to be implemented is only for their safety. They don't want those items there because of them. It's not because of everyone else. It's just something they don't want. That's how I feel. This is my first time speaking in front of a lot of people. But I think Occupy should stay camped there because it demonstrates, not only for everyone as far as free speech, but it also demonstrates for me because I'm a silent person. But you can actually see what I'm going through. I have to live in a tent. People ask me crazy questions like how do I survive. Are you serious? You have to survive. If you didn't have what you have, what would you do? People don't act like they don't know, and wish they probably don't.

Judson Abraham, said Councilmembers, I want to say that I admire your cleverness in this ordinance, but I do not think that you've really considered what the consequences of this ordinance will be. As you probably know, Obama's record has been a dismal one. We've had free trade agreements he's trying to pass, and in some cases has. We have record deportations. We have drone strikes, and we have numerous other problems with his neo-liberal austerity agenda. As you know, as a result of this, during the DNC, many progressives, probably thousands, are going to come and want to challenge him from the left to try to say this is not really a progressive administration. So you have come up with this scary ordinance with language about gas masks and knives and chains and tripods to ahead of time try to plant this scary image of protestors in the public's mind so that we have this image of all these protestors that they're going to be extremist, violent hoodlums – the word that's previously been used tonight. But I'm afraid that if you really provoke people this way, this bill isn't going to have order; it's going to result in a self-fulfilling prophecy. Because if you break up Occupy Charlotte, you're doing nothing but breaking up the best way to contain the 'hoodlums' because the Occupy general assembly is all about consensus; it's about being organized so we can act as a group. So if you disengage this, it's going to be disorder and you're just going to provoke chaos. You're going to give the 'hoodlums' more leeway if they don't have their fellow activists to try to contain them and make them act more rationally. If you pass this bill, if you pass this blatant act of harassment and provocation, you're going to get Seattle '99. So I propose you do something else a little different if you really want to restrict a protest. You do what the United Arab Emirates does whenever there is an EIDA Five meeting to prevent anti-globalization protestors from coming which is, they just flatly ban all such protests. The only problem with such a provision is that we're technically supposed to be a democracy. I now yield the rest of my time to Scottie.

Mayor Foxx said is there a ruling on yielding time?

Mr. Hagemann said the rules don't provide for yielding time in a public hearing.

Mayor Foxx said first of all, I want to thank all of the speakers. I don't know if you've noticed it, but every time someone's come up to the dais, the first I've said is 'welcome, sir or welcome, ma'am. You are citizens and you do have the right to speak to your government. And I will also say that, as someone who has studied the Constitution and the First Amendment, the one area where government can place limits on speech isn't on the content of the speech, but it is on the time, place, and manner of the speech. That's why the three-minute limitation can apply tonight and that's why we are looking at our ordinances. Speaking of those ordinances, the purpose of the ordinances isn't to change what you think or what you say. The purpose of the ordinances is to protect you, to protect the general public, and to balance those protections with the freedom of speech. There are situations that come up all the time when there are mass protests happening in a particular location. For instance, people who think the exact opposite of what you think, and who are protesting right along beside of you. Words get exchanged and things start to happen and escalate.

Mayor Foxx asked for Scottie Wingfield to leave the building, and she was escorted.

Mayor Foxx said I've heard a lot of the comments that have been made. I've asked the City Attorney to make copious notes of those comments as we've gone along. I think he's got some responses to some of those comments. I'm going to be taking a look at this ordinance based on some of the feedback we've gotten tonight in advance of our conversation on January 23rd. I

want to appreciate the feedback you've given me because it helps me, hopefully, make good decisions as we approach the 23rd.

Mr. Hagemann said we, too, will be taking into consideration the comments that were made tonight. There is something I do want to clarify, both for the Council and for the audience. Charlotte's ordinances right now do not require a permit to demonstrate or protest on sidewalks and City-controlled public parks. As many of you know, the County really has the active recreational parks so they're not under our control. But locations such as two of the quadrants at the Square, the old City Hall lawn, the Government Center Plaza here, as well as all of the sidewalks within the City that parallel streets are traditional public forum, and our ordinances right now give anybody the right to demonstrate or protest 24 hours a day/7 days a week. There is nothing about this proposal that changes that, either tomorrow or during the DNC.

We do require permits under our current ordinance for demonstrations that are going to close a street. Makes sense. You can't just go out without a permit and shut down vehicular traffic in the street. We require a permit to do that, such as for a parade. There's nothing about this proposal that changes any of that. Now, some have characterized something called a free speech zone. At other convention cities in the last three or four cycles, cities have set up a specific place where the city put in a stage and amplification equipment. The city provided that. That was at a location that's relatively near the venue. Obviously, not everybody can use that microphone at exactly the same time. So, what we contemplate doing is having a lottery to access that location. That does not mean that you or anyone else can't express yourself anywhere within the City on public sidewalks, those public plazas, or streets that might be closed for traffic.

Mayor Foxx said that concludes the public hearing part. Obviously, we have to take this up in a couple of weeks. Bob and Curt, I would ask you to take a careful look at what's been said to this point and give us your thoughts on what, if any, changes you would recommend as a result of what we heard tonight.

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POLICY

ITEM NO. 6: CITY MANAGER'S REPORT.

The City Manager had nothing to report.

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BUSINESS

ITEM NO. 7: A LOAN IN THE AMOUNT OF \$658,000 TO THE CHARLOTTE-MECKLENBURG DEVELOPMENT CORPORATION (DBA ROZZELLES FERRY LLC) FOR THE GREENWAY BUSINESS CENTER.

[Motion was made by Councilmember Mitchell, seconded by Councilmember Cannon, to]
[approve the subject loan.]

Councilmember Barnes said this item is for a \$658,000 loan to the CMDC for improvements of the Greenway Business Center. I think they've done some fantastic work. The only reason I wanted to speak to the item is I want to make sure, and it obviously will be up to a future Council, but I would like to make sure that this a loan and not something that will be forgiven in five years, that there won't be a request to forgive. That's happened a lot over the last couple of years with things that previous Councils have done, and then we get a request to forgive a loan to give somebody something. They're borrowing this money from the taxpayers of Charlotte and they should pay it back. Again, I think they're doing great work, but I hope that people appreciate that message.

Councilmember Mitchell said I understand Mr. Barnes' concern, but I cannot predict the future but I will say at least CMDC so far has done an excellent job of redeveloping that corridor. We got exciting news that a dentistry just moved in. Our own Code Enforcement, Walter Abernathy,

has moved in. I do hope that the remaining assets, I think when we look at the value, one of the buildings being \$1 million, the \$685,000 taken out of the business corridor will allow them to achieve development, because, LaWana, we're trying to duplicate what you did at Wilkinson Boulevard. I hope we can continue to move forward and let the Greenway Business Park be a success for Rozzelles Ferry.

Mr. Barnes said I don't disagree. I think, as I said, I do support what they're doing and have supported them since I've been on the Council. I just don't want to set a precedent. I think one is beginning to be set, that all you've got to do is borrow money from the City, and then come back in five years and asked them to forgive the loan, and they'll do it. I don't like that. But I support it.

Councilmember Cannon said just for the record, Madame Clerk, Mr. Mitchell and I both made the motion for it, but you didn't get a second to that. Considering this is Mr. Mitchell's district and he's been championing this along the way, he'd be the maker and I'd be the second.

A vote on the motion to approve the subject loan was taken and carried unanimously.

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ITEM NO. 8: AUTHORIZATION OF THE CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT WITH NEIGHBORHOOD REVITALIZATION GROUP (NRG) TO RENOVATE THE FAÇADE AND PARKING LOT OF THE FOUR SEASONS PLAZA SHOPPING CENTER FOR AN AMOUNT NOT TO EXCEED \$175,000.

[Motion was made by Councilmember Cannon, seconded by Councilmember Barnes, to]
[approve the subject authorization.]

Councilmember Dulin said I plan to vote for this, but I want to check on what we're going to do to track the new tree ordinance, the tree save, and the additional trees. It says in our write-up that NRG's current application includes new façade on three buildings, so that's a percentage of each building that goes, and new signage to comply with current sign standards as well as parking lot renovation including the addition of trees. Of course, they'll have to put the trees in forty feet apart from each other in the parking lot. But with the new façades on the buildings, I want to make sure that we're holding ourselves and holding this project to the same standards that we do the private sector.

City Manager, Curt Walton, said yes sir, we do. And we will monitor that the way we monitor all of our tree ordinances.

Mr. Dulin said this is an interesting case study with three buildings. Does each building kick it in separately or does it go as a lump façade enhancement?

Mr. Walton said does it kick in the tree ordinance; is that your question?

Mr. Dulin said we're going to do three buildings, one would kick it then, but do the three do it separately? How does that work?

Peter Zeiler, Neighborhood & Business Services Department, said the tree ordinance is based upon the actual work being done on the building in terms of changing the physical shape and structure of the building. The work that's being done here does not actually trigger the tree ordinance.

Mr. Dulin said it's changing the façade of these buildings, correct?

Mr. Zeiler said yes, I believe what's happening with the change of the façade, the tree ordinance speaks to physical changing, adding ten percent of the building, changing windows, changing doors. This is simply changing the cladding materials and changing the awnings which does not trigger the ordinance.

Mr. Dulin said that's interesting. So, folks can get around it by not changing anything; just painting it or putting new siding on the building? Are we putting a new roof on these buildings, too?

Mr. Zeiler said no, we are not.

Mr. Dulin said are they going to have to put the trees forty feet apart in the parking lot?

Mr. Zeiler said they are installing new trees and new tree islands. It will be at a standard, slightly lower than the tree ordinance because, again, the tree ordinance is not being triggered. But they are putting in trees and landscaping to enhance the facility.

Mr. Dulin said I would think that we would want to lead by example and put our trees at forty feet in the parking lot like we're asking other folks to do, regardless of whether we're using a loophole to get around the new tree ordinance or not. I would ask our people to do what we ask others to do when it comes to that.

Councilmember Howard said in all fairness, the same loophole that you call it can be used by the development community as well. It's just what is allowed.

Mr. Dulin said well, I'd like for us to lead by example.

Councilmember Barnes said just to be clear, the Neighborhood Revitalization Group is not a City entity. So we don't own this; this is a private entity.

A vote was taken on the motion to approve the subject authorization and recorded as follows:

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

NAYS: Councilmember Dulin.

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ITEM NO. 9: CONCLUSION OF THE CONSENT ITEMS THAT COUNCILMEMBERS PULLED FOR DISCUSSION OR ADDITIONAL INFORMATION.

Mayor Foxx said we have several items that have been pulled. Out of clarification, after we voted earlier to approve Item Nos. 27-E, 27-F, and 27-G, our speaker showed up. I think he's still here.

[Motion was made by Councilmember Howard to reconsider this item.]

Councilmember Dulin said the speaker has been here all night long, and now I don't see him.

Mayor Foxx said we can take it up if he comes back in.

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ITEM NO. 16: CONTRACT TO THE LOWEST BIDDER, OSCAR RENDA CONTRACTING, INC., IN THE AMOUNT OF \$17,634,280 FOR CONSTRUCTION OF THE BRIAR CREEK RELIEF SEWER PHASE II.

Summary of Bids

Oscar Renda Contracting, Inc.	\$17,634,280.00
John D. Stephens, Inc.	\$21,632,411.00
Garney Companies, Inc.	\$23,787,160.00
S.J. Louis Construction, Inc.	\$24,420,555.00
Rockdale Pipeline, Inc.	\$26,988,634.33

Councilmember Mitchell said I pulled this. If y'all could just join me on page 14. Some heartburn I have with this is because the SBE goal was four percent and they only committed to

2.59 percent, and this is a \$17 million project. Then Council, if you read almost like the last paragraph, it says that this company says there's not enough profit margin in the bid to allow additional subcontractors. I find that a little disheartening when the goal was four percent of \$17 million, and we're just asking them to reach that goal and they are using profit as a way of saying they can't hire additional subcontractors. I'm not advocating for us to go to the next bidder, because you can see there's a big difference in range between \$17 million and the next bidder, but somehow staff, we need to explore ways for Oscar to reach four percent. Is this time sensitive? Do we know?

Barry Shearin, Utilities, said it actually has a little bit of time. Our bids would expire in February, so we do have, at least through the next meeting, if there was a need to defer to that point.

Mr. Mitchell said I think if you flip to Attachment 8, staff has identified almost nine different areas for subcontracting. They've only committed to three areas – erosion control, hauling, and sidewalk, curb, and gutter. There are several other opportunities, so for a \$17 million contract, we ought to try to get four percent. Can we go back to them and ask them to be good corporate partners and help out our SBEs?

Mr. Shearin said we can have a conversation with them. I have talked with them some. They said at this point, they just have not been successful in finding an SBE that was cost competitive for their bid. When I've looked at the other bidders, it appears there's really only one other area that other bidders have looked at. I haven't had a conversation with them about that specific area for some fencing. But it looked like out of those other areas, there was only one other one that some of the other bidders tried to pick up.

Mr. Mitchell said if we allow you more additional time, say to defer this to the 23rd, do you think we have a better chance of reaching 4%? At least I'd like to give you the opportunity.

[Motion was made by Councilmember Mitchell, seconded by Councilmember Mayfield, to]
[defer Item No. 16 to January 23rd.]

Councilmember Cannon said my issues were the same as Mr. Mitchell's, except if we're going to vote on this tonight, I'm a 'no' vote, period. But, I'd like to further explore the breakdown of the current \$456,079 that was to be spent for erosion control, for hauling, and for concrete. Right now, all we have is a whole number. I know by percentage what it represents, but I don't know individually, itemized-wise, in terms of what the actual spend is. So, I'd like to be able to see that in a breakdown mode, if at all possible.

Mr. Shearin said I have those numbers tonight, or we can get them to you in writing.

Mr. Cannon said I'm going to support the deferral. Otherwise, I want to come back for public information and go ahead and put it out there if we don't have votes to defer.

Mr. Barnes said in your experience, Mr. Shearin, what sort of profit margins are we talking about?

Mr. Shearin said I couldn't even begin to guess off the top of my head exactly what those numbers are. I've heard different numbers, but they seem to be all over the board. The way these bids are put together, they don't give us any idea as to what profit margins might be. A lot of this is risk-based for the contractors. With these jobs and these types of excavations and the difficulty, we don't know exactly how they price it and where their risks are. Some of the risk is where the profit is. If they guess wrong, the profit margins are pretty low. If they guess correctly, they may have a decent profit margin.

Mr. Barnes said I think to the point that Mr. Mitchell and Mr. Cannon are both making, essentially we are talking about 1.41 percent. They're saying that they can't make an adjustment on that basis which is surprising, I think, to some of us. We'd appreciate your assistance.

Councilmember Cooksey said I'm going to vote no on the deferral because of the evidence I've got in Attachment 8 about what this bidder did in achieving good faith efforts, notification of subcontracting opportunities, SBE contacts, making plans available, breaking down the work,

attendance of pre-bid, conducting a pre-bid for SBEs, quick pay agreements of the construction contract, follow-up contacts, additional SBE outreach, and working with a new SBE. That's what they've done. If they couldn't get it then, knowing that our goal was 4%, I don't how they get it at this point. With a \$3.9 million differential between this bidder and the next, I would rather almost vote to find the other bidder's SBE, cut them a check for \$400 grand to make them happy, meet the four percent, and save taxpayers the remaining \$3.5 million in the differential.

Mr. Cannon said I think it's cute to point that out, however, they didn't make a 100 percent of the good faith effort. If there's room in there to be able to make 100 percent of the good faith effort, then we ought to certainly charge them up to try to make that effort accordingly. Still, I stand in support of the deferral.

Mr. Mitchell said Mr. Cannon said exactly what I was going to say.

Mr. Cooksey said I would just like to point out just for the record in the Minutes, they met our standard of good faith efforts, the standard that the City sets to achieve good faith efforts on this. That's why I will vote against the deferral.

A vote was taken on the motion to defer until January 23rd and recorded as follows:

YEAS: Councilmembers Autry, Barnes, Cannon, Fallon, Howard, Kinsey, Mayfield, Mitchell, and Pickering.

NAYS: Councilmembers Dulin and Cooksey.

Mayor Foxx said that will be taken up on the 23rd.

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ITEM NO. 18: APPROVAL OF A \$150,000 CONTRACT WITH GOODWILL INDUSTRIES OF THE SOUTHERN PIEDMONT FOR MAYOR'S YOUTH EMPLOYMENT PROGRAM JOB READINESS TRAINING AND YOUTH WORK EXPERIENCES FOR FY2012.

Councilmember Mayfield said I have a question regarding the allocations. It was noted that there were some inefficiencies, so I was wondering do we have a plan in place to insure that those inefficiencies are met and/or exceeded moving forward.

Mayor Foxx said do we have staff reaction to that question?

City Manager, Curt Walton, said in the write-up we provided, the problem was in the transportation model.

Tom Warshauer, Neighborhood & Business Services, right, what we have learned as we've been working with training youth to really participate in the Mayor's Youth Employment Program is that they really do need some help in being prepared to interview for jobs and to be trained. Previously, we've offered that training at Goodwill. What we had heard from a lot of the youth was that getting to Goodwill was a problem. What we've done in this contract, we have taken the training now to the high schools; Goodwill is going to the ten high schools that we are really focusing on, as well as some of our other partners, like Carowinds, is also doing this. They're getting trained at the school after school. Much easier for the kids to get there, they're already there. Already, we're seeing a lot more participation in our programs by taking the training to the kids. It also ends up being less expensive for us to work in that manner.

Ms. Mayfield said the second part to that question – we are tracking the fact that we have been able to outreach to more children by taking it into the schools now?

Mr. Warshauer said yes, absolutely. We're seeing more kids signing up, more kids interested, and we're seeing more people coming out for this. Our partners that we work with that make the referrals to the program also wanted us to do it this way, too. So, we went back and said – what are the learning, how can we improve the program – and this is one of the ways they suggested that we improve the program.

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

Mayor Foxx said let me also say to staff, this youth services stuff has been a lot thornier as we've gotten into it, but I have to tell you that you guys are doing a good job of trying to get your arms around it, so I want to encourage you to keep wrestling with it. It's important to the City.

A vote on the motion to approve the contract was taken and carried unanimously.

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ITEM NO. 19: APPROVAL OF AN AMENDMENT TO THE COMMUNITY LINK CONTRACT ADDING \$122,316 FOR THE POST HOME OWNERSHIP COUNSELING ACTIVITIES PREVIOUSLY PERFORMED BY UNITED FAMILY SERVICES. THE NEW CONTRACT AMOUNT FOR FY2012 WILL NOT EXCEED \$332,316.

Councilmember Barnes said I pulled this item, Mr. Mayor, and the City Manager has, I believe, agreed to provide me with a report. I wanted to get some information regarding success stories for United Family Services in their placement efforts, and also with regard to Community Link, and I think he's going to get something for me.

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

Councilmember Mayfield said the question I have regarding Item #19 was whether or not there are any costs associated to the actual clients. With the amount that we are granting to this organization, I wanted to get an idea of the out-of-pocket costs for the actual client and making sure that it is a realistic cost for those that may or may not be able to sustain that charge, if there is one.

Pamela Wideman, Neighborhood & Business Services, said the clients are charged a \$75.00 fee that is for both pre- and post-homeownership counseling, so that's a one-time fee of \$75.00.

Ms. Mayfield said is that amount due all at once or do they have a chance to make payments on that \$75.00?

Ms. Wideman said that amount currently is due up front.

A vote on the motion to approve the subject contract amendment was taken and carried unanimously.

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ITEM NO. 22 (A) REJECT LOW BIDS SUBMITTED BY AMICK, C.E.S, CHARLOTTE TRUCK CENTER, AND GPS MARKETING THAT DID NOT MEET SERVICE REQUIREMENTS FOR SPECIFICATIONS OR PERFORMANCE, AS ALLOWED BY NORTH CAROLINA GENERAL STATUTES 143-192 (b), (B) AWARD OF LOWEST RESPONSIVE BID UNIT PRICE CONTRACTS FOR THE TERM OF ONE YEAR TO AMICK EQUIPMENT, INC. AND SOUTHERN TRUCK SERVICE, INC. FOR VARIOUS HEAVY EQUIPMENT ITEMS USED IN THE DELIVERY OF SOLID WASTE SERVICES. THE FY2012 EXPENDITURES ARE ESTIMATED TO BE \$1,682,075, AND (C) AUTHORIZATION FOR THE CITY MANAGER TO EXTEND THE CONTRACTS FOR FOUR, ONE-YEAR TERMS WITH POSSIBLE PRICE ADJUSTMENTS AS AUTHORIZED IN THE CONTRACTS.

Summary of Bids

Amick Equipment (New Way)	\$814,855
Amick Equipment (Loadmaster)	\$1,607,841
Southern Truck Service	\$840,862
Charlotte Truck Center (Bid 1)	\$1,148,091

Charlotte Truck Center (Bid 2)	\$387,195
GSP Marketing	\$397,715
Carolina Industrial Equipment	\$871,200
Carolina Environmental Systems	\$1,230,395

Councilmember Barnes said I pulled this item because I wanted to clarify for what appeared to be an inconsistency regarding the names of the entities that were bidding on the project. I have received a satisfactory response to my question.

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

* * * * *

ITEM NO. 25 (A) RESOLUTION AUTHORIZING AN EXCHANGE OF REAL PROPERTY RIGHTS BETWEEN THE CITY OF CHARLOTTE AND WF SILOS, LLC OR AN AFFILIATE THEREOF (DEVELOPER) INVOLVING TAX ID NUMBERS 14701724 AND 14701737, AND (B) AUTHORIZATION FOR THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS TO COMPLETE THE EXCHANGE OF LAND RIGHTS BETWEEN THE CITY OF CHARLOTTE AND DEVELOPER.

Councilmember Mayfield said my question is whether or not it meets our mixed income goals. I want to make sure that there is an understanding that mixed income housing and an opportunity for us not to have just a certain segment of the community that has access to the housing close to the light rail, that that was addressed or at least conversation was being had.

Tina Votaw, Charlotte Area Transit, said staff absolutely understands the importance of mixed income housing. In this particular transaction, the affordable housing policy isn't triggered because the developer did not ask for any incentives. This is all privately financed. So, in this particular case, this will be market rate housing, but we will continue to converse with developers up and down the alignment to that end.

Ms. Mayfield said I appreciate that; it was more for clarity for the constituents so that they know.

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

This resolution is recorded in full in Resolution Book 43 at pages 475-476.

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ITEM NO. 27-E: RESOLUTION OF CONDEMNATION OF 216 SQUARE FEET IN SIDEWALK AND UTILITY EASEMENT, PLUS 456 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT, AT 613 MCDONALD AVENUE, FROM BOYD P. FALLS AND WIFE, MAXINE G. FALLS, AND ANY OTHER PARTIES OF INTEREST, FOR \$2,275 FOR MCDONALD AVENUE SIDEWALK, PARCEL #22.

ITEM NO. 27-F: RESOLUTION OF CONDEMNATION OF 656 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT, AT 525 MCDONALD AVENUE, FROM BOYD P. FALLS AND WIFE, MAXINE G. FALLS, AND ANY OTHER PARTIES OF INTEREST, FOR \$1,975 FOR MCDONALD AVENUE SIDEWALK, PARCEL #27.

ITEM NO. 27-G: RESOLUTION OF CONDEMNATION OF 334 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT, AT 421 MCDONALD AVENUE, OWNED BY BOYD P. FALLS AND WIFE, MAXINE G. FALLS, AND ANY OTHER PARTIES OF INTEREST, FOR \$1,075 FOR MCDONALD AVENUE SIDEWALK, PARCEL #35.

Mayor Foxx said for Item Nos. 27-E, 27-F, and 27-G, which were previously approved unanimously, the speaker has returned.

[Motion was made by Councilmember Howard, seconded by Councilmember Barnes, and]
[carried unanimously, to reconsider Item Nos. 27-E, 27-F, and 27G.]

Boyd P. Falls said I appreciate the opportunity to discuss my concerns on the proposed sidewalk on McDonald Avenue off of South Boulevard and near the Atherton Mill area and the old Griffith Park ball field area. There are two issues involved. One is the appraisal done for the City, whereby the land was appraised at \$175,000. The City Tax Department said it was valued at \$200,000 as of January 1, 2011, and also, according to the City records, as of today. Having some knowledge of appraisals from my real estate brokerage courses, I feel the appraiser for the City low-balled the appraisal by 12-1/2 percent. The value went from \$200,000 down to \$175,000. I understand three to four percent is the norm leaning one way or the other. The reason for the appraisal is because the City wants to take part of the small yard for a sidewalk. If they pursue that route and go around two deformed trees at the edge of the road, that would place the sidewalk within approximately twenty-three feet of the front door step. People walking their dogs through about one-half of the yard, not a large yard, and therefore, people don't always carry plastic bags. One does not have to have five to six feet of grassy area from the road to the sidewalk and does not have to have a five-foot sidewalk. According to my last check, ADA says a minimum of three feet with a turnaround every 200 feet. If the sidewalks were three feet, a lot more sidewalks could be built in Charlotte. Also, I'm told that five feet was not mandated by the City Council, though recommended where possible. Also, frontage for our property is more valuable than other parts of the land. Developers assign a higher price to frontage lots than others, depending upon the view. This is called the Relative Sales Method. In this case, the appraiser took the total square foot of the lot and divided by the appraised value to determine the value of the square footage to be taken by the City. I disagree with this method. Using the City's value of \$200,000 and the appraiser's calculations, the damage would be more than what is being offered for the property.

The second issue is two abnormally-developed trees. Please note that the trees are top heavy with the limbs leaning toward the road. That's because a much larger tree of approximately eighty-nine inches or about 7-1/2 feet in circumference is located on the other side closer to the dwelling, keeping the other two trees from fully developing. I ask the City to cut down the two abnormally-developing trees because they are unhealthy, and a strong wind could cause them to topple and perhaps hit a car with passenger(s). This is what happened near East Boulevard and Asheville Street last year when a tree fell and killed a lady from Matthews. I heard there had been a law suit filed against the City over that incident. This situation on McDonald is a health hazard and an accident waiting to happen. I like trees as much as others. Please note I planted a small tree in the yard several years ago. In closing, I request Council to consider having the abnormal trees removed or pay me a fair price for the taking of my land. You are elected to protect us from big government. Thank you for your time and consideration.

Councilmember Cannon said regarding the last statement you paid with regard to paying you what you feel are due, what, sir, if your mind, would that be of these properties?

Mr. Falls said I told the representative, if you are going to take that and cut down on my yard space, it's frontage property, then I felt like I should be paid \$10,000 for it.

Mr. Cannon asked for a staff response to Mr. Falls' suggestion, and any other overview that the staff would like to present.

City Manager, Curt Walton, said we don't get into issues of price here. That is what the condemnation is for, the courts will determine the fair value.

Mr. Cannon said depending upon what we hear back from staff, we could suggest some level of deferral. And then in turn ask that the City go back to meet with our constituent for further deliberations or negotiations.

Mr. Jeff Reid, Real Estate, said I would simply point out that we have reached an impasse with regard to compensation on this item. Condemnation is the venue and forum where that impasse is resolved. Whether or not we would be able to meet with Mr. Falls further and make any progress, I'm unsure of. We're certainly willing to take a stab at that if this body feels that is the appropriate thing to do.

Mayor Foxx said you're saying that it's not mutually exclusive to go ahead with the condemnation action today, you will continue on that pathway, but you could still have negotiations?

Mr. Reid said we always continue to negotiate until an actual condemnation is filed. However, we would recommend that the condemnation be filed to give us the right, in the event that we are unable to come to terms. What the condemnation actually does is give him the right to a 3rd party, independent hearing. It's an opportunity for him to get a fair hearing.

Councilmember Kinsey said have we had an arborist to look at those trees?

City Engineer, Jeb Blackwell, said yes we have. Don McSwain has looked at those trees, and he's indicated they are in excellent health.

Councilmember Barnes said correct me if I'm wrong, but the fee simple take is 216 square feet?

Mr. Reid said on one of the properties, yes sir.

Mr. Barnes said the others appear to be temporary construction easements. What's the amount of land that we're actually proposing to take permanently?

Mr. Reid said on number E, it's 216 square feet of permanent sidewalk and utility easement. Everything else is temporary.

Mr. Barnes said so it's .005 in fee-simple taking?

Mr. Reid said yes.

Mr. Barnes said for clarification, you've offered approximately \$5,000 for the temporary taking plus the permanent 216 square feet?

Mr. Reid said that is correct.

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

Councilmember Mayfield said just so I'm clear, before that motion was made, were we not looking at a possible deferment to have a little more time for clarity on this?

Mayor Foxx said there was conversation about that, but no one made a motion for that.

Councilmember Dulin yielded to Councilmember Cannon.

Mr. Cannon said it sounded like an aside bar conversation that folks are not too far removed from having the idea of a deferral for staff to try to have some level of further negotiations with this constituent. And it was my hope that we may be able to go into that direction. My fear is that we don't go into that direction, once this body takes this action, that third party opportunity for him to appeal and go through that process, he's not going to win that. My opinion is that he may not prevail. I would feel much better if we gave him an opportunity to be able to negotiate just a little bit longer with staff, and then in turn, hopefully come to some level of a resolution, and hope that it's not a true impasse where nothing can be done. But, yet sir, you can find somewhere within you to accept maybe other terms that could be at the forefront to consider. I just don't want this to get so far down the road where we make a decision, and he really doesn't have an opportunity to be able to participate in having a chance to be warranted of something better than he's getting right now.

[A substitute motion was made by Councilmember Cannon, seconded by Councilmember]
[Dulin, to defer the subject condemnation resolutions to January 23rd.]

Mr. Cannon said in terms of a timeline, you all have been at this for how long?

Mr. Reid said months.

Mr. Boyd said it hasn't been very long, sir.

Mr. Reid said it took a long time before we were able to make contact with Mr. Falls. He had authorized his wife to negotiate on his behalf. She chose not to do that for whatever reason. Finally, we were able to contact Mr. Falls. I would point out that once we have commissioned an appraisal, there is a limit on how much flexibility that we have.

Mr. Dulin said obviously, since I seconded it, I'm going to support the deferral. With all due respect Ms. Kinsey, the District Rep, I did meet Falls out there one day several months ago. It was way before Christmas with some of our arborist folks, with some of our sidewalk folks – a whole big crowd of people. As far as I can tell, this is a needed sidewalk project. There'll be a curb on a road that there's no curb on. The neighborhood is all for it. Ms. Kinsey has spent many, many hours, as we all do in things like this. Mr. Falls has got a problem with this sidewalk meandering through his yard. Our arborist said they're healthy trees, he says they're not healthy trees, but meandering around these two trees and coming 23 feet from his front door. When you stand in this man's yard, you can see this. It's 23 feet from me to Curt; that's close. I'm going to support the deferral to see if we can't come up with some other thing. He'd just soon have the trees come down and keep the sidewalks going straight down the side of the curb with a planting strip. They're his trees; they're on his land. Somebody mentioned to me they belong to the neighborhood, but he's been paying the taxes for them all these years. I'm going to support the deferral.

Mr. Barnes said my primary reservation is paying the equivalent of \$2 million an acre for land. That's why I'm not doing it. I think the \$5,000 is fair; I'm not going to be willing to pay \$2 million an acre.

Councilmember Kinsey said I want clarification. Are these trees in the City's right-of-way?

Mr. Reid said yes.

Mr. Dulin said I stand corrected.

Ms. Kinsey said I just wanted to make sure. That's what I thought. I'm fine with the deferral if that's the wish until the next business meeting. But I do have some questions as to whether or not we can come any closer. But I'm certainly willing if that's the wish of the Council.

Councilmember Cooksey said I'm going to regret asking this question, but I'm going to do it anyway. Can't we cut them down like we did on Park Road? I seem to recall that we cut trees down on Park Road for a sidewalk; can't we cut these down if they're that close?

Mr. Blackwell said we have cut down trees on Park Road where we had to cut trees down. We absolutely spent a lot of money minimizing that cutting down of trees. Trees are a high value throughout the City, and certainly the Dilworth neighborhood, and so when it's just a small amount of moving the sidewalk to protect the trees, we're spending extra money to put in bridging so that we can get closer to the trees, minimize that. We're structurally suspending the sidewalk to protect the roots and try to represent the values. Yes we could. We do occasionally, but we try very hard not to do that.

Mayor Foxx said we have a motion for deferral. If the deferral fails, we have a motion to approve the action as stated.

A vote was taken on the motion to defer Item Nos. 27-E, 27-F, and 27-G until January 23rd and recorded as follows:

YEAS: Councilmembers Autry, Cannon, Cooksey, Dulin, Fallon, Howard, Kinsey, Mayfield, Mitchell, and Pickering.

NAYS: Councilmember Barnes.

* * * * *

ITEM NO. 27-H: RESOLUTION OF CONDEMNATION OF 6,823 SQUARE FEET IN EXISTING RIGHT-OF-WAY, PLUS 167 SQUARE FEET IN STORM DRAINAGE EASEMENT, PLUS 3,435 SQUARE FEET IN TEMPORARY CONSTRUCTION EASEMENT, AT 5006 GRAPEVINE DRIVE, FROM TRUSTEES OF ALDERSGATE METHODIST CHURCH AND ANY OTHER PARTIES OF INTEREST, FOR \$1,125 FOR NATIONS FORD ROAD SIDEWALK/BIKELANE, PARCEL #29.

Councilmember Mayfield said I pulled this one, but staff was able to answer the question that I had earlier, which was a question around the acquisition.

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

The resolution is recorded in full in Resolution Book 43, page 479.

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NOMINATIONS TO BOARDS AND COMMISSIONS

A. Fireman's Relief Fund Board of Trustees

The following nominations were made for one appointment for a two year term beginning January 29, 2012:

C. Harley Cook, nominated by Councilmembers Autry, Barnes, Cannon, Cooksey, Fallon, Howard, Kinsey, Mayfield, Mitchell and Pickering

[Motion was made by Councilmember Barnes, seconded by Councilmember Kinsey, and]
[carried unanimously, to appoint Mr. Cook by acclamation.]

B. Historic District Commission

The following nominations were made for one appointment for an unexpired term for a Business Owner in Dilworth beginning immediately and ending June 30, 2014:

Dominic Ristaino, nominated by Councilmembers Autry, Barnes, Fallon, Howard, Kinsey, Mayfield and Pickering.

[Motion was made by Councilmember Mitchell, seconded by Councilmember Kinsey, and]
[carried unanimously, to appoint Mr. Ristaino by acclamation.]

C. Privatization and Competition Advisory Committee

The following nominations were made for three appointments for two year terms beginning March 2, 2012:

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

Mayor Foxx said these nominations would be taken up the next time.

D-1. Transit Services Advisory Committee

The following nominations were made for one appointment for a three year term beginning February 1, 2012 for an employee of a suburban employer served by CATS; and a second three-year term beginning February 1, 2012 for a Neighborhood Organization Leader:

Employee of a suburban employer served by CATS:

Eric Sanderson, nominated by Councilmembers Autry, Barnes, Cannon, Cooksey, Dulin, Fallon, Howard, Kinsey, Mayfield, Mitchell and Pickering.

[Motion was made by Councilmember Barnes, seconded by Councilmember Kinsey, and]
[carried unanimously, to appoint Mr. Sanderson by acclamation.]

Second three-year term for a Neighborhood Organization Leader:

John Murphy, nominated by Councilmember Howard
Michael Warner, nominated by Councilmembers Autry, Barnes, Cannon, Cooksey, Fallon, Kinsey, Mayfield, Mitchell and Pickering.

[Motion was made by Councilmember Barnes, seconded by Councilmember Mitchell, and]
[carried unanimously, to approve appointments by acclamation.]

E-1. Zoning Board of Adjustment

The following nominations were made for one appointment for a three-year term beginning January 31, 2012 for a regular member; and two appointments for three-year terms beginning January 31, 2012 for alternate members:

Councilmember Mitchell said Ms. Price, you all received a message from the chair of the ZBA about one of the permanent positions. Can you share that with us?

Deputy City Clerk, Ashleigh Price, said we were anticipating a letter of support from the Chairman of the Zoning Board of Adjustments. However, we have not received that letter in our office as of yet, for Ms. Jennifer Coble.

Mr. Mitchell said did he make a call to the office?

Ms. Price said no, he did not, not to our office.

The nominations for Regular Member were:

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

Nominations for the two Alternate Members were:

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

Mayor Foxx said we will take this up the next time.

* * * * *

MAYOR AND CITY COUNCIL TOPICS

Councilmember Howard said I want to take a minute to recognize both the Mayor and City Attorney. I don't know about you guys, but I was really proud earlier about the way they both handled the folks that came down. Bob, you couldn't have done a better job explaining it. Mayor, I don't think you could have done a better job of framing it. I wanted to recognize that before we went on. Then, I need to be a father and recognize my daughter. I'm looking straight into the camera. It's not only Councilmember Mayfield's birthday, it's my daughter's birthday, too. Happy birthday, Shauna, I love you, I'll be home soon.

Councilmember Mitchell said let me thank Ruffan Hall and City Manager Walton, because today at lunch time, I asked if they could provide at our dais the up and coming activities for the Martin Luther King holiday celebration in our great City of Charlotte. Just for the viewers out there, on Thursday at West Charlotte High School from 6:00 to 8:00 p.m., there will be the writing and art contest. Saturday, January 14, at 11:00 a.m., there's the MLK holiday parade. On Sunday, January 15, at 2:00 p.m., there's a memorial and a wreath laying ceremony. Then, we have the H.L. McCrory Family YMCA annual MLK holiday breakfast at 7:00 a.m. at the Westin Hotel. So, just to share that with the viewers and the citizens of Charlotte.

Councilmember Dulin said this is an uncomfortable subject that I need to bring up. I'd like to ask the City Attorney to report as it relates to a recent email that was sent out from a employee in China back to America to the International Cabinet. The term 'extortion' was used, and we got a ruling about the term extortion as it relates to the law. I think that was General Statute 14-118.4. I'd also like to have another statute looked at in a report; I think it's a different one – the General Statute 14-118. It concerns demanding valuables without reasonable cause. I'd like to get a report on that. There are a lot of questions that we haven't had answered on this thing. I've had a conversation with the City Manager, and it troubles me because of the decades-long clean government that we've had here in Charlotte. This is uncomfortable for me to even bring up, because it's a tough subject. But, this was, I thought and think, heavy handed. I thought it was intimidating. I'd like to have somebody ask some questions to the International Cabinet. They voted unanimously, I thought correctly, not to spend additional tax dollars before their trip. Then they received this email during the trip which, by the way, I think was a great trip. As the City of Charlotte, we need to be in the sales business. We needed folks there selling to the Chinese, increase our international community, increase our manufacturing. I think the Mayor is a great sales guy, and it's hard work to go over there and be away from your families that long. It's hard work on everybody, not just the Mayor. I think they did a good job over there. But this email was sent from China back to America, and they came home and then the International Cabinet got together and voted 5-1 to spend the additional tax dollars. Something changed their minds. We've got to have that conversation if the people that we report to want to trust us to be transparent in what we do. If they want to trust us to come down here and make good decisions, we did a great job, the Mayor actually, did a great job tonight in handling 32 speakers, and I'm proud of what happened here tonight. I'm not proud of what came back in that email from China. It makes our body look bad and it makes our City, in my opinion, look bad. I'd like to have some more discussion about General Statute 14-118.4, and then General Statutes 14-118. I assume they're different or different parts of the same one. I'd also like to know if we've talked, actually, I know we haven't talked with the International Cabinet. and nobody's asked them why they changed their vote. Working on Mr. Falls' sidewalk project is what we ought to be doing and not having to worry about non-transparent, heavy handed government.

Councilmember Mitchell said I'd like to offer kind of a different opinion, even though I respect Andy for his concern. Manager Walton, I am satisfied with the actions you took with this personnel matter. When the voters sent me down here, they told me to concentrate on policy. We have trusted in you when it comes to personnel matters. If we're going to move forward on the things that Mr. Dulin has stated, I'd like for the whole Council to weigh in and make sure it's the action of full Council and not just one particular Councilmember. I hope we can get back and rely on public policy and do what the citizens sent us here for and not get into personnel matters.

Councilmember Barnes said I have not had a chance or taken the opportunity to speak out publicly on that episode. Mr. Dulin, I would say that as I understand, Manager correct me if I'm wrong, but a 3-day suspension is the next step before termination. Is that true?

City Manager, Curt Walton, said there are a number of steps. That is one that could be considered, but there's no prescriptive answer that something precedes termination.

Mr. Barnes said I thought that what occurred was egregious; it did in my opinion, Andy, make the City look bad in some respects. I received, and I think a number of people received, an apology note from the young lady who did it. If the Manager had chosen to terminate her, that would not have bothered me. But I respect the form of government that we operate in, and I trust this man to make good decisions with respect to his staff people, who report to us indirectly through him. While I don't necessarily like the outcome, I am comfortable moving on, primarily because of the whole host of issues that we're going to be dealing with over the next months. I recognize that the CRVA thing kind of got some things started around here in terms of how we approach dealing with other people's problems; in this case though, while it does bother me, I understand that we have some serious budget issues that are coming up. We've got to continue to deal with DNC related issues. There are other things that are a greater priority for me than dealing with this HR issue. What I'm concerned about, though, is whether, Mr. Hagemann, the four-hour rule will be triggered with Mr. Dulin's first request, his current request, and, I believe, this request to talk to Board members or people at the CIC. At what point does the four-hour rule trigger?

City Attorney, Bob Hagemann, said Mr. Barnes, I responded initially at the request of the City Manager as he was working through a personnel issue. I would feel uncomfortable moving forward beyond that unless the majority of the Council asked me to proceed. I should also add that my advice to Mr. Walton was in the context of him dealing with the employee. I have no jurisdiction over criminal prosecution.

Mr. Dulin said can I put that in the form of a motion?

Mayor Foxx said yes.

[A motion was made by Councilmember Dulin, seconded by Councilmember Cooksey,]
[to ask the City Manager to take a second look at the terminology and the general]
[statutes concerning extortion and have a conversation with the International Cabinet to]
[ask them questions about 'why did you vote unanimously not to fund, you got the email,]
[then you voted 5-1 to fund.']

Mayor Foxx said Curt, do you have anything?

Mr. Walton said no, I agree with most of the comments. Mr. Dulin and I have talked, and I respect his opinion, but I think it's time to move on. I think the magnitude of this has become skewed. I think it's important to move on. If moving on includes what Councilmember Dulin has suggested, then we certainly will go about doing that. If it doesn't, and as I've told Mr. Dulin, I consider the matter closed from a personnel perspective. So, if you decide not to move forward with this, I think we would consider the whole episode closed.

Mayor Foxx said I find it hard to believe that anyone would be more bothered by this than me. This was a situation that was, I agree with the word that Mr. Barnes used, egregious. The thing I have been turning over in my mind is the fact that clean government doesn't mean mistake-free government. It means that when something happens, it's brought to light, it's dealt with, and there's closure. In this situation, within hours of finding out about it, it was produced to the public, there was a call for looking into it by the City Manager, the City Manager did it over the holidays. There were emails flying around on Christmas Eve. The City Attorney took a look at this stuff, and a decision was made the following week, and a punishment was meted out. In our form of government, we defer the decision about this stuff to the City Manager; that's the way it works. He knows that had he done whatever, even to the fullest extent, it would have been supported by me, and probably by the Council. We have to rely on him. Let me say one other thing. Tracy made a huge mistake; she knows she made a huge mistake. I got a call about this email while I was out of town three Wednesdays ago. I was just absolutely disappointed and

shocked by it. She went and explained herself in a letter I think all of you have seen. Within hours of that, it was produced. We can beat a dead horse ad infinitum or we can do the work the people elected us to do. As far as I discern, I think the most significant punishment that she's experienced has been being drug through the media, the paper, and everything else. I dare say you won't see anything like that come off of her email system again, which is, I think, what our goal is. Anyway, you can take this vote, but I think closure is important, and there's not one ounce of this that's been covered up. By the way, on the International Cabinet, I have had discussions with the International Cabinet as recently as last week. I think things are going to be just fine there. There are issues that I'd be happy to talk with you about at any time. This trip was a little bit like planning a wedding. There were some areas where the rules of the road weren't at all clear, and one of the things the Cabinet is working through is trying to provide clarity for the next time this type of international travel occurs. I think that's in the best interest of everybody, to have certainty around those things. At any rate, let's go ahead and have a vote on this, and see where it goes.

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

YEAS: Councilmember Dulin.

NAYES: Councilmembers Autry, Barnes, Cannon, Cooksey, Fallon, Howard, Kinsey, Mayfield, Mitchell, and Pickering.

Councilmember Cannon said Manager Walton, I've gotten several questions prior to this meeting in regard to just a few items on the agenda. It centers around small business opportunity. Typically, when our write-ups come, it might reference a section with regard to the SBO policy, regarding the section per se. For instance, one might read no SBO goal was set for this contract because subtracting opportunities were not identified. And in parentheses, it will be Part C, Section 2.4 of the SBO policy. No one, especially the members that are new, know what Section 2.4 of the SBO policy happens to be. The question on the table is, is it too much labor to be able to put into the agenda when we receive them, if there's a section that has to be specified, actually to have that laid out in black and white in terms of what that section actually says within the policy?

Mr. Walton said it's not too much labor; it may be too much volume. I don't know that answer. I would be glad to look at it.

Mr. Cannon said if you don't mind just trying to measure that and if we can't do it, that's fine, we'll just have to tuck a book under our arms and wade through it. But, we certainly appreciate that.

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ADJOURNMENT

The meeting was adjourned at 9:19 p.m.

Ashleigh M. Price, Deputy City Clerk

Length of Meeting: 3 Hours and 24 Minutes
Minutes Completed: February 16, 2012