

April 20, 1955
Minute Book 36, Page 10

A regular meeting of the City Council of the City of Charlotte, North Carolina, was held in the Council Chamber, City Hall, on Wednesday, April 20, 1955, at 11 o'clock a.m., with Mayor pro tem Smith presiding, and Councilmen Albee, Baxter, Brown, Boyd, Dellinger and Wilkinson present.

Absent: Mayor Van Every.

INVOCATION.

The invocation was given by Councilman Claude L. Albee.

MINUTES APPROVED.

Upon motion of Councilman Brown, seconded by Councilman Wilkinson, and unanimously carried, the Minutes of the last meeting on April 13th were approved as submitted.

ORDINANCE NO. 254 AMENDING ZONING ORDINANCE CHANGING ZONING MAP FROM RESIDENCE-2 TO BUSINESS-1 ZONE ON VACANT LOT AT NORTHWEST CORNER OF 34TH STREET AND THE PLAZA, ADOPTED.

At the scheduled hearing on the petition of Mr. J. H. Headen for a change in zoning from R-2 to B-1 on a vacant lot at the northwest corner of 34th Street and The Plaza, Mr. Parker Whedon, Attorney, appeared before the Council and stated that he represents property owners who protest the change. He presented the following petition, which he stated was signed by 100% of the owners of adjoining property on The Plaza, 34th Street and across the street:

"Charlotte City Council
Charlotte, N. C.

We the undersigned do protest the rezoning of corner lot at the Northwest Corner of 34th. Street and the Plaza from Residence 2 to Business 1 for the following reasons:

1. The property is located in a residence 2 district, and granting the request would constitute "spot" zoning.
2. The property is immediately adjacent to a substantially new residential development consisting of nice homes.
3. Granting the request would work a hardship upon adjoining and neighboring property owners individually and as a whole.
4. The proposed change is not for the further growth and welfare of the City of Charlotte.
5. There is amply Business 1 property in the vicinity to adequately serve the requirements of the residents.

<u>NAME</u>	<u>ADDRESS</u>
John P. Marren	3115 The Plaza, Charlotte
Mrs. J. Clyde White	3021 The Plaza
J. Clyde White	3021 The Plaza
Mrs. Annie M. Massey	1227 E. 34th St.
Mrs. W. F. Mungo	1227 E. 34th St.
Florine W. Marren	3115 The Plaza
Mrs. Carl Wilson	3115 The Plaza
Mrs. James Barton	3109 Plaza Road
Paul E. Craft (owner)	3109 The Plaza "

Mr. Whedon asked that the Council not give consideration to the recommendation of the Zoning Board for the change, for the following reasons:

That the hearing before the Zoning Board on March 8th was on the petition of Mr. Barron Phillips and the Minutes of the meeting do not refer to Mr. Headen at all.

That Mr. Tom Ruff, an attorney, who is a member of the Zoning Board, vigorously argued in favor of the change at the hearing; however, he disqualified himself from voting on the matter as he had represented Mr. Phillips in other matters; However, it is felt that his discussion of the subject carried weight with the other members.

That the Minutes of the meeting recite that Mr. Phillips appeared at the hearing and stated the property had no residential value; however, it now appears that just one month previous he had sold the lot for an amount in excess of \$8,000.00 to Mr. Headen, while it was zoned for residential purposes.

That the lot was sold to Mr. Phillips by Mr. Roy Davis, and on December 6, 1949, during Mr. Davis' ownership he petitioned the Zoning Board for a change from R-2 to B-1 which was denied, and the Minutes of the meeting recite that such change would constitute spot zoning; would work a hardship on the adjoining property owners and that there was adequate business in the area to serve the residents. Mr. Whedon declared that all of these facts hold true today the same as in 1949.

That the property was zoned for residential purposes when it was purchased by both Mr. Phillips and Mr. Headen and he does not feel that zoning speculations should be for the detriment of the residents of the city.

Mr. J. M. Scarborough, attorney, representing the petitioner, Mr. J. H. Headen, stated that the original petition was signed by both Mr. Phillips and Mr. Headen but at the time of the hearing before the Zoning Board the property was still owned by Mr. Phillips, however it was in the process of being sold to Mr. Headen, which the Board understood. That the property was not sold for any \$8,000.00 as stated by Mr. Whedon, because he handled the sale himself. He stated further that some of the signers of the petition presented today are not owners but tenants of the owners.

Mr. Whedon replied that this is true; however, the petition is signed by all of the property owners as well as some of the tenants.

Mr. Scarborough stated further that there are only two houses in the block and a large number of business establishments and several service stations, which he enumerated, many of which have been built in the last several months. That the property is practically worthless for residential purposes as it is completely surrounded by business.

Mr. Scarborough stated further that Mr. John Marren, who resides in the block, was the only objector to the change at the hearing before the Zoning Board; that Mr. Marren objected when a change in zoning from R-2 to B-1 was made by the Council in 1952 on the corner lot at The Plaza and 35th Street and brought suit in the matter, however the Council's decision was upheld by the Courts.

Mr. Marren spoke to the question, stating that he has an investment of \$10,000.00 in his property, which will be greatly depreciated if the change is granted.

Councilman Boyd moved that the recommendation of the Zoning Board be adopted and the property be rezoned as B-1 and the ordinance effecting the change be adopted. The motion was seconded by Councilman Baxter, and carried, with the votes cast as follows:

- YEAS: Councilman Baxter, Boyd, Brown, Dellinger and Wilkinson.
- NAYS: Councilman Albea.

April 20, 1955
Minute Book 36 - Page 12

Mr. Whedon called to the Council's attention that it is necessary to have a vote of 75% of all the members of the Council to effect a change where 20% of the property owners object to the change and the five affirmative votes do not constitute this.

It was pointed out by Mr. Yancey, City Manager, that the petition does not state the percentage of property owners signing it, neither was a map presented showing the front footage of the property owners so signing.

Councilman Boyd offered the opinion that the 3/4 rule does not apply as it was not stated by Mr. Whedon that his petition was based on this rule until after the vote was cast; therefore his discussion is out of order as the matter has been settled by the Council, and the petitioner and his attorney state they are satisfied that the Council's action is in order.

Mr. Whedon stated he still thinks the Council should take cognizance that a protest has been filed and that the motion failed to carry by the 3/4 vote of the members of the Council.

Mayor pro tem Smith stated that the only thing he can do is ask what is the pleasure of the Council. The Councilmen stated that the matter is settled.

CHAIRMAN OF SPECIAL HOSPITAL STUDY COMMITTEE REQUESTS THAT LEGISLATION PROVIDE THAT MEMORIAL HOSPITAL AUTHORITY HANDLE FUNDS FOR PLANNING THE HOSPITAL ADDITION.

Mr. Frank Snapp, Chairman of the Special Hospital Study Committee of the Social Planning Council, appeared before Council relative to the status of the Memorial Hospital addition planning funds. He requested that the Council carry out their proposed appropriation of funds, since the Local Government Commission has ruled out the question of the issuance of \$250,000 bonds being voted on in the May 3rd election. Mr. Snapp asked that the Bill providing for special legislation to appropriate the funds also provide that such funds be turned over to Memorial Hospital Authority and they be given the responsibility of administering the funds, as the final decision on the plans for the addition would rest with the Authority.

No action on the request was taken by the Council.

HEARING ON EXTENSION OF CITY LIMITS TO ANNEX A PORTION OF THOMASBORO SET FOR MAY 18TH UPON PETITION OF PROPERTY OWNERS OF THE AREA.

Mr. M. K. Harrill, Attorney for a group of residents of the Thomasboro area of the county, appeared before Council and requested that a portion of the area be annexed to the city in view of the lack of water supply. He stated that since the matter was first brought before the Council some five months ago, the situation has become acute and there are now about 100 families in the area practically without water supply.

At his request, Dr. M. B. Bethel stated that although the City has no responsibility in the matter, the situation is desperate and the residents of the area are in peril as to their health and something must be done.

A Resolution providing for a public hearing on the question of the annexation on May 18th, was introduced and read. Upon motion of Councilman Brown, seconded by Councilman Wilkinson, and unanimously carried, the resolution was adopted. The resolution is recorded in full in Resolutions Book 2, at Page 290-291.

PAYMENT OF FEE FOR PROFESSIONAL SERVICES IN CONNECTION WITH \$3,850,000 BONDS AUTHORIZED TO MITCHELL, PERSHING, SHETTERLY & MITCHELL, ATTORNEYS.

Upon motion of Councilman Wilkinson, seconded by Councilman Brown, and unanimously carried, payment of fee in the amount of \$3,873.96 was authorized to Mitchell, Pershing, Shetterly & Mitchell, Bond Attorneys, for professional services in connection with the \$3,850,000 City of Charlotte Bonds.

April 20, 1955
Minute Book 36 - Page 13

SETTLEMENT OF CLAIM OF RUBY W. REID.

Councilman Baxter moved approval of the payment of \$175.00 in full settlement of the claim of Ruby W. Reid, for personal injuries sustained on September 7, 1954 on South Summit Avenue. The motion was seconded by Councilman Wilkinson, and unanimously carried.

PLAT OF ALMAR ACRES SUBDIVISION APPROVED.

Motion was made by Councilman Baxter, seconded by Councilman Brown, and unanimously carried, approving the Plat of Almar Acres Subdivision, as recommended by the Planning Commission.

CONNECTION OF PRIVATE SANITARY SEWER LINES TO CITY'S SANITARY SEWERAGE SYSTEM AUTHORIZED.

Upon motion of Councilman Wilkinson, seconded by Councilman Baxter, and unanimously carried, private sanitary sewer lines were authorized connected to the City's Sanitary Sewerage System, as follows, on condition that the applicants comply with all laws, rules and regulations now in effect, or which may hereafter become effective relative to property similarly situated:

- (a) Connection of 2,356 feet of sewer trunk and 4,346 feet of sewer main owned by Atlantic Investment Corporation.
- (b) Connection of 610 feet of sewer main owned by S. A. Hunter, Jr.

CONTRACT AWARDED L. A. ARMSTRONG FOR CONSTRUCTION OF STORM DRAINS IN HABERSHAM DRIVE.

Motion was made by Councilman Brown, seconded by Councilman Wilkinson, and unanimously carried, awarding contract to L. A. Armstrong, the low bidder, for the construction of storm drains in Habersham Drive, as specified, on a unit price basis, representing a total price of \$11,160.80.

CONTRACT AWARDED DEWEY BROS. INC. FOR VALVE BOXES.

Upon motion of Councilman Wilkinson, seconded by Councilman Baxter, and unanimously carried, contract was awarded the low bidder, Dewey Bros. Inc., for 100 No. 1 and 100 No. 2 Valve Boxes, complete, as specified, at a total price of \$1,085.00, subject to 1% cash discount.

CONTRACT AWARDED CROWDER CONSTRUCTION COMPANY FOR CONSTRUCTION OF PLATE ARCH CULVERT IN STATE STREET.

Councilman Baxter moved the award of contract to the low bidder, Crowder Construction Company for the construction of a Plate Arch Culvert in State Street, as specified, on a unit price basis, representing a total price of \$26,494.00. The motion was seconded by Councilman Brown, and unanimously carried.

CONSTRUCTION OF DRIVEWAY ENTRANCES AUTHORIZED.

Motion was made by Councilman Baxter, seconded by Councilman Wilkinson, and unanimously carried, authorizing the construction of driveway entrances at the following locations:

- (a) One 8-ft. entrance at 2708 Bucknell Avenue.
- (b) Two 35-ft. entrances on Independence Boulevard, and Two 35-ft. entrances on Commonwealth Avenue, all for 3400 Independence Boulevard.

April 20, 1955
Minute Book 36 - Page 14

CONFIRMATION OF SALE OF PROPERTY TO C. E. HOBBS, AGENT.

Upon motion of Councilman Albea, seconded by Councilman Wilkinson, and unanimously carried, the sale of property on the east side of South Graham Street, between West First and West Stonewall Streets, at public auction on April 4th was confirmed to Mr. C. E. Hobbs, Agent, representing Duke Power Company, at the high bid of \$1,060.00.

RENEWAL LEASE WITH WINGATE MFG. COMPANY FOR AIRPORT BUILDING NO. 287 CONCLUDED.

The City Manager advised that the renewal lease with Wingate Manufacturing Company for Airport Building No. 287, for a period of one year, at a monthly rental of \$25.99, has been concluded.

TRANSFER OF CEMETERY LOTS.

Upon motion of Councilman Albea, seconded by Councilman Dellinger, and unanimously carried, the Mayor and City Clerk were authorized to execute deeds for the transfer of the following cemetery lots:

- (a) Deed with Mrs. W. C. Ginter, for Lot 49, Section 2, Evergreen Cemetery, at \$240.00.
- (b) Deed with Mrs. Ella Jordan, for Lot 133, Section 2, Evergreen Cemetery, at \$160.00.
- (c) Deed with Estate of Karl A. Braun, for Grave #4, Lot 112, Section 3, Evergreen Cemetery, at \$40.00.

RENEWAL OF SPECIAL OFFICER PERMIT TO HARRY R. FOGG ON PREMISES OF CHARLOTTE TANK CORP. AND SUBURBAN RULANE GAS COMPANY.

Councilman Dellinger moved approval of the renewal of the Special Officer Permit issued to Mr. Harry R. Fogg for use on the premises of Charlotte Tank Corporation and Suburban Rulane Gas Company. The motion was seconded by Councilman Baxter, and unanimously carried.

REPLACEMENT OF SANITARY SEWER MAIN AUTHORIZED IN PARK DRIVE.

Upon motion of Councilman Brown, seconded by Councilman Baxter, and unanimously carried, the construction of 163-feet of sanitary sewer main in Park Drive at an estimated cost of \$970.00 was authorized to replace a 30 year old inadequate main, to serve 7 family units, at the request of Miss Lou Alice Cox, 1640 Park Drive. All cost to be borne by the City.

CREATION OF ONE ADDITIONAL LIEUTENANT OF DETECTIVES IN POLICE DEPARTMENT.

Councilman Albea moved the creation of an additional Lieutenant of Detectives in the Police Department as recommended by the City Manager and Chief of Police. The motion was seconded by Councilman Brown, and unanimously carried.

REVISION OF ZONING MAP URGED BY COUNCILMAN BOYD.

Councilman Boyd stated he is of the opinion that a complete revision of the Zoning Map should be made because of the many changes in every section of the city since the adoption of the Map in 1947 due to the growth and development of Charlotte.

At his inquiry as to who would be the proper person or persons to revise the map, Mr. Yancey, City Manager, advised that the Zoning Board of Adjustment could make the revision ~~recommendations~~ or it could be done by the City Council.

April 20, 1955
Minute Book 36 - Page 15

Councilman Brown stated that it would appear that the Zoning Commission would be requested to revise the Map, as they were appointed by the Council to make the original zoning of Charlotte and then requested to zone the area annexed with the extension of the city limits in 1949. That he has discussed the matter with Mr. Thompson and Mr. Staton of the Commission who state that they assume they are still on the Commission as they have never been notified of the disbandment of the Commission.

ADJOURNMENT.

Upon motion of Councilman Baxter, seconded by Councilman Dellinger, and unanimously carried, the meeting was adjourned.

Leelan R. Hoffman
City Clerk