

A regular meeting of the City Council of the City of Charlotte, North Carolina, was held in the Council Chamber in the City Hall, on Monday, January 16, 1967, at 2 o'clock p.m., with Mayor Stan R. Brookshire presiding, and Councilmen Claude L. Albea, Fred D. Alexander, Sandy R. Jordan, Milton Short, John H. Thrower, Jerry Tuttle and James B. Whittington present.

ABSENT: None.

The Charlotte-Mecklenburg Planning Commission sat with the City Council and, as a separate body held its public hearings on Petitions for changes in zoning classifications concurrently with the City Council with the following members present: Chairman Sibley and Commissioners Ashcraft, Godley, Gamble, Olive, Tate, Toy and Turner.

ABSENT: Commissioner Stone.

\* \* \* \* \*

INVOCATION.

The invocation was given by Councilman Sandy R. Jordan.

MINUTES APPROVED.

Upon motion of Councilman Albea, seconded by Councilman Thrower, and un-animously carried, the minutes of the last meeting on January 9, were approved as submitted.

HEARING ON PETITION NO. 67-1 BY D. L. PHILLIPS INVESTMENT BUILDERS FOR CHANGE IN ZONING FROM O-6 AND I-2 TO R-9MF OF A 25 ACRE TRACT OF LAND LOCATED AT THE DEAD-END OF SCOTTSDALE ROAD, SOUTH OF BROADVIEW DRIVE.

The public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, advised the 25-acre tract is located to the west of General Younts Expressway and south of Clanton Road; it is to the east of the Rolling Woods Subdivision and the property itself is entirely vacant. It is adjoined on the north side by vacant property and is vacant on all sides with the exception of the west side where the Rolling Woods Subdivision is located. One exception to the vacancy situation is a vacant house located on a tract of land to the southeast. The property directly to the south is owned by the City and is part of the land for the Irwin Creek Disposal Plant.

The subject property is zoned I-2 with a strip of land 200 feet wide adjacent to the residential subdivision zoned O-6. This office zoning was installed as a protection to the residential area at the time the present zoning ordinance was adopted. The property is bounded on the north, the east and partially on the south by I-2 property. There is single family R-9 zoning of the City's property and all the residential area is zoned R-9.

Mr. Russell M. Robinson, Attorney for the Petitioner, pointed out Broadview Drive running down 150 feet to the north of the line and Scottsdale Road dead-ending against it. He pointed out the area zoned R-9 and stated there is a 200-foot strip of O-6 zoning between the property line and the I-2 zoning. The petition is to re-zone the whole 25-acre tract to permit the construction of a multi-family housing development consisting of 252 units with 88 one bedroom apartments, 112 two bedroom apartments and 52 three bedroom apartments. He advised the closest point between one of the buildings and the property line is 140 feet up to 155 feet.

January 16, 1967  
Minute Book 48 - Page 116

That the property is heavily wooded and they plan to leave the woods in there. The area designated as a recreational area is also heavily wooded and they plan to clean out the underbrush and leave it in its natural state with picnic tables and that type of recreational use which would provide a buffer between the areas.

He stated there is 300 feet between the property line and Barringer Drive south of the property. They plan a total parking of 406 spaces.

Councilman Thrower asked if they have provided any buffer to protect between multi-family and I-2 zone? Mr. Robinson replied there is no proposed buffer zone; that they are asking a change from O-6 and I-2 to a higher category. That the plans are all set and they hope to begin construction within 90 days if the petition is granted.

No objections were expressed to the proposed change in zoning.

Council decision was deferred for one week.

HEARING ON PETITION NO. 67-2 BY DOLPH M. YOUNG FOR CHANGE IN ZONING FROM O-6 TO B-2 OF A LOT 75' x 150' LOCATED ON THE SOUTH SIDE OF EAST PARK AVENUE, BEGINNING 100 FEET WEST OF CLEVELAND AVENUE.

The scheduled hearing was held on the subject petition.

The Assistant Planning Director advised the lot is located on the south side of East Park Avenue midway of the block between South Boulevard and Cleveland Avenue, being a little closer to Cleveland Avenue. The property is vacant and is adjoined on the Cleveland Avenue side primarily by single family residences although some of the homes have been converted and are presently being used for multi-family purposes. There is generally a mixture of multi-family and single family uses along Park Avenue towards Cleveland and on towards Euclid Avenue. On the South Boulevard side of the property it is used for business purposes already from this lot out to South Boulevard.

The zoning of the area is a fairly regular one. It is one of business zoning - B-2 - along South Boulevard and along Park Avenue down to this lot. Beginning with the subject lot, it is O-6 out to Cleveland and to the middle of the block between Cleveland and Euclid, and from that point on it is R-6MF throughout this portion of the Dilworth area.

Mr. Dolph M. Young, the petitioner, stated the back third of their lot is zoned B-2 and if the present B-2 zoning was followed in a straight line across it would take in approximately 25% more of their lot. That Jordan-Morris Distributing Company propose to use the lot. They are presently located in the 1000 block of East Fourth Street and are having to move because of the 4th Phase of Urban Renewal. Jordan-Morris proposes to build a brick and glass building and will set it back some 32 feet from Park Avenue; they will have a 12-foot driveway along one side which would lead back into the portion already zoned B-2 and that part will be paved and will be used for parking. Jordan-Morris employs fourteen people, ten of which work inside the building. Their main item of sale is Delco Automotive parts. That about 95% of their business is delivered away from the location so there will be only about 5% walk-in traffic.

Mr. Young stated there are now two businesses facing Park Avenue adjoining this property and just around the corner is the Dilworth Theatre and an eating place on the corner.

That an area 50 by 100 will be paved and used for parking at the rear and the first 32 feet of the lot will be used for customer parking.

January 16, 1967  
Minute Book 48 - Page 117

Councilman Tuttle asked about the 5% local retail and asked if there would be a lot of driving in and out? Mr. Jordan of Jordan-Morris replied only about 5% of the people come and pick up the merchandise, the rest is delivered by truck; that there would be very few trucks and cars coming in and out.

Councilman Short asked if they have plans for the required amount of vehicular space? Mr. Jordan replied their proposed building is somewhat larger; that customers would park in the 32 feet on the front and the employees would park at the rear.

Councilman Short asked Mr. Bryant if the parking plan has been approved by the Traffic Engineer? Mr. Bryant replied not to his knowledge; as far as he knows, they have not submitted any construction plans for approval.

No objections were expressed to the proposed change in zoning.

Council decision was deferred for one week.

HEARING ON PETITION NO. 67-3 BY C. R. MICKLE FOR A CHANGE IN ZONING FROM R-6MF TO B-2 OF A LOT 60' x 160' LOCATED AT 1029 SUGAR CREEK ROAD.

The public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, stated since the request was originally filed, this section of Sugar Creek Road has been changed to Atmore Street.

He advised this is a one-lot change on Atmore Street and there is a house on the property. It is adjoined on the east side by several single family residential structures and across the street is single family residential uses going toward the Plaza. On the west side of the property is a general mixture of business uses and immediately adjacent to the property is the Master Plumbing Company building with Todd Electric adjacent to that; then, there is an open area and several other business uses coming out to Sugar Creek Road. The rear of the property along Dinglewood is used for single family purposes.

The zoning of the property is R-6MF as is property on both sides of Atmore Street; to the east towards The Plaza the zoning is business. On the west side, it is adjoined by B-2 and there is B-2 zoning on both corners at Atmore Street and Sugar Creek Road; also, B-2 zoning is along Sugar Creek Road towards the railroad. I-2 zoning is on the west side of Sugar Creek Road throughout the area.

Mr. Bryant stated recently the Planning Board studied this entire area with the result that all of the property which was at that time zoned B-1 was changed to B-2 out of consideration for the type of uses already located in the area, plus the influence of the industrial zoning. They also studied the area which is now zoned multi-family for business purposes and it was the recommendation of the Commission, at that time, that the area as a whole not be changed because it was predominantly used for single family purposes, and there was no indication from the people that they wanted anything other than the residential zoning.

Mr. C. R. Mickle, Petitioner, stated he bought the property for the purpose of using the house as an office, and to build a warehouse on the rear for the storage of window screens and storm windows. There is only one truck which goes out in the morning and comes back in the afternoon.

No opposition was expressed to the proposed change in zoning.

Council decision was deferred for one week.

HEARING ON PETITION NO. 67-4 BY D. M. CREECH FOR A CHANGE IN ZONING FROM B-1 to B-2 OF A LOT 100' x 200' AT 724 EAST MOREHEAD STREET AND A LOT APPROXIMATELY 41' x 200' AT 1116 MYRTLE AVENUE.

The scheduled hearing was held on the subject petition.

The Assistant Planning Director advised this request is for a change from B-1 to B-2 on East Morehead Street at the intersection of Myrtle Avenue. The property has a residential structure on it; it is adjoined on the intown side - Euclid Avenue side - by two or three additional residential structures. Directly across Morehead from the property is McEwen's Funeral Home, with an office building located at the corner of Euclid and a combination service station and oil company building. On the out-of-town side is Shoney's Drive-in Restaurant, then the A & P and an apartment and the Addison Apartments. Behind the property on Lexington Avenue, from Euclid Avenue on down it is all used for residential purposes, primarily single family with a duplex or two scattered in the area. Beyond Euclid back towards South Boulevard is a number of fairly new office structures.

The zoning is B-1 on both sides of Morehead Street throughout the area, including the subject property. Immediately behind the property it is zoned R-6MF until you get up to along Lexington and beyond Euclid, then it is office zoning.

Mr. D. M. Creech, the Petitioner, stated that Glidden Paint Company is the prospective lessee. They are having to move from their present location on Independence Boulevard and are interested in this location. That the property back of the subject property on Lexington Avenue is in a very run-down state and will eventually be eliminated. On the west are old homes that have been there for years and Humble Oil Company has an office building on the far corner.

Councilman Short asked if a retail paint store is not allowed in B-1? Mr. Bryant replied the retail portion would be but they also have a wholesale operation.

Councilman Tuttle asked if Glidden Paint does not have a sizeable drive-in business? Mr. Creech replied he understands they do but they will have a lot of parking area and there will be no parking on the street side, and will set back the required 20 feet from Morehead Street. All of the parking will be to the rear of the proposed building.

No objections were expressed to the proposed change in zoning.

Council decision was deferred for one week.

HEARING ON PETITION NO. 67-5 BY V. R. WILLIAMS FOR A CHANGE IN ZONING FROM R-6MF TO R-6MF - H OF PROPERTY FRONTING 119 FEET AT 1200 QUEENS ROAD AND HAVING A DEPTH OF 450 FEET.

The public hearing was held on the subject petition on which a protest petition has been filed and found sufficient to invoke the 20% Rule requiring the affirmative vote of six Councilmen in order to rezone the property.

Mr. Fred Bryant, Assistant Planning Director, stated the subject property is located on Queens Road between Queens Road West and Granville Road; it is adjoined on the Granville Road side by single family structures, as is also true down Granville Road; along Queens Road West to the rear of the property, it is also single family structures. On Queens Road there is a single family structure beside it; an apartment structure which was built in the last five years is in the area. Across Queens Road is entirely for single family purposes. The Queens Towers Apartment is located at the intersection of Granville Road and Queens Road. A new apartment which is in process of being finished is located in the area and the library is located at the intersection of Providence

and Queens Road.

At present, both sides of Queens Road is zoned R-6MF out to Granville Road coming from Morehead Street. At Granville continuing toward Morehead Street, it is zoned R-6MF - H - which includes the property on which Queens Towers is located - and from that point out to Providence Road and down Queens Road for a few blocks out towards the Selwyn area. The property to the rear of the subject property and to the rear of the frontage property all along Queens Road is zoned single family. This is true on the other side of Queens behind the rear of the frontage lots.

Mr. Ben Horack, Attorney for the petitioner, stated Mr. V. R. Williams of Richmond, Virginia is the petitioner, but the real party in interest is the party who was the developer of Queens Towers and is also the developer and owner of the Sutton House. That Mr. Williams acquired the property as an investment from the estate of the late Mrs. Patsy Goodwin and the developer has contracted to purchase the property from him. Mr. Horack stated he considers this particular zoning matter to be one of the most difficult and potentially one of the most important he has had the pleasure of handling. The petition is well protested and it is signed by many people who are very nice people and who have real nice homes and they are deeply concerned about the proposal as set forth in the petition.

That he thinks he has little going for him except for three things - good planning, logic and merit. That a little further down Queens Road, the Sutton House is zoned R-6MF-H, the Queens Towers is zoned for the "H". At Queens Road, where it hits Morehead Street, there is another R-6MF-H and is the Edgehill Terrace Apartments. Going towards town and swinging to the right at the bend, it is solid R-6MF until you get down to the Sutton House; then for several blocks, it is R-6MF-H except within a block and half of Fourth Street, which is R-6MF. Mr. Horack stated this property has been zoned for multi-family purposes since 1947; then, in 1962, it was given the category of R-6MF and at the same time, some of the areas were given the R-6MF-H. In 1962 the R-6MF category on both sides of Queens Road was made to conform with the rear property lines with the result that the back portion of the subject property, together with the back portion of other property, was likewise zoned R-6MF.

Mr. Horack advised he contacted about 22 or 23 different sets of homeowners in the area and was surprised to learn that some of those people who owned homes on Queens Road were unaware that the property was already zoned for multi-family uses. The fundamental question presented by this petition is not if the subject property is going to be used for multi-family, but what kind of multi-family structure is going to be there and what caliber will the facilities be. Another question is whether this area will be allowed to drift into oblivion and go through a long transitional period as much of Queens Road and particularly down near the Little Theatre has done.

Mr. Horack stated the subject property has a frontage of 119 feet and a depth of its front portion of 219 feet and the rear portion would add an additional depth of 231 feet. The old residence on the property is no good for anything and it will be torn down to make way for some sort of development.

The Developer has two alternatives. If the property remains R-6MF, he conceives it to be an economical fact of life to cover the high cost of the land that this be devoted to the garden type apartments with a unit on the front and a unit on the rear. That the Developer estimates this type of facility will cost about \$200,000 and the rent will be around \$125 per month. When you go this route the economies of the situation and the rents that can be commanded by apartments such as the Princess

and what will be here simply will not support the added investment of the facilities that go with luxury apartments. If the property is zoned R-6MF-H, the estimated investment will be \$1.0 million and rents will be in the \$250 to \$300 bracket. Apartments would not be on the rear portion but would be entirely up front. When you go up that means you have to put in elevators and when you put in elevators that means various types of construction cost as only a top quality type facility can support. The mortgage lenders on this type of apartment are increasingly requiring things like the pool and the planting and other things. There will be some parking underneath and some to the rear with the pool and recreational facilities. Mr. Horack stated he thinks there will be substantial change in this area. He understands the emotional involvement that is typical when there is any proposal that will affect a person's home. That this area from Granville down to Edgehill is all R-6MF and is sandwiched in between two R-6MF-H areas.

Starting at Granville Road, he pointed out the location of the Wilson house which was acquired in 1965 and substantially improved; the next home was acquired by Leon Olive, who is a protestant, and is one of the more beautiful homes in that part of the City, and it was bought in 1964 in the shadow of the existing Queens Towers Apartment; then, there is Mr. Flower's property on the adjacent property and it is used as a rooming house and has been for many, many years; the next property is the existing garden type Princess Apartments; the next lot is the Mills home which is occupied by a multitude of roomers or tenants; then, there is the Anderson home which is one occupant but it is rented and it has a garage apartment to the rear; then, Miss Johnsie Goff's home; then the Methodist Home property and it has a garage apartment which is unoccupied; then, the old Dunavant home which was converted to multi-family use but is presently unoccupied and recently boarded up; then, the Lee Heath Apartments at the corner of Ardsley. On the opposite side of the street the homes are owner-occupied and are lovely homes. Then he submits that as lovely as the homes may be, the value is in the underlying land, not in the residence on top. Eventually those homes are destined to go the route of transitions and conversions, and it deserves something better. No one likes an apartment but if this property is zoned to "H", it will encourage the type of development that will be more tasteful, or esthetically compatible and generally compliment this neighborhood in a way that it deserves.

Mr. Horack stated the suggestion maybe made about "spot zoning". This is a word applied to that which you do not like. That he does not think this is "spot zoning". It is the same type of zoning permitted by R-6MF with a little more latitude relating to side yards and the other differentials. That the facility permitted by R-6MF-H is exactly the kind that this Council and this community was interested in promoting in our recent bond uptown rejuvenating proposal.

He stated he has a lot of sympathy for Mr. Olive and Mr. & Mrs. Wilson. However, he is advised that Mr. Olive has had his house on the market for the better part of the last year and that he offered it to his developer, but they did not get together on some of the terms.

Mr. Horack stated this petition will determine the trend and the destiny of this area for a long time to come. That he would not think that Council would grant this petition if they did not also recognize if upon application the Olive and Wilson properties would be similarly rezoned "H". That he thinks this property deserves a real hard look at what is going on already and towards prospects for the future and the ultimate destiny of this fine old area of our City.

Councilman Short asked Mr. Horack if he said that the rent might be \$125 on the R-6MF zoning that exists on a garden type apartment, but that it might be \$250 to \$300 on the R-6MF-H? That the added land required for each additional unit in the R-6MF is 2,000 feet and for the

other type is 1,000; he asked if this leads to the conclusion that Mr. Horack is saying if you have twice as big an apartment, you would only pay 1/2 as much rent? Mr. Horack replied what he is saying, in this area, when you go the R-6MF route knowing that on the typical garden type apartments you cannot have your high bracket rents, then you have to build all the units you can get because the garden type is normally only two story and you will utilize both the front and the rear. If you can go up, only then with an "H" can you afford to put in the luxury type apartments that will support the higher rents and will support the cost of elevators and will support the cost of resident managers and the swimming pools. Councilman Short asked if it is Mr. Horack's comment that the lower zoning classification here would make possible the higher rent per unit? Mr. Horack replied that is right; that once you go up you get into the expensive facilities - the elevator and so forth.

Mr. Horack stated he has never had a zoning matter where there were so many facets of interest and concern involved. There is the concern of the people whose houses are owner-occupied; then, the shift over to rooming houses and rental. Then at the rear the people have an entirely different consideration; they did not protest and said they would rather have a planted area to the rear of a luxury apartment facilities that is up front than they would have another garden type unit coming clear to the back end of their lot.

Mr. Leon Olive stated he does not think that Mr. Horack's argument carries a great deal of logic. That along Queens Road they have one of the most beautiful areas in the town. That in 1965 he was riding into town from out in Lansdowne, and he saw this old home there, and he said if he could afford it he would like a home like that. That day he called the realtor and that afternoon, without his wife's knowledge and consent, he bought the house. That he has spent a lot of money to fix the house the way he wants it, inside and outside. The fact that it was zoned R-6MF did not bother him because he knew what he wanted there and he has put what he wanted there. That next to the back part of the subject property he has a rose garden - that his home is a most livable home and he can walk out in the evening and can look across the property and he can see the sky and he can get some fresh air to breath. He is not cut off from the view of the sky or the trees or anything on that side of his home, and he does not want to be cut off. Mr. Olive stated he has protested and Mr. & Mrs. Wilson have protested. That Mr. Wilson saw the potentials in his old house just as he saw the potentials in the one he bought. That Mr. Wilson has fixed his home real nice and has a very attractive home there.

Mr. Olive pointed out on the map the location of the people who signed the protest petition and stated Mr. & Mrs. Haywood do not want apartments in the back and they do not want a swimming pool back there. That he understands the back piece of the subject property was set aside by deed restrictions for recreational purposes only, and the truth of the matter may be that apartments cannot be built on that portion of the property; that he thinks this is why they have the swimming pool back there in the proposed plan and the big apartment up front. He stated most of the people on both sides of Queens Road West signed the protest petition. He pointed out the location of Mr. Flower's home and stated he does not think of this home as a rooming house; that he does have some young people who live upstairs, but they have no objection to that. That he maintains his home in a real fine way. He has the big rooms and the old antique furniture - he could not move into some of the houses that are being built today because he could not get his furniture in there because of the kind of furniture he has. That unfortunately the Princess Apartments have been built between Mr. Flowers and Mr. Mill. That Mr. Helms, the owner of the Princess Apartments, signed the protest petition.

January 16, 1967  
Minute Book 48 - Page 122

Mr. Olive stated there is no more beautiful area than Queens Road with the big stately trees and the layout of the streets. That Mr. R. O. Gillis is the man who is behind all this; he built the Sutton House and it is paved right up to the sidewalk. That he can build apartments that will be cheaper and because of the location, he can probably command \$200 or \$250 a month but they will still be cheap apartments. Mr. Olive stated the Sutton House is not any asset to Queens Road because there is no beauty in a brick building stright up, right out against the street, with parking right up to the street. That is what they have there and that is what they do not want next door.

Mr. Olive stated that Mr. Williams, the petitioner, is an out of state speculator who bought this property from Mrs. Goodwin and let her live there the rest of her days; that he has approximately \$31,500 in this property. That he is trying to make a profit and he may have a contract to sell this for \$50,000. That Mr. Gillis and Mr. Horack have gone out in this neighborhood and have said to the people out there that this is inevitable, you are going to get cheap apartments here whether you want them or do not want them unless you go along and do not oppose the petition for a change in zoning.

Mr. Olive stated the petition filed by Mr. Williams reads as follows: "From an economic and practical standpoint, the high cost of the land comprised of the subject property together with the limitations prescribed for an R-6MF will not permit the construction of multi-family units having the facilities and qualities required for the neighborhood in which the property is located. The property can best be utilized for the purposes allowed by R-6MF-H classification". That the petitioner comes along on one hand and says we are going to build it, and in his reasons he gives for rezoning says they cannot build it there - cannot build cheap ones because the land is too expensive. Mr. Olive stated he can build approximately 19 or 20 apartments and if he get it rezoned to high rise, he can build in the neighborhood of 40, just about double the number of apartments that he could build, also double the amount of traffic that you will have on Queens Road.

Mr. Olive asked why not build good garden type apartments? Why not build townhouse type of apartments of real fine construction, and build 19 or 20 of them on the property as zoned and rent them for \$350 or \$400 a month. There is a demand for that type. The reason they say they cannot do it is that it will not be as profitable. You have two speculators you are dealing with - you are dealing with Mr. Williams and you are dealing with the builder - R. O. Gillis.

Mr. Hubert Brown, Attorney, stated he lives on Harvard Place across from Queens Road. That he is not as directly affected by the proposed zoning as Mr. Olive and Mr. & Mrs. Wilson. That one thing Mr. Horack said impressed him and that was in talking with several of the members of the community that several were surprised that it was multi-family. That he thinks that point is worth considering that what multi-family use is there is entirely consistent with the substantial and predominate single family character of the neighborhood. That he is asking that they consider the difference between the two story residences that are there and the six story - 3 times as high - high rise apartment that is proposed. Mr. Brown stated he bought the house in 1960 and he knew that Queens Road had been zoned multi-family so he cannot object if a garden type apartment is built. But he does have reason to object if a substantial change in the type of project as proposed here is erected. That good planning indicates that placing this change in this spot in a neighborhood where it is entirely inconsistent would not be good planning.

Council decision was deferred for one week.

January 16, 1967  
Minute Book 48 - Page 123

MEETING RECESSED AT 3:15 O'CLOCK P.M. AND RECONVENED AT 3:30 O'CLOCK P.M.

Mayor Brookshire called a recess at 3:15 o'clock p.m. and reconvened the meeting at 3:30 o'clock p.m.

ORDINANCE NO. 580 AMENDING CHAPTER 6 OF THE CODE OF THE CITY OF CHARLOTTE BY ADDING A NEW ARTICLE, TO BE DESIGNATED AS ARTICLE VI, COMMUNITY ANTENNA TELEVISION SYSTEM.

Mayor Brookshire asked Mr. Kiser, the City Attorney, to present the ordinance relating to C.A.T.V.

Mr. Kiser advised he has prepared for Council consideration an ordinance which would set up the procedure for making applications for Cable Antenna Television franchises and would set out the regulations governing the operation of CATV systems and services in the City of Charlotte. The ordinance specifies that the franchise will be a non-exclusive terms and provides that rates for services charged by the system to the customer will be approved by Council. In addition, it specifies the authority granted by the franchise, and prohibits certain activities, including pay t.v. operations. It lists conditions under which the authority to use the city streets is granted; it lists certain rights reserved to the city, including the requirement of certain indemnity cases and insurance agreements and policies; and it provides for remuneration to the City as follows:

There will be a minimum annual charge of \$15,000 or a sum equal to the following percentages, whichever is greater;

When the gross annual receipts do not exceed \$1,250,000, the percentages will be 5% on the first \$500,000 of gross annual receipts, plus 10% on the next \$250,000, plus 15% on the next \$500,000;

When the gross annual receipts exceed \$1,250,000, the percentage will then be 10% of the total without regard to the previous percentages.

Councilman Thrower asked if the ordinance spells out specifically that the gross is taken after taxes? Mr. Kiser replied this is gross annual receipts. Mayor Brookshire asked if it spells out the length of the franchise? Mr. Kiser replied the duration is for ten years.

Councilman Jordan moves that the ordinance as presented by Mr. Kiser be adopted. The motion was seconded by Councilman Tuttle.

Councilman Short stated he would like to direct Council's attention to Page 11 of the proposed ordinance which states the franchise fee to be paid to the City and as Mr. Kiser has stated this is 5% of the gross revenue up to \$500,000 and 10% on the next \$250,000 of gross revenue of any operator or operators, and 15% on the next \$500,000 of gross revenue, and 10% on all gross revenue beyond this point.

Mr. Kiser advised at the time the gross annual receipts become in excess of \$1,250,000, the percentage will be 10% on the total, and not an add on.

Councilman Short stated he would find it hard to explain to the persons who will have these franchises why the City charges them a higher rate of fee down in their lower range of income, than is charged them in a higher range of income. He thinks it would be harder for them to pay a fee when their income is at the lower level, and at the same time he would find it a little hard to explain to the public why the Council is giving their government a smaller rate of yield from a firm making

a higher level of income, and a higher rate of yield from a firm with a somewhat lower level of income, and this is clearly what the proposal just outlined by Mr. Kiser amounts to. The proposed fee scale is commonly described as regressive. If charging 15% of the operator's volume over a range running from \$750,000 to \$1,250,000 is the best and fairest balancing of the interest of the public and the interest of the operator, then he would think that continuing at least at the same rate in the higher range of the operators volume is necessary if we are to achieve the fairest arrangement.

Councilman Short offered a substitute motion that the ordinance be adopted and the franchise schedule amended to provide as follows:

That the fee be 5% of the gross revenue up to \$500,000, 10% of the next \$250,000 gross revenue and 15% on the next \$500,000 of gross revenue - all as already provided - and then 15% on all gross revenues beyond this point, this proposal is to eliminate the regressive features.

Councilman Whittington seconded the motion and stated he is not opposed to the franchise ordinance as recommended; that he is opposed to the rate structure. From the beginning, as a member of this Council, both publicly and privately, his interest in cable television, if the Council granted a franchise ordinance, was to get the best deal possible for the citizens of this city from a monetary standpoint and at the same time be fair to the firms who receives the franchise. That he does not believe that the motion of Mr. Jordan does this. To grant a franchise with rates starting at 5% has been mentioned by Mr. Short, and then escalating up to 15%, and then regressing to 10% of the gross - we not knowing what the top figure is and not knowing what the potential is - is not good business and in his opinion, is not fair to the citizens of this city. For this reason he cannot vote for this motion.

Councilman Tuttle stated in this case we are talking about virtually 15%. That if his figuring is right, when you get to \$2,250,000, by applying the 15% to the excess, you will have some 12.2% of the total gross. As this goes up and Charlotte grows and assuming you get this system to \$5.0 million, then you will be close to 15%. That he finds it hard to believe that any industry can operate with 15% coming off the very top. When we talk about 10% being a maximum, we are talking about 10% before the people have paid any expenses, before they have paid taxes, before all the cost of the equipment has been paid for, before any depreciation through the years is taking into consideration; we are talking about 10%, and if you figure this 10% that we will be getting when they get into the money end of it, and get close to \$1.5 million, we will be realizing some double what they will be taking in profits. If they take \$300,000 in profits, we will be taking \$600,000 in taxes. To him this is unfair and almost confiscatory, and he cannot go along. In the interest of the public, he thinks that 10% of the gross will be getting the most we have ever gotten out of any utility in this State; we will be charging the highest rate that he can find in the United States. Some of the rates are:

Greensboro - 3%  
Philadelphia - 5%  
New York City - 5%  
Atlanta, Ga. - 4%  
Toledo, Ohio - 3%  
San Francisco - 2%  
Memphis, Tenn., graduated to 5%.

Councilman Tuttle stated we are charging double the maximum rate, taking a cross section of the country and with the exception of Lumberton, N. C., he knows of no case where they are charging over 5%, and he still believes that 10% of the gross is ample and is a protection for the public.

January 16, 1967  
 Minute Book 48 - Page 125

Councilman Short stated that Mr. Tuttle speaks of the difficulty of a private enterprise operating with the government taking 15% off the top. The motion which Mr. Tuttle seconded provides that the government will take 15% off the top down at a volume of range where any private enterprise business is struggling harder to make a go of it and they would struggle when they have reached the salad days that they are getting the higher volume.

Councilman Tuttle replied these people expect to invest so much money in this sytem; we know it is going to cost them money; we know they are going to lose money. What we are ultimately shooting for - what is a fair take when this is established; when the town is covered with the cables and the 40% to 50% of what we will ultimately arrive at when we have attained that, then what is a fair take, and he submits that 10% is much fairer than almost 15%.

Councilman Short stated he wants to emphasize that the motion Mr. Tuttle seconded, calls for 15%, at a half million dollar range in volume.

The vote was taken on the substitute motion and lost by the following vote:

YEAS: Councilmen Short, Whittington, and Albea.

NAYS: Councilmen Jordan, Tuttle, Alexander and Thrower.

The vote was taken on the original motion and carried unanimously.

The ordinance is recorded in full in Ordinance Book 14, beginning at Page 470.

**APPLICANTS FOR C.A.T.V. FRANCHISE COMMEND COUNCIL ON THE ADOPTION OF C.A.T.V. ORDINANCE AND TIME LIMIT OF 45 DAYS SET FOR SUBMISSION OF APPLICATIONS.**

Mr. Charles Crutchfield, President of Jefferson Standard Boardcasting Company, congratulated the City Attorney and the Council on its adoption of what they consider one of the best ordinances in the best interest of the public that they have seen to date in the C.A.T.V. business. With respect to the fees, should they be one of the successful applicants, they think it is grossly unfair to the successful applicant or applicants. They base this on their estimates of operating revenues and expenses; they base it more importantly on fees paid in other areas where C.A.T.V. is operating. That the highest fee he can find, with the exception of Asheville, is 6%. How Mr. Short and Mr. Whittington feel that 15% is justified, he cannot rationalize. That he thinks the fees as voted on and the fees as proposed by Mr. Short will jeopardize the operation to the extent that it will of necessity be a second rate operation. They have no desire to operate a second rate operation. They think the people of Charlotte will not tolerate a second rate operation. They, therefore, will put the pencil on these figures, go through the process of recalculating their figures, and if they find the fact that it will be economically impossible for them to deliver a first rate system on these rates as adopted, they will withdraw their application, and will notify City Council in sufficient time so that the other applicants can be notified.

Mr. Carlton Fleming, Attorney for Cox Cosmo, one of the applicants for the C.A.T.V. franchise in Charlotte, stated he would like to commend the City Attorney for his fine hand in drafting the ordinance. That he has had occasion to review a number of ordinances throughout the country and thinks this unquestionably from a technical and legal standpoint, is the best and strongest ordinance that he has had the privilege to see. He commended the Council for the step it has taken in the adoption of the ordinance. That he thinks it is a significant step forward for the people of Charlotte. He would suggest to the Council

January 16, 1967

Minute Book 48 - Page 126

that in the ordinary process of things, they should take one further step. This ordinance provides for applications to be filed by anyone who desires a franchise for the operation of the C.A.T.V. system in the City of Charlotte. In view of the fact that the City Council has recognized by formal resolution, several months ago, that C.A.T.V. is a proper facility for the Citizens of Charlotte, he now urged the Council to set a time limit within which C.A.T.V. applications can be submitted. They suggest that the firms interested in this have evidenced their interest over a long period of time. In the case of Cox-Cosmo, they are ready to file their application at this time, and he would assume that all other applicants are in the same position. He would urge the Council to put a short and realistic time limit - perhaps two weeks - on the submission of applications so that the public can have these facilities made available and so that the City can begin to realize the revenues which will come from gross receipts.

Mr. Kiser advised that Council can place a limitation on the time in which it will consider applications. That he believes two weeks is a little short because of the requirements specified in the ordinance for the compilation of information to be submitted along with the application. That he thinks 30 days or six weeks would be more realistic for receiving applications.

Councilman Thrower moved that a time limit of 45 days be set from today for the submission of applications for the C.A.T.V. Franchise. The motion was seconded by Councilman Whittington.

Councilman Albea stated he is not opposed to the time limit, but he would like to know why? Mr. Kiser replied they may be ready to submit the applications tomorrow, but the information that is required is rather detailed and it seems to him that other people who may have an interest in filing an application should have an opportunity to know about the adoption of the ordinance and an opportunity to prepare the information to be submitted and 30 to 45 days seems to him to be a fair time.

Mayor Brookshire asked Mr. Crutchfield if he would like to speak to the matter of what amount of time his company might require? Mr. Crutchfield replied, they could be ready in two weeks but he agrees with the City Attorney that probably 45 days or two months would be preferable to allow any others to file their applications.

Councilman Tuttle asked Mr. Fleming if he would speak to the question? Mr. Fleming replied this matter has been pending in the City of Charlotte for a year. That he thinks that any firm involved has the necessary information almost at its fingertips, and he does not believe that it serves anybody's purpose to delay this matter over a long period of time. That he would suggest that certainly 30 days would give anybody ample time to get their application in. They are anxious to see the City of Charlotte get the service as quickly as possible.

Mr. Kiser stated these people are in a better position to answer to the question of how long it will take them to get the information together. That his thought is there was at least one other party who expressed an interest who, as far as he knows, does not have definite information that Council today adopted this ordinance. That he tried to reach them by phone this morning as he did the other applicants and was unable to get in touch with them. In conversation last week, they were advised it was quite possible that Council would consider and adopt an ordinance today, but they do not have this information definitely. That he thinks in all fairness to those people that the City should have an opportunity to notify them that the ordinance has been adopted and that they should have an opportunity to prepare the information required for the application, and it seems at least

January 16, 1967  
Minute Book 48 - Page 127

30 days would be desirable, and perhaps 45 would be more reasonable.

The vote was taken on the motion and carried unanimously.

RESOLUTION PROVIDING FOR PUBLIC HEARINGS ON FEBRUARY 20, ON PETITIONS NO. 67-6 THROUGH 67-8 FOR ZONING CHANGES.

Upon motion of Councilman Thrower, seconded by Councilman Whittington, and unanimously carried, the subject resolution was adopted and is recorded in Resolutions Book 5, at Page 394.

RESOLUTION FIXING DATE OF PUBLIC HEARING ON JANUARY 30 ON APPLICATION OF CHARLOTTE CAB COMPANY, INC. FOR ISSUANCE OF TWENTY (20) CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY FOR THE OPERATION OF TAXICABS IN THE CITY OF CHARLOTTE.

Councilman Whittington moved the adoption of the subject resolution. The motion was seconded by Councilman Short.

Councilman Short requested the City Manager to have Mr. Fennell, Finance Director, to report on the financial statement from the taxicab companies at this time.

Councilman Alexander stated that some of the taxicab companies have held certificates since the war years, he asked if this means forever and if they never decide to use the number of certificates they have that they can hold them and they not be put into use? Mr. Kiser stated he believes the certificates that were granted as a result of certificates held during the war years came under the grandfather clause at the time the ordinance was adopted so that they did not have to comply with the requirements for applications. That there is a section of the ordinance which provides that when a certificate is not in use and has not been for a certain period of time, that the certificates expires. Each certificate is to be renewed each year.

Councilman Alexander asked if this process is followed through? Mr. Kiser replied he does not believe that we follow through on that part of the regulations in respect to unused certificates expiring.

Councilman Alexander stated he thinks we should see that the procedure is followed through. He cannot see continual holding of certificates that are not in use and thereby not giving anyone else an opportunity to use the certificates.

Councilman Thrower stated when Baker Cab Company was given additional certificates, Council stipulated that if the certificates were not in use in six months, they would become void.

Mayor Brookshire suggested that the City Manager contact the Taxicab Inspector and have him check on this procedure.

The vote was taken on the motion to adopt the subject resolution and carried unanimously.

The resolution is recorded in full in Resolutions Book 5, at Page 395.

APPRAISAL CONTRACTS AUTHORIZED.

Upon motion of Councilman Albea, seconded by Councilman Whittington, and unanimously carried, the following appraisal contracts were approved:

- (a) Contract with O. D. Baxter, Jr. for appraisal of ten (10) parcels of land in connection with the West Fourth Street Extension Project.
- (b) Contract with Al Carrier for the appraisal of seven (7) parcels of land in connection with the Pine Street Connector.
- (c) Contract with William L. Frickhoeffler for the appraisal of ten (10) parcels of land in connection with the West Fourth Street Extension Project.
- (d) Contract with Wallace Gibbs for the appraisal of nine (9) parcels of land in connection with the Poplar Street Widening Project.
- (e) Contract with John C. McDonald for the appraisal of fifteen (15) parcels of land in connection with the Fifth Street Project.
- (f) Contract with D. A. Stout for the appraisal of eight (8) parcels of land in connection with the Pine Street Connector.
- (g) Contract with C. W. Todd for the appraisal of fifteen (15) parcels of land in connection with the Fifth Street Project.

MR. W. DONALD BREWER APPOINTMENT TO ZONING BOARD OF ADJUSTMENT FOR THREE YEAR TERM.

Councilman Tuttle moved the appointment of Mr. W. Donald Brewer to the Zoning Board of Adjustment for a three year term effective January 30, 1967. The motion was seconded by Councilman Short, and carried unanimously.

Councilman Tuttle reminded Council that there is another term to expire on January 30 and someone might want to check with the present member to see if he would like to be reappointed.

RENEWAL OF SPECIAL OFFICER PERMITS.

Motion was made by Councilman Jordan, seconded by Councilman Albea, and unanimously carried, approving the renewal of the following Special Officer Permits:

- (a) Renewal of permit to Woodrow Freeman to serve on the premises of Charlotte Park & Recreational Commission, 310 North Kings Drive.
- (b) Renewal of permit to Robert Calvin Gale, to serve on the premises of Johnson C. Smith University, 100 Beatties Ford Road.

TRANSFER OF CEMETERY LOTS.

Upon motion of Councilman Albea, seconded by Councilman Thrower, 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. Eva W. Hudson for Graves No. 7 and 8, in Lot No. 17, Section 2, Evergreen Cemetery, at \$120.00.

- (b) Deed with Mrs. Dorsey M. Whitlock for Graves No. 7 and 8, in Lot No. 172, Section 2, Evergreen Cemetery, at \$120.00.

RESOLUTION AMENDING THE ARTERIAL STREET PLAN AND THE THOROUGHFARE PLAN, ADOPTED.

Councilman Short moved the adoption of the subject resolution, which was seconded by Councilman Alexander, and carried unanimously.

The resolution is recorded in full in Resolutions Book 5, Page 396.

ORDINANCE NO. 581-X AMENDING ORDINANCE NO. 498-X, THE 1967-67 BUDGET ORDINANCE, AUTHORIZING THE TRANSFER OF A PORTION OF THE GENERAL FUND CONTINGENCY APPROPRIATION.

Councilman Thrower moved the adoption of the subject ordinance transferring \$3,500.00 for Non-Departmental Expense - Firemen's Retirement Benefit Study to finance a study conducted by a consulting firm on the adequacy of present Firemen's Retirement Fund Benefits. The motion was seconded by Councilman Albea.

Councilman Whittington requested that the City Manager be instructed to make sure that all personnel in the Fire Department are aware of the changes that are going to be presented to our Delegation.

The vote was taken on the motion and carried unanimously.

The Ordinance is recorded in Ordinance Book 14, at Page 478.

PLANS FOR ANIMAL SHELTER APPROVED.

Councilman Albea moved that the plans for the erection of the Animal Shelter be approved as recommended by Mr. Bobo, Administrative Assistant. The motion was seconded by Councilman Tuttle, and carried unanimously.

PROPERTY TRANSACTIONS AUTHORIZED.

Upon motion of Councilman Tuttle, seconded by Councilman Albea, and unanimously carried, the following property transactions were authorized:

- (a) Acquisition of easement 10' x 473.72' and 10' x 930.93' at Perth Court and Belle Plain Drive, from Ed Griffin Company, at \$1.00 for sanitary sewer right of way to serve Hope Valley Subdivision.
- (b) Acquisition of easement 10' x 435.14 L/F, lying along Burner Drive and Winterfield Subdivision, from Ed Griffin Development Corporation, at \$1.00 for sanitary sewer right of way to serve Burner Drive Apartments.
- (c) Acquisition of 5,825 sq. ft. of property at 124-26 Independence Boulevard at corner of East Third Street, at \$22,000, from Mary J. Davis for East Third Street Connector.
- (d) Consent judgment on 1,036 sq. ft. of property at 3421 Eastway Drive from Samuel Y. Cloninger & wife, at \$950.00 in connection with the Eastway Drive Widening.

January 16, 1967  
Minute Book 48 - Page 130

APPRECIATION EXPRESSED FOR INSTALLATION OF STREET LIGHTS ON PARK ROAD,  
FROM SULKIRK TO ARCHDALE DRIVE.

Councilman Jordan stated he appreciates the Traffic Engineering Department authorizing Duke Power Company to install four street lights on Park Road, from Sulkirk and Archdale Drive.

MEETING REQUESTED ARRANGED WITH LOCAL DELEGATION FOR DISCUSSION OF  
MATTERS TO BE BROUGHT BEFORE THE STATE LEGISLATION.

Councilman Whittington stated on the eve of the local Delegation going to Raleigh that Council should arrange a meeting and an agenda for the things that Council would like to discuss with them. Mayor Brookshire asked if Council members would like to suggest a date and time? Councilman Thrower stated it would be well to leave it up to the Delegation as they have a rather heavy schedule. Councilman Short stated he wonders if they would not prefer, and perhaps Council might prefer, a night meeting, as it would give a greater opportunity for people to be present.

CITY MANAGER REQUESTED TO REMIND TRAFFIC ENGINEER OF NEED FOR TRAFFIC  
LANES ON BEATTIES FORD ROAD AT DIXON STREET.

Councilman Alexander requested the City Manager to remind Mr. Hoose, Traffic Engineer, the need to work out the traffic lanes on Beatties Ford Road at Dixon Street.

PLANNING COMMISSION CONGRATULATED FOR UNIVERSITY CITY PROGRESS REPORT.

Councilman Tuttle moved that Council extend its congratulations to the Planning Commission for the excellent University City Progress Report. The motion was seconded by Councilman Short, and carried unanimously.

REPORT ON OUTER LOOP.

Councilman Tuttle asked the City Manager if there is any material progress being made on the outer loop, and Mr. Veeder replied the answer is yes.

CITY MANAGER REQUESTED TO HAVE TRAFFIC ENGINEER LOOK AT RAILROAD  
CROSSING ON SUMMIT AVENUE AND OLD DOWD ROAD WHERE NUMBER OF DEATHS  
HAVE OCCURRED.

Councilman Tuttle stated he is sure that Mr. Veeder has seen and has probably already given the Traffic Engineering Department the letter from Mr. W. L. Mauney with reference to the number of deaths at Summit Avenue and Old Dowd Road railroad crossing, and asked if this is being looked into? Mr. Veeder replied it is being investigated by both the Engineering and Traffic Engineering Departments.

COUNCIL INFORMED THAT WORK IN THOMASBORO-HOSKINS AREA HAS BEEN COMPLETED.

Councilman Tuttle asked if everything has been completed in the Thomasboro-Hoskins Area, and Mr. Bobo replied that it has. Councilman Short stated he has received a letter from some of the residents expressing their appreciation for what has been done by the City.

COUNCIL NOTIFIED OF RESIGNATION OF TOM RAFFETY, AIRPORT MANAGER,  
EFFECTIVE FEBRUARY 15.

Mr. Veeder stated it is with considerable regret, both personal and professional, that he must inform Council that one of the key department heads is leaving. Tom Raffety is resigning to accept the position as Director of Aviation for the City of San Antonio, Texas, effective

January 16, 1967  
Minute Book - Page 131

approximately February 15. Mr. Veeder stated he knows that he can speak for Council, as well as himself, that this is leaving a real void in the city organization. That in his judgment, Mr. Raffety is a real professional who has done a very fine job for the City of Charlotte. That it is with real deep and sincere regret that he makes this announcement.

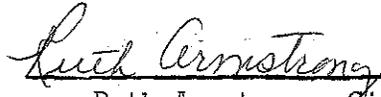
Mayor Brookshire remarked that it would be difficult to express the loss in mere words. That unquestionably, Mr. Raffety is one of the best in the field, and a most pleasant person to be associated with, and we will miss him personally and will miss his services.

MR. NORMAN E. MCCOY, CHARLOTTE FIREMAN, EXPRESSES APPRECIATION TO COUNCIL FOR RAISE RECEIVED DURING THE YEAR AND EXTRA HOLIDAY AT CHRISTMAS.

Mr. Norman E. McCoy, Charlotte Fire Department, expressed by card his appreciation for the raise in pay over the past year and for the extra holiday granted to city employees at Christmas.

ADJOURNMENT.

Upon motion of Councilman Thrower, seconded by Councilman Albea, and unanimously carried, the meeting was adjourned.

  
\_\_\_\_\_  
Ruth Armstrong, City Clerk