

March 27, 1972
Minute Book 57 - Page 34

The City Council of the City of Charlotte, met in regular session on Monday, March 27, 1972, at 3:00 o'clock p.m., in the Council Chamber, City Hall, with Mayor John M. Belk presiding, and Councilmen Fred D. Alexander, Sandy R. Jordan, James D. McDuffie, Milton Short, James B. Whittington and Joe D. Withrow present.

ABSENT: None.

* * * * *

INVOCATION.

The invocation was given by Dr. Carl Bates, Minister of the First Baptist Church.

MINUTES APPROVED.

Upon motion of Councilman Whittington, seconded by Councilman Short, and unanimously carried, the minutes of the last meeting, on March 20, 1972, were approved as submitted.

CONSIDERATION OF THE APPOINTMENT OF MEMBER TO FILL VACANCY ON COUNCIL TO BE TAKEN UP AFTER DECISIONS ON ZONING PETITIONS.

Mayor Belk stated we are very fortunate to have Mrs. Ruth Easterling with us today. That Council has met in informal session to appoint Mrs. Easterling to fill the vacancy on Council created by the resignation of Mr. Pat Calhoun. Because of the absence of one of the council members, formal action could not be taken at that time.

Mayor Belk asked if it is permissible that Council not vote on the appointment of Mrs. Easterling until after the 12th item on today's agenda, as she has not been present for the hearings.

Councilman Alexander stated many of Mrs. Easterling's friends are present today; he asked if she could not abstain from voting on these matters, and Council can go ahead with the appointment at this time.

Mr. Underhill, City Attorney, replied there are only two conditions on which a member of Council can abstain from voting. They are on matters affecting their own personal interest, or where personal financial considerations are involved. That neither of these two conditions would be in evidence in the case of Mrs. Easterling. That she could abstain from voting, but if she did abstain, the Charter specifically states that her abstention in so voting would be counted as an affirmative vote. She would be recorded as voting. That the fashion the Mayor has suggested would be a way of not putting her in a position of having to vote either one way or the other on the zoning petitions.

Councilman Short moved that the appointment be placed after Item 12 on the agenda. The motion was seconded by Councilman Alexander, and carried unanimously.

RESOLUTION CLOSING PORTION OF WADE DRIVE, FORMERLY WELDON DRIVE, IN THE CITY OF CHARLOTTE, NORTH CAROLINA.

The public hearing was called on Petition of Henry R. Hargett, Georgia H. Hargett, Jesse L. Allison, Evelyn M. Allison, A. V. Moffitt and Maggie C. Moffitt to close Wade Drive, between Dinglewood Drive and the Plaza.

March 27, 1972
Minute Book 57 - Page 35

Council was advised that the petition has been investigated by the various departments of the city interested in street right of way and there are no objections to the street closing.

No one spoke for or against the petition.

Motion was made by Councilman Alexander, seconded by Councilman Whittington, and unanimously carried, adopting a resolution entitled: Resolution closing portion of Wade Drive, formerly Weldon Drive, in the City of Charlotte, North Carolina.

The resolution is recorded in full in Resolutions Book 8, beginning at Page 210.

PETITION NO. 72-19 BY GARY H. WATTS FOR A CHANGE IN ZONING FROM R-6MF TO B-1 OF A LOT AT THE NORTHWEST CORNER OF CENTRAL AVENUE AND MEDFORD DRIVE, DENIED.

Councilman Short moved that the subject petition be denied as recommended by the Planning Commission. The motion was seconded by Councilman McDuffie, and carried unanimously.

ORDINANCE NO. 407-Z AMENDING CHAPTER 23, SECTION 23-39 TO ALLOW CONDITIONAL OFF-STREET PARKING ON A STRIP OF LAND AT THE REAR OF A LOT AT THE NORTHEAST CORNER OF SHARON AMITY ROAD AND ROBIN ROAD, ON PETITION OF ALVIN E. LEVINE, ET AL.

Upon motion of Councilman Whittington, seconded by Councilman Withrow, and unanimously carried, the subject ordinance was adopted to allow conditional off-street parking as recommended by the Planning Commission.

The ordinance is recorded in full in Ordinance Book 19, at Page 19.

ORDINANCE NO. 408-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE CHANGING THE ZONING OF A PARCEL OF LAND AT 1117-1129 CLEMENT AVENUE, ON PETITION OF SQUIRES REALTY, INC.

Motion was made by Councilman Jordan, seconded by Councilman Alexander, and unanimously carried, adopting subject ordinance for a change in zoning from O-6 to I-2 of a parcel of land 220' x 183' at 1117-1129 Clement Avenue as recommended by the Planning Commission.

The ordinance is recorded in full in Ordinance Book 19, at Page 20.

ORDINANCE NO. 409-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE CHANGING THE ZONING OF PROPERTY ON THE SOUTH SIDE OF CAMPBELL DRIVE, BEGINNING 200 FEET WEST OF SHARON AMITY ROAD, ON PETITION OF LLOYD D. CAMPBELL, ET AL.

Councilman Withrow moved adoption of the subject ordinance changing the zoning from R-9 to R-9MF of .794 acre tract of land on the south side of Campbell Drive, beginning 200 feet west of Sharon Amity Road, as recommended by the Planning Commission. The motion was seconded by Councilman Short, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 19, at Page 21.

PETITION NO. 72-12 BY R. H. ADAMS FOR A CHANGE IN ZONING OF PROPERTY ON THE SOUTHEAST SIDE OF NORTH DAVIDSON STREET, BETWEEN EAST 37TH STREET AND HERRIN AVENUE, DENIED.

Upon motion of Councilman Short, seconded by Councilman Withrow, and unanimously carried, the subject petition for a change in zoning from R-6MF to I-2 of property on the southeast side of North Davidson Street, was denied as recommended by the Planning Commission.

March 27, 1972
Minute Book 57 - Page 36

ORDINANCE NO. 410-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE CHANGING THE ZONING OF PROPERTY ON THE NORTHWEST SIDE OF BARRINGER DRIVE, ON PETITION OF D. L. PHILLIPS INVESTMENT BUILDERS, INC.

Motion was made by Councilman Jordan, seconded by Councilman Alexander, and unanimously carried, adopting the subject ordinance changing the zoning from I-2 to R-6MF of 2.25 acres of land on the northwest side of Barringer Drive, beginning 1,400 feet southwest of Clanton Road, as recommended by the Planning Commission.

The ordinance is recorded in full in Ordinance Book 19, at Page 22.

Councilman McDuffie stated this density of apartments is of much concern to a lot of people. That we should get the review of the apartment classifications and the number of units per acre on the agenda. Personally he does not approve of R-6 and R-9, and there is some question of R-12 allowing too many units. This is an addition to one that is already there, and it is fragmented and they could possibly build this on O-6 or I-2 that is already there. That this review should be moved up on the agenda as the city is being flooded with apartment units, and some of them are not very substantially constructed. It is a concern to a lot of citizens.

He requested the City Manager and the Planning Commission for a review of the overall zoning classifications.

Mr. Fred Bryant, Assistant Planning Director, stated one of the items on the work list is a general review of some of the residential classifications, particularly multi-family as it relates to the zoning ordinance. That they are still very much involved in this. That it will probably be several weeks and perhaps three or four months before a complete review can occur.

PETITION NO. 72-14 BY TAR HEEL FOOD BROKERS, INC. FOR CHANGE IN ZONING OF A LOT AT 723 WEST SUGAR CREEK ROAD, DENIED.

Councilman Whittington moved that subject petition for a change in zoning from R-9 to O-6 of a lot at 723 West Sugar Creek Road be denied as recommended by the Planning Commission. The motion was seconded by Councilman Short, and carried unanimously.

ORDINANCE NO. 411-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE CHANGING THE ZONING OF PROPERTY AT 130 WELLINGFORD STREET ON PETITION OF EDWARD M. HARRIS.

Upon motion of Councilman Alexander, seconded by Councilman Jordan, and unanimously carried, the subject ordinance was adopted changing the zoning from R-9MF to O-6 of a lot at 130 Wellingford Street, as recommended by the Planning Commission.

The ordinance is recorded in full in Ordinance Book 19, at Page 23.

ORDINANCE NO. 412-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE CHANGING THE ZONING OF A PARCEL OF LAND ON THE SOUTH SIDE OF CENTRAL AVENUE, ABOUT MIDWAY BETWEEN ROSEHAVEN DRIVE AND WINTERFIELD DRIVE, ON PETITION OF G. W. MCMANUS, ET AL.

Councilman Jordan moved adoption of the subject ordinance changing the zoning from R-6MF to B-1. The motion was seconded by Councilman Alexander.

Councilman Whittington stated he is going to vote for this. That he does not disagree with what the Planning Commission said. But this area was zoned business a long time ago, and it would be unfair to vote against these people today just because you have other businesses there. He stated he voted against the original business; it is there now, and he cannot see anything to do except to give these people what they have requested. That he is going to vote for it.

March 27, 1972
Minute Book 57 - Page 37

Councilman Short stated he is going to vote for this because the damage is already done. We would have been better, he believes, if this little settlement had never been there; but it is there.

Councilman McDuffie stated he thinks we are in the same ball park as Sugar Creek and others that will come up. We are committing the rest of Central Avenue to be business out to Sharon Amity Road. There are four lots in this block, and this is the first two. When you make this judgement, you say it is going to be business the rest of the way. That may be the only reasonable thing to do. But the Planning Commission again has an obligation to try to hold some residential property on major thoroughfares. We get another situation with businesses in the same block. That the people on Sugar Creek Road are not far removed from business. We stake ourselves out with strip zoning, and every four lane street has the same problems. That he personally does not favor the zoning, but there is not much you can do about it at this date. Every week we do a lot somewhere that comes back later.

Councilman Short stated he agrees that the gap is liable to be closed in there; it could occur. But he is not sure he can see any comparison between this and Sugar Creek Road.

Councilman Withrow stated this is now zoned R-6MF; that is high density apartments; there are a lot of apartments out there, and he is going to vote for business as it will not create any more traffic than R-6MF apartments.

Councilman Alexander stated he is going back to what he said at the hearing. There is a need to relook at many of our streets in Charlotte soon, and to come up with a new form of zoning that is more in agreement with the real problems that exist. That we are now far enough on the road to be able to come up with some changes and let persons know what areas of the community will have business zoning and what areas will be residential. He stated some of these streets on which we are passing zoning were in the county just a few years ago, and the method of planning then is a little different from now, and the needs are altogether different. This is what we are faced with - what was a beautiful residential street or road is now a highly intensified thoroughfare in the city. For these reasons we must give some consideration to it.

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

The ordinance is recorded in full in Ordinance Book 19, at Page 24.

APPOINTMENT OF RUTH MOSS EASTERLING TO THE CITY COUNCIL TO FILL UNEXPIRED TERM OF PATRICK N. CALHOUN, AND OATH OF OFFICE ADMINISTERED BY MAYOR BELK.

Councilman Jordan stated it gives him a great deal of pleasure to move the appointment of Mrs. Ruth Moss Easterling as a member of the City Council to replace Mr. Patrick Calhoun. Councilman Whittington seconded the motion.

Councilman Whittington stated it is a genuine pleasure to second the appointment of Mrs. Ruth Easterling, a dear lady who has been his friend and a friend of his wife for a number of years. He believes the ladies in the audience today, the Business and Professional Women's Club, the members of the Democratic Women's Club, the Democratic Women's Caucus would all agree that what the Council has done was good. He stated he remembers last week Mrs. Gladys Tillett calling him and saying to him what a dear, mature, intellectual lady Ruth is, and she thought it would be a great asset to this City if Council appointed her to this position. He stated he takes great pleasure in seconding the motion, and saying to her that Council is delighted to have her on board.

Councilman Short stated those who are here on behalf of this occasion might be recognized; they are particular friends and associates of Mrs. Easterling, and he asked them to stand.

March 27, 1972
Minute Book 57 - Page 38

Councilman Withrow stated he did not have the pleasure of being present at the informal meeting of Council on last Tuesday as he was out of town. He stated it is a pleasure to have her on Council.

The vote was taken on the motion and carried unanimously.

Mayor Belk then asked Mrs. Easterling's father, B. H. Moss, her sister, Ruby Moss, her niece, Ruth Ann Brown, her uncle, Thomas S. Moss, and her cousin, Margie M. Hinson to come and stand with her as the oath of office was administered.

Mayor Belk then administered the oath of office to Ruth Moss Easterling as a City Councilwoman, at 3:25 o'clock p.m.

Councilwoman Easterling stated it is with some awe and great humility that she has accepted this responsibility today. She did not seek this high office; she did not even know that her name was being considered on any list that had been submitted. But when the opportunity came, she felt she almost had to do it. Whether the assignment appealed to her personally or not, she just could not give the Council an excuse not to appoint a woman by turning it down. She did not want them ever to be able to say "Well, we offered it to several women and they wouldn't take it", and then they would think their responsibility had ended. And now, that they have her, they have a right to know the influences that have shaped her way of thinking, and what can be expected of her.

She stated they have met her family. Any person needs the undergirding and support of her family, and she has that. She stated she comes from a strong religious and church background. Her pastor is Dr. Bates, and she is so pleased he could be here today to pray for her and to pray for the other councilmembers and the mayor as decisions are made that affect the whole life of the city.

She stated she has been very fortunate in the employers that she has chosen. Two of whom have greatly influenced her philosophy. As church secretary of First Baptist Church in Shelby, she had an opportunity to work with the late Dr. Zeno Wall, an outstanding Baptist leader. Later, during World War II, while she was serving in a civil service position in Camp Shelby, Mississippi, Captain Herman Blumenthal was transferred into Camp Shelby as her immediate superior in the highly classified and confidential section concerned with the transfer of troops from the European to the Pacific theaters of war. And from that association she came to her present position as Executive Assistant to Mr. I. D. Blumenthal, President of Radiator Specialty Company, owner of Wild Acres, President of the North Carolina Jewish Home, and on and on she could list his involvement. Dr. Zeno Wall, a Baptist, Mr. I. D. Blumenthal, a Jew. Two strong people. Both with deep faith and strong religious convictions. Forceful personalities. Very much alike. Intensely interested in the welfare of their fellowman, who taught her by example that you must not always take from your community; you have a responsibility also to give, or she would not be here right now.

Councilwoman Easterling stated even before yesterday's newspaper gave her a blow by blow description of the details, she realized her appointment was not an easy choice for the Council to make. She was part of several groups of women urging Council to appoint a woman. She is sure there were pressure groups beside theirs. Now, that it has been done, she does not want to be the visible token woman on Council. She does not think her opinions will make headline news everyday. But what she wants to do now is to settle down and to become a hard working member of City Council, serving all the people of Charlotte to the best of her ability as she has just sworn to do.

Councilwoman Easterling promised she will consider people values more important than money values, and the long term effect as important as the short term goal. Working with women's organizations has taught her to respect the orderly, democratic, and parliamentary process of getting results, of getting things done, of accomplishing goals. She understands the work of committees and commissions who investigate and make recommendations. She understands, also, that the mayor and city council have the awesome responsibility of making the final decisions as has been seen here today.

March 27, 1972
Minute Book 57 - Page 39

She stated she takes this responsibility seriously. She knows she has a lot to learn fast. So she is going to take it one day at the time and do the best she can.

Mrs. Georgia Brooks, President of the Democratic Woman's Club, stated the Executive Board of the DWC of Mecklenburg goes on record commending the City Council upon the appointment of the devoted, public servant, a member of DWC, Ruth Moss Easterling to the Charlotte City Council.

Mayor Belk thanked all for coming. He stated all look forward to working with the new member of Council.

RESIDENTS ON FIRST FOUR BLOCKS OF SHARON ROAD, STARTING AT QUEENS ROAD
REQUEST THAT PORTION OF SHARON ROAD NOT BE MADE INTO FOUR LANES.

Mr. Sam Millett, Attorney, stated he is representing the people who live on the first four blocks of Sharon Road, starting at Queens Road. That area runs from Queens Road south on Sharon Road down to Briar Creek.

He stated he understands the city council has made plans to do something about that street. The street is narrow and it carries a good deal of traffic, and he understands the city plans to do something about alleviating the traffic situation.

Mr. Millett stated he is here to ask the city council not to make this a four lane street at that location. These people recognize that traffic is always a problem; it is a problem all over the city, even on the four lane streets at various times of the day. They believe they have some very good reasons for not letting this particular street be a four lane street. One good reason is the traffic hazard that would be created. They understand many of these lots are 60 foot lots; they know that on the east side, behind the houses that are abutting on the east side of Sharon Road, there is a large swamp; there is no road access on that side of the houses; there is no real road access to any of these other houses. The effect being that when a person drives into his driveway, the only way he can get out is to back out. If this is made a four lane street, then he does not know what will happen to the traffic hazards by virtue of these people having to back out of their driveways. There is no way for these people to turn around on their own property.

Mr. Millett stated this is a very stable neighborhood and has been stable for many years. If the street is widened to four lanes, this would mean there would be some houses whose front doors would be within 15 feet of the street. Another important reason is the cost involved. It will be necessary to acquire additional right of way to widen this street. As the street is now, there is no curb and gutter. There are sidewalks, and the sidewalks would have to be removed and curb and gutter would have to be installed. There would have to be additional work to do something about the severe curve presently located in the street. Further the ecological effect would be unwholesome for the community, and for the people who live there. The chances are good that many of the people who live there whose homes the owners are very proud of at present, who keep their yards and their homes beautiful, this would probably be the beginning of another rundown area that shortly would occur. They think the city would lose considerable tax revenue in connection with that.

Mr. Millett stated as an alternative, a good suggestion came to them by way of the newspaper in quoting Councilman Short with reference to an old right of way that goes through some nearby property. He referred to a map and stated the curve line on the right hand side represents the present street. The curved lines on the council's right would be the present location. The straight line to the council's left would represent the right of way which presently is partly owned by the City of Charlotte; and partly not owned by

March 27, 1972
Minute Book 57 - Page 40

the City. It would constitute somewhere in the neighborhood of half the distance that would be required as to Briarwood, or the present Sharon Road. This would cause the southern part, or approximately half of the straight road would need to be put in. The part from Briar Cliff north to the intersection of Queens Road with Sharon Road is already in. It would necessitate just putting in the distance from the creek up to the intersection of Briar Cliff and Queens Road.

He stated they recognize that not everybody would be satisfied who lives out there with this done. But it would utilize land that is really not being used for anything at the present time. They suggest by using what they have recommended here that there are some alternatives within that along.

If the Council should see fit to do something about a roadway in there, two alternatives could be used on their present recommendation as to this right of way that already partly belongs to the City of Charlotte. One is the right of way could be used for the four lane street. Going south to north on Sharon Road at the creek the bridge is straight away into the right of way. So it is necessary in order to drive on to Sharon Road at that point, going north, you have to make a sharp right hand turn right off the bridge. They understand the one thing that has proceeded along in this connection is the bridge. That plans have been completed for the bridge; that these plans call for four lanes crossing, making available more conduit in the area under the bridge; but that the bridge is presently set up as engineered to turn the bridge in an easterly direction so that it would more follow the present Sharon Road. Also in doing this the Engineering Department has endeavored to reduce the amount of the curve coming off the bridge and going in a northerly direction. He stated this is the critical stage as to how the bridge is set. If the bridge is set to go in the direction of Sharon Road, then it would not be a suitable location to use the alternate route through the already partially acquired and partially owned right of way.

Mr. Millett stated there could be two lanes or four lanes in the old right of way section. If it were two lanes it could be used for traffic going in or out - one way traffic. It probably should be and could be limited access so there would be no question about cars having to come on or off that road. It would be a road straight through the approximately block and half or two blocks long. If it were four lanes it could still be a non-access because it is at the rear of all the houses on each side of it. There are no houses that would front on this right of way. This right of way runs behind the houses. If the Engineering Department recommended to the Council that this was not a proper way to go, there are still other alternatives. There could still be a one way street to take traffic in one direction so you would only have traffic going in one direction on Sharon Road. They think this is a good alternative.

He stated before any final plans are made they would appreciate very much having an opportunity to perhaps criticize or perhaps to applaud or perhaps to recommend some changes. They did want to bring this matter to the attention of Council today because of the critical situation at the bridge. If the engineering stands the way it is, it appears to them that Council will have very little alternative about what is going to happen to the road, and they think it will constitute the destruction of a very nice neighborhood.

COUNCILMAN ALEXANDER LEAVES MEETING.

Councilman Alexander left the meeting at this time and was absent for the remainder of the session.

Later in the meeting Mayor Belk announced that Councilman Alexander was called away from the meeting due to an emergency at home.

March 27, 1972
Minute Book 57 - Page 41

RESOLUTION AUTHORIZING CONDEMNATION PROCEEDINGS FOR THE ACQUISITION OF PROPERTY BELONGING TO JAMES GARLAND THOMAS AND WIFE, JO ANN THOMAS, LOCATED AT 815 PARKWOOD AVENUE, IN THE CITY OF CHARLOTTE, FOR THE BELMONT NEIGHBORHOOD IMPROVEMENT PROJECT.

Councilman Withrow moved adoption of the subject resolution authorizing condemnation proceedings for the acquisition of subject property, belonging to James Garland Thomas and wife, Jo Ann Thomas, located at 815 Parkwood Avenue, in the City of Charlotte, for the Belmont Neighborhood Improvement Project. The motion was seconded by Councilman Whittington, and carried unanimously.

The resolution is recorded in full in Resolutions Book 8, at Page 212.

PROPERTY TRANSACTIONS AUTHORIZED.

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

- (a) Acquisition of a construction easement varying from 3 feet x 9 feet x 163 feet, at 2011 Sharon Lane, from Christina C. Smith (widow), at \$2,038.85, for the Sharon Lane Widening Project.
- (b) Acquisition of 85.8 square feet of taking and a construction easement of 1,575 square feet, at 2051 Sharon Lane, from W. E. Wilkinson, Jr. and wife, Alice J., at \$600.00, for the Sharon Lane Widening Project.
- (c) Acquisition of 3,201 square feet of taking and a construction easement of 820 square feet, at 2035 Sharon Lane, from Paul R. Ervin (deceased), Dorothy Denton Ervin (widow), at \$1,700.00, for the Sharon Lane Widening Project.
- (d) Acquisition of 20' x 162.55' of easement at 524 Lakewood Avenue, from Westside Baptist Church, at \$165.00, for the Parkway Avenue Trunk Sanitary Sewer Construction.
- (e) Acquisition of 25' x 248.97' of easement at 1212 Morningside Drive, from E. Reed Gaskin and wife, Jean H., at \$249.00, for the Upper Briar Creek Interceptor Sanitary Sewer Construction.
- (f) Acquisition of 15' x 7.49' of easement at 2723 Commonwealth Avenue, from Duke Power Company, at \$1.00, for the Upper Briar Creek Interceptor Sanitary Sewer Construction.

RIGHT OF WAY AGREEMENTS, APPROVED.

Motion was made by Councilman Jordan, seconded by Councilman Whittington, and unanimously carried, approving the following right of way agreements:

- (a) Agreement with State Highway Commission for the construction of 8" water main crossing I-85 in the 3800 block between Cottonwood Road and Starita Road.
- (b) Agreement with State Highway Commission for the construction of an 8" water main in Tom Hunter Road, between Montieth Drive and Hidden Forest Road.

CONTRACT FOR THE INSTALLATION OF WATER MAIN, APPROVED.

Councilman McDuffie moved approval of a contract with Ed Griffin Construction Company for the installation of 470 feet of water main to serve a portion of the Hidden Valley Estates No. 2, inside the city, at an estimated cost of \$2,600.00, with all funds to be advanced by the applicant, under the terms of the existing city policies. The motion was seconded by Councilman Withrow, and carried unanimously.

March 27, 1972
Minute Book 57 - Page 42

INSTALLATION OF SANITARY SEWER TO SERVE 6300 MONROE ROAD, APPROVED.

Upon motion of Councilman Withrow, seconded by Councilman Jordan, and unanimously carried, approval was made for the request of E. B. Simpson for the extension of 90 lineal feet of 8" sanitary sewer to serve 6300 Monroe Road, outside the city, at an estimated cost of \$979.00, with all cost of construction to be borne by the applicant whose deposit in the full amount has been received and is non-refundable.

ASSIGNMENT OF LEASE AGREEMENT FOR THE CHARLOTTE AIRPORT MOTEL FROM AIR LODGE, INC. TO MONTEREY MOTOR INNS, INC. DEFERRED FOR TWO WEEKS.

The assignment of lease agreement for the Charlotte Airport Motel from Air Lodge, Inc. to Monterey Motor Inns, Inc. was presented for consideration.

Councilman Jordan asked the City Manager if he is in agreement with this, and Mr. Burkhalter replied it is not exactly what we like but it is in accordance with the contract signed some years ago; the City Attorney informs us it is the only legal way we can handle it.

Councilman Withrow moved approval of the assignment of the lease agreement for the Charlotte Airport Motel from Air Lodge, Inc. to Monterey Motor Inns, Inc. The motion was seconded by Councilman Jordan.

Councilman Short asked if there is anything in this contract that would prohibit the Airport Department or the City from leasing other land to some other developer. Is there a non-competing clause in the agreement? Mr. Birmingham, Airport Manager, replied there is. Councilman Short asked if this would apply to land acquired subsequently to the execution of the original agreement? Mr. Birmingham replied it would. Mr. Underhill, City Attorney, stated it would.

Councilman Short asked how wide is the non-competing clause: would it apply to any land the city acquires? Mr. Underhill replied the provisions of the lease read that the lessor, which is the City, agrees that it will not permit any of its property which it now owns or which it may later acquire at Douglas Municipal Airport, to be used for hotel-motel or rooming purposes. There would be some question if he is talking about acquiring another airport site at another area away from the immediate area of Douglas Airport; it would apply to such land as now being acquired for the expansion program at the airport.

Councilman McDuffie asked how much longer the present lease has to run, and he was advised it will run to 1997.

Councilman Short stated to run this kind of provision in a lease from now until 1997 is not in the public interest. That he does not know what we can do about it, but some further thought should be given this, and he would like to think about it further.

Councilman Short made a substitute motion to defer this matter for two weeks. The motion was seconded by Councilman McDuffie.

Councilman McDuffie asked that Council be given a copy of the lease.

Councilman Short stated for the city to be hammerlocked this way for the next 25 years, when airports all over the world have this sort of thing, would be hasty on our part to jump into this today.

Councilman Withrow stated he will agree to put it off for two weeks, but the City Council that voted for it in the first place should have thought about it.

March 27, 1972
Minute Book 57 - Page 43

Councilman Short stated they should have; but if there is anyway we can get around the problem he thinks we should; that Council should talk like a dutch uncle to this new lessee, and see what can be arranged on the matter. This is not just a matter of someone having a place to stay around the airport; it is a profitable operation for the city, and the whole taxpaying group of the city is involved.

Mr. Underhill stated this is not the standard non-competing clause. There is provision further on in the agreement that provides if the Council feels there is a need for additional rental units, then they can call upon the lessee to provide such additional units. To that extent it is not an exclusive or a non-competing clause usually found. There are other requirements that come into consideration as to average occupancy and this type of thing. The lessee, if Council feels it is necessary, can be given the opportunity to provide additional motel units to service the airport facility.

Councilman Short replied he doubts that would be adequate. The city government is supposed to be running and controlling features of the airport, and not someone who has a tricky clause in a lease. That he does not think that is really sufficient.

Councilman Withrow asked how the option on sub-letting the motel runs? What will two weeks do to them? Mr. Lynn Bond, Attorney, stated two weeks could be rather crucial because the assignee has a loan commitment which would expire in the meantime unless it is extended. The commitment is to borrow \$500,000 on the transaction.

Mr. Bond stated he represents the assignee and the particular provision does not cut off the city's right to add additional rental units in the vicinity of the airport. It simply gives the tenant, whoever it happens to be, the protection of getting the first option to add additional units. If he does not exercise that option then the city has the right to go forward. That he does not think it was a tricky provision put into the lease; that it was a fair, reasonable provision when the lease was entered into, and it is fair now. It is simply a first option for the protection of the investment of the tenant at the airport; that it is simply a question of a legal matter now that the city wants to honor a valid contract, a valid provision, and he would submit the city should go along with its assignment.

Councilman Withrow asked what two weeks would gain? Are we not forced to go along with the assignment. If Council does not approve the assignment, could we change the contract that has been signed for 40 years? Mr. Underhill referred to the attachment on the agenda which is his opinion on the lease and stated it is a standard assignment clause and in substance says the lease cannot be assigned without the written consent of the lessor, which is the City, and is the reason it is before Council today. But that such written consent shall not be unreasonably withheld. The law basically says the City has the duty and the responsibility to satisfy itself that the person to whom the lease is proposed to be assigned is both financially capable to assume this lease, and a morally responsible person. If the persons to whom the lease is to be assigned are found to both financially and morally responsible then the city cannot arbitrarily withhold its consent. If it saw reason to withhold the consent, and if the assignee is financially and morally responsible, then Council would be unreasonably withholding consent, and could be subject to some litigation.

Mr. Underhill stated Councilman Short is asking the city to examine the possibilities of amending the lease; that is really another question rather than the question of whether or not the lease can be assigned. It should be considered separate and apart. The lease is valid and it will not expire until 1997, and unless amended, which has to be done with the consent of both parties, the city is required to meet its provisions.

Councilman Short stated he is asking a different approach from that discussed in the City Attorney's memorandum. The memorandum is certainly valid and sensible; that he is bringing up the amendment possibility. He asked Mr. Bond if this came up in the form of the city asking for more space what would be the terms? Would that have to be some sort of lease on the same ground rent and run for the same period?

March 27, 1972
Minute Book 57 - Page 44

Mr. Bond replied those particular provisions are not in the lease itself. It would then be only reasonable that the lease of the additional units would be under the same basis as the original terms. This is not a straight flat rental; it is percentage rental proposition. That it only makes sense if you are going to add additional units the terms of the lease would have to go for all units the same.

Councilman Short asked if he is saying that 10 or 15 years from now we have a big airport and flights are coming in from London and all that sort of thing, and the big new runway has been built, and someone comes along and says this is a bonanza, and wishes to get some of it out there for a \$1,000 as ground rental at 10 percent, and instead they now have it at \$275, and 2 1/2 percent, and if you are willing to along with the \$275 and the 2 1/2 percent, then we are compelled to go with them? Mr. Bond replied he thinks they would have to make the city's terms to it. That they would have the right to add the additional units on the same basis as the city would lease to anyone else. The terms would have to be the same as the original. The amount of rental would be different; it would have to meet competition. This is not stated in the agreement.

Councilman Short asked if he does not want to expand and negotiate and amend a little bit at this point as this is not in the public interest? Mr. Bond replied he does not think as a practical matter we have a problem. If the airport moves its terminal location, then it would be only reasonable that the motel site be located in the vicinity of the new airport. At that point in time, the City would simply give the tenants the first option to meet the same terms and conditions as anyone else. If they did not do it, then the city would have a free hand to go forward with another tenant. Councilman Short asked why this is not written into this agreement at this time? The City is in the process of building this runway and now is the time to straighten the matter out. Mr. Bond replied one of the problems is the timing of the commitment of the loan; they have approved the lease as written. He stated they have gone through this debate with the Airport Advisory Committee, and have consulted with Mr. Underhill several times. That he does not think they are taking an uncontestable position; that the present tenant has a reasonable contract and he has the right to assign it. He stated his clients are acceptable assignees and therefore he does not think it is a matter of debate until it comes up. But at the same time, this lease has been approved by the lender in its present form and condition.

Councilman Withrow asked the City Attorney if he has checked the assignees' finances and they are sound? Mr. Underhill replied Mr. Fennell, Finance Director has done this.

Councilman McDuffie asked if Council has any right to know the agreement on the present transfer of the lease? Mr. Maury Johnston, Attorney for the present holder, replied he has provided the City Attorney with all this information; they have nothing to hide from the city. He stated they have disclosed the sale contract, its terms and everything. Mr. Underhill replied he does have this information. Mr. Johnston stated they started into this in the early part of this year; explaining to the Airport Manager who the purchasers would be; they have had protracted negotiations with the Advisory Committee; they have negotiated with them and done everything they could to satisfy everyone. That he understands the city's position completely, but at the same time he has a client who has a very vulnerable position here when they talk about making it a requirement of approval that they amend the lease. This would kill the sale. He stated it is his position that the question should be before the Council as whether the Assignee meets the moral character, financial responsibility and education to run the business.

Mr. Underhill stated this is talking about the assignment of the lease, and not amending the lease. That what Council does here would not prevent the City at any point and time in the future, to attempt to negotiate with this proposed assignee or anyone else, on amending the lease. The information that has been submitted was submitted originally to Mr. Birmingham, Airport Manager, and then to the Airport Advisory Committee. That this has been

March 27, 1972
Minute Book 57 - Page 45

gone over quite extensively between the staff and the Airport Advisory Committee, and the Airport Advisory Committee at the time the matter was first brought up raised exactly the same question that Council is now raising. If the City can satisfy itself that these people are financially and morally responsible, it cannot withhold its consent to the assignment of the lease. That is what they are asking Council to do - assign the lease from one party to the other party.

Councilman Short stated waiting to study it more than from Friday to Monday is not unreasonably withholding, and what he is asking is to consider the possibility of amending it, which is another question entirely.

Councilman Withrow asked if there are any legal implications if the people should lose the option on the lease? Mr. Underhill replied if he is asking if they can sue us, the answer is yes.

Mr. Bond stated they would request that this be delayed for action until next week. In answer to the question about the amendment, they take the position that to ask that the lease be amended is by law unreasonably withholding consent.

The vote was taken on the substitute motion to defer for two weeks, and carried unanimously.

RESOLUTION AUTHORIZING THE REFUND OF CERTAIN TAXES COLLECTED THROUGH ILLEGAL LEVY.

Councilman Jordan moved adoption of the subject resolution authorizing the refund of certain taxes in the total amount of \$165.00. The motion was seconded by Councilman Whittington, and carried unanimously.

The resolution is recorded in full in Resolutions Book 8, at Page 213.

DEVELOPMENT OF SMALL PARK IN THE FOURTH WARD AREA OF THE CITY AUTHORIZED.

Motion was made by Councilman Whittington, and seconded by Councilman Short approving the following steps in the development of a small park in the Fourth Ward area of the City:

- (a) Approval of the concept of a small park to be located on the southwest side of West Eighth Street, between Poplar and Pine Streets.
- (b) Authorize the staff to negotiate a sale price for the site with the Salvation Army, and to prepare an amendment to the City's Open Space Grant Application No. OSC-73 to include the site costs.
- (c) Adopt Ordinance No. 413-X amending Ordinance No. 176-X, the 1971-72 Budget Ordinance, appropriating \$3,500 from the General Fund Contingency Account to a Capital Projects Account, titled Fourth Ward Park, to cover the cost of appraisals, and other expenses associated with the preparation of a grant application.

Councilman Whittington stated the idea of a public park in the Fourth Ward area is not a new one. That this idea has been brought to Council since 1969 by Mr. Alexander, Mr. Short and himself.

Mayor Belk asked why there is not a recommendation included from the Park and Recreation Commission? Mr. Carstarphen, Assistant City Manager, replied he has discussed this with Chairman Ace Walker on an informal basis; that his position is that Park and Recreation Commission is always pleased to add a park provided they can expect to secure the financial resources necessary to maintain it. He stated our dealings on this type of project are initially from the city as an organization as opposed to Park and Recreation Commission. The City can take advantage of a grant application which has already been approved; amend it and add this site to it. This

March 27, 1972
Minute Book 57 - Page 46

application which we intend to amend relates to a grant which is directly to the city. He stated we would have two options on the maintenance. One to have the Landscaping Division of the Public Works Department maintain it, or to ask the Park and Recreation Commission to accept it for maintenance once it is constructed. In any event, if the city elects to pursue it, we will be committed to maintaining the park. It would be a matter of either receiving the approval of the Park and Recreation Commission to accept it in which case it would be a part of their responsibility, or as we do in a number of cases, including the Library Park, utilize the Landscaping Division of the Public Works Department to maintain it.

Mayor Belk stated the Salvation Army should be congratulated on its endeavor in building this apartment tower for the aged. This will be a great asset, and the apartments are really needed.

Mr. Burkhalter, City Manager, stated this park is in an area that was asked for, and planned earlier. That it just so happens to fit in with this area. Mr. Carstarphen stated the idea of a park in Fourth Ward has been identified and approved by Council as well as the Park and Recreation Commission in three consultant studies as well as planning the Planning Commission has carried out. The goal of the park was identified long before the idea of the Apartment Towers.

Mr. Burkhalter stated Council is not approving the purchase of this today; it is a conceptual study and there may be some more things to add to it when the eventual time comes around.

Mr. Carstarphen stated obviously they will back to Council when the negotiated sale is ready for approval with a recommendation. Mr. Burkhalter stated if the park is to be park benches and roses and shrubs, very obviously it can be economically and properly kept by the Landscape Division. If it is to be tennis courts and other things of this sort, it would be the Park and Recreation.

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

The ordinance is recorded in full in Ordinance Book 19, at Page 25.

ORDINANCE NO. 414-X AUTHORIZING THE TRANSFER OF FUNDS FROM THE SALE OF WATER BONDS, SERIES 4178 TO COVER WATER IMPROVEMENTS PROJECTS IN THE CAPITAL IMPROVEMENT BUDGET.

Upon motion of Councilman Whittington, seconded by Councilman Withrow, and unanimously carried, subject ordinance was adopted authorizing the transfer of funds in the total amount of \$1,304,000 from the sale of Water Bonds, Series 4178, as follows:

- | | |
|---|------------|
| (1) Construct water mains at Craighead Road and Graham Street | \$ 293,000 |
| (2) Install water mains from Park Road to Woodlawn Road and from Park Road to Pineville Road via Sulkirk Road | 350,000 |
| (3) Minor extensions to present distribution system | 155,000 |
| (4) Relocate mains and service by State & Highway improvements at request of Public Works Department | 106,000 |
| (5) Install 24-inch water mains from existing 36-inch mains at Hoskins Road to Statesville Avenue | 400,000 |

The ordinance is recorded in full in Ordinance Book 19, at Page 26.

March 27, 1972
Minute Book 57 - Page 47

ORDINANCES AFFECTING HOUSING DECLARED UNFIT FOR HUMAN HABITATION UNDER THE PROVISION OF THE CITY'S HOUSING CODE.

Motion was made by Councilman Whittington and seconded by Councilman McDuffie to adopt the following ordinances affecting housing declared unfit for human habitation under the provisions of the City's Housing Code:

- (a) Ordinance No. 415-X declaring house at 509 North Myers Street unfit for human habitation.
- (b) Ordinance No. 416-X declaring house at 513 North Myers Street unfit for human habitation.
- (c) Ordinance No. 417-X declaring house at 708 Hopkins Court unfit for human habitation.
- (d) Ordinance No. 418-X declaring house at 709 Hopkins Court unfit for human habitation.
- (e) Ordinance No. 419-X declaring house at 712 Hopkins Court unfit for human habitation.
- (f) Ordinance No. 420-X declaring house at 713 Hopkins Court unfit for human habitation.
- (g) Ordinance No. 421-X declaring house at 714 Hopkins Court unfit for human habitation.
- (h) Ordinance No. 422-X declaring house at 715 Hopkins Court unfit for human habitation.
- (i) Ordinance No. 423-X declaring house at 716 Hopkins Court unfit for human habitation.
- (j) Ordinance No. 424-X declaring house at 717 Hopkins Court unfit for human habitation.
- (k) Ordinance No. 425-X declaring house at 718 Hopkins Court unfit for human habitation.
- (l) Ordinance No. 426-X declaring house at 719 Hopkins Court unfit for human habitation.
- (m) Ordinance No. 427-X declaring house at 720 Hopkins Court unfit for human habitation.
- (n) Ordinance No. 428-X declaring house at 721 Hopkins Court unfit for human habitation.

Council was advised that the property owner had indicated he would contest the orders.

Mayor Belk asked if the owner or his representative would like to speak on the orders, and no one replied.

Mr. Jamison, Superintendent of the Inspection Department, advised the buildings are open and unoccupied and unfit for human habitation.

Pictures of the buildings were passed around for the Council to view.

Mr. Joe Carter stated he is with the First Ward Improvement Association. That he did not know this was coming up on the agenda today; but several weeks ago the Association met and tried to find out how to get rid of these houses which have become a nuisance. They wrote letters to Mr. Jamison. He stated these are vacant houses in a row with a street approximately the size of this room; it is hard to get in and out with a car, not even considering a fire truck. There have been several fires up there, winos and addicts use the place. Last week a man was found unconscious and beaten up there and left overnight. The week of the thirteenth, a lady was run away from the area by threats from some young men who occupy the area. He passed around some colored pictures and stated the houses are unoccupied; doors are open.

Mr. Carter stated the First Ward Improvement Association has asked the Fire Department to send inspectors out; Mr. Jamison has been asked to come down; the Health Department has been asked to come down. There will be a meeting Wednesday at 2:00 o'clock at the inner agency to try to find some way to get rid of this. It would only take one fire to burn the entire block.

March 27, 1972
Minute Book 57 - Page 48

Mr. Carter stated that Mr. Lee Kinney owns the entire block; it is located in a block that goes into what is called an alley or a court. He stated they are asking that these houses be torn down.

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

The ordinances are recorded in full in Ordinance Book 19, beginning at Page 27.

ORDINANCE NO. 429-X ORDERING THE REMOVAL OF WEEDS AND GRASS ON THE PREMISES AT 400 N. CRIGLER AVENUE, PURSUANT TO SECTION 6.103 AND 6.104 OF THE CITY CHARTER, CHAPTER 10, ARTICLE I, SECTION 10-9 OF THE CITY CODE AND CHAPTER 160-200 OF THE GENERAL STATUTES OF NORTH CAROLINA.

Councilman Jordan moved adoption of the subject ordinance ordering the removal of weeds and grass on the premises at 400 N. Crigler Avenue, pursuant to Section 6.103 and 6.104 of the City Charter, Chapter 10, Article I, Section 10-9 of the City Code and Chapter 160-200 of the General Statutes of North Carolina. The motion was seconded by Councilman Withrow and carried unanimously.

The ordinance is recorded in full in Ordinance Book 19, at Page 41.

RESOLUTION AUTHORIZING THE DIRECTOR OF PURCHASING TO HOLD PUBLIC AUCTIONS TO DISPOSE OF SURPLUS MOTOR VEHICLES.

Councilman Jordan moved adoption of the subject resolution authorizing the Director of Purchasing to hold public auctions to dispose of 36 surplus automobiles now being readied for sale by the Police Department. The motion was seconded by Councilman Withrow for discussion.

Councilman Withrow stated sometime back there was some discussion about policemen driving some of these older make cars home. He asked what happened to that proposal? He was advised that the city could not afford it. Councilman Whittington asked what happens to this money; does it go into the general fund or into the police budget? The City Manager replied it goes into the general fund; it is accounted for in the overall budget during the year; it is miscellaneous income.

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

The resolution is recorded in full in Resolutions Book 8, at Page 214.

CLAIM FILED BY MRS. L. W. DRISCOLL FOR DAMAGES TO HOUSEHOLD FURNISHINGS, DENIED.

Council was advised that claim in the amount of \$1,268.50 has been filed by Mrs. L. W. Driscoll, 2626 Sharon Road, for damages to her household furnishings resulting from a sewer line backup on January 10, 1972, and the City Attorney recommends the claim be denied.

Mrs. Driscoll stated she was first notified by a lady who was occupying the front bedroom downstairs that her bathtub was overflowing with the awful brown, smelly water. That she rushed down to get a mop from the furnace room only to be met by water coming out of the furnace room into her living room. She stated by that time, the water was overflowing the tub. That she went to the telephone and called her son and he called the City and they said they could not come out in the rain. That she then went to the phone and in the meantime her son called a plumber. She stated she called the city twice and on the third call they said they would come out immediately. They came and she does have to compliment the service they gave. They came out with about seven men with buckets and mops and piled furniture up. They finally mopped it up, and all the time the two men in charge said

March 27, 1972
Minute Book 57 - Page 49

it was the city's fault and the city would pay for the damages. Meanwhile she called a carpet man to come out about the rug on the floor which was wall to wall, and they took it up. The lining completely went to pieces and the rug had to be separated in order to get it out of the big room. They tell her now that the rug has been cleaned but it has shrunk so that it is unusable in that room. Now she will have to have the rug replaced. Mrs. Driscoll stated she is not asking for any damages to the furniture; but she definitely feels she should have her rug replaced.

Councilman Jordan asked if any City employees have the authority to make any kind of statement that the city will pay for this? The City Attorney replied they do not have this authority. That the City advises those employees who come in contact with anyone that they should not make those statements. It is conceivable that some of our personnel could have made such a statement.

Councilman Short stated he has a direct conflict of interest in this matter and will not vote on it.

Councilman Jordan asked if the line was away from the house, and the City Attorney replied it is the line that was in the street; it is not Mrs. Driscoll's lateral; it is the city's line in the street that was blocked; that blockage forced the sewage to back up through her lateral and through her water closet.

Councilman McDuffie stated these things happen from time to time without any fault of the citizens. He asked what the city can do, and what it is required to do.

Mr. Burkhalter, City Manager, replied this line was routinely cleaned and maintained, and the City had no reported difficulty on the line. There is a record that it had been cleaned recently. Second, this is very unpleasant and a thing you do not like to happen and we do maintain crews that go into homes to help in such situations. Third, Council may do whatever it pleases in this matter. The only thing that it must bear in mind is what it would do had this same blockage flooded 40 homes in the same area. That the City Attorney advised Council that it is not legally liable in this case. What Council does about the matter is entirely up to them.

Councilman McDuffie stated he is concerned about what can be done to prevent it? Mr. Burkhalter replied he does not know of anything that can be done to prevent it. The City Attorney stated he is told by engineering people there is a device available that will prevent the sewage from backing up. Councilman Withrow stated he has one but it does not work.

Councilman Whittington moved that the claim be denied as recommended by the City Attorney. The motion was seconded by Councilman McDuffie and after further discussion the vote was taken on the motion, and carried as follows:

YEAS: Councilmembers Whittington, McDuffie, Easterling, Jordan and Withrow.
NAYS: None.

Councilman Short abstained from voting on the matter.

SPECIAL OFFICER PERMITS APPROVED.

Councilman Withrow moved approval of the following Special Officer Permits for a period of one year; each applicant having been approved by the Police Department. The motion was seconded by Councilman Whittington, and carried unanimously.

- (a) Issuance of permit to Jack H. Jacobus for use on the premises of Charlotte Branch Federal Reserve Bank of Richmond.
- (b) Issuance of permit to James E. Kivett for use on the premises of J. B. Ivey and Company.

March 27, 1972
Minute Book 57 - Page 50

CONTRACT AWARDED DEWEY BROTHERS, INC. FOR MANHOLE RINGS AND COVERS.

Upon motion of Councilman Withrow, seconded by Councilman Short, and unanimously carried, contract was awarded the low bidder, Dewey Brothers, Inc., in the amount of \$17,572.50, on a unit price basis, for manhole rings and covers.

The following bids were received:

Dewey Bros., Inc.	\$17,572.50
Russell Pipe & Foundry Co., Inc.	21,450.00
Knoxville Foundry Co.	21,775.00
Neenah Foundry Company	29,000.00

CONTRACT AWARDED KENNEDY VALVE MFG. CO., INC. FOR GATE VALVES.

Motion was made by Councilman Jordan, seconded by Councilman Whittington, and unanimously carried, awarding contract to the low bidder, Kennedy Valve Mfg. Co., Inc., in the amount of \$23,857.46, on a unit price basis, for gate valves.

The following bids were received:

Kennedy Valve Mfg. Co., Inc.	\$23,857.46
Pump & Lighting Co., Inc.	24,206.25
Grinnell Company, Inc.	25,492.54
American C. I. Pipe Co.	25,727.94
U. S. Pipe & Foundry Co.	33,012.40

CONTRACT AWARDED DODGE COUNTRY, INC. FOR TWO 15-PASSENGER MAXIWAGONS.

Councilman Whittington moved award of contract to the only bidder, Dodge Country, Inc., in the amount of \$9,635.32, on a unit price basis, for two 15-passenger maxi-wagons. The motion was seconded by Councilman Short, and carried unanimously.

CITY MANAGER REQUESTED TO WRITE INSURANCE ADVISORY COMMITTEE AND ASK FOR THREE NAMES TO BE CONSIDERED FOR APPOINTMENT TO THE COMMITTEE.

Councilman McDuffie requested the City Manager to write the Insurance Advisory Committee and request three names, including Dewey Kessler, if they would like and see if they can list one or two with C.P.C.U. designation for consideration for appointment to the Insurance Advisory Committee.

REPORT REQUESTED ON SUMMER REPAVING OF STREETS.

Councilman Jordan asked the Public Works Director to give Council some information about the repaving for the summer. That the streets are in bad shape, and he would like to know when they might get started, and if we will get very much done this summer.

Mr. Hopson replied if there are specific places he would like to have them pointed out; that he thought our streets came through the winter in reasonably good order; they are much better than they were last winter.

Councilman Jordan stated a lot of people are complaining. An instance is the Fourth Street intersection, and all the way out is in bad shape; there are others on the west side and some on the south side of the city.

March 27, 1972
Minute Book 57 - Page 51

Mr. Hopson replied they have started on the work; they are heavily into the patching season and will continue. Going out for contract very shortly will be a substantial resurfacing contract which will catch some of the major through streets.

COUNCIL ADVISED THAT U. S. ENGINEERS WILL BE IN CHARLOTTE ON APRIL 13 AT 7:30 IN EDUCATION CENTER TO DISCUSS SUGAR CREEK BASIN PLAN AND OTHER FLOODING PROBLEMS IN MECKLENBURG COUNTY.

Councilman Jordan stated he is sure that all of the Council members received a letter from the Department of U. S. Engineers regarding the Sugar Creek basin plan. They are having a meeting on April 13 in Charlotte. He asked if all members of Council should attend the meeting? Mayor Belk stated he would recommend that everyone who possibly can should attend the meeting. That the city is eventually going to have to do something on the creeks.

Councilman Jordan stated the meeting will be April 13, at 7:30 at the Charlotte Mecklenburg Educational Center.

Mr. Bobo, Assistant City Manager, stated some weeks ago we met with the Planning staff, along with the County Commissioners to get a report on the flood plain problem. As a follow up to that meeting, the Planning Commission contacted the Corps of Engineers concerning a study of the total county flood plain problem. That he understands this meeting is set up in response to that request. They will not only talk about the problems on Sugar Creek but they will talk about other county flooding problems as well.

Mr. Burkhalter, City Manager, stated all these things bolster our position to get them to help us do this other work. If we can make these problems known to the Corps of Engineers from the viewpoint of the public, this is what we should do.

Councilman Whittington asked what happened to the monies we had to widen the canal at Woodlawn Road, behind Park Road Shopping Center, and Sharon Road? He asked if this bond money is still available? Mr. Bobo replied the money is still available. That the Sharon Road bridge is a part of the flood plain project, and the bridge has to be rebuilt regardless of the street widening. Also there was some money to move some sewer lines and to build the Archdale bridge. These funds are still available and plans are being prepared to proceed on these projects regardless of the creek problems. Councilman Whittington stated the Archdale bridge has been completed with bond money. If we were to go ahead and design and build the bridge on Sharon Road and the bridge on Woodlawn Road, would it not help some of the problems of water in town? Mr. Bobo replied every little bit helps. Councilman Whittington asked why the Public Works Department does not go ahead and make some recommendations to Council about these three projects and get underway with it. The public has done about all it can do as it relates to Sugar Creek. We have federal monies and things going on now on the Sugar Creek Canal. We need to do our part, and the public has done its part by putting up most of the right of way, except for the part we keep referring to down near Park Road, where the man built right into the creek, and the city allowed him to do it. But we still have no ordinance to prevent this type of new construction in the future. That he is saying we should quit talking about it and do something about it.

Councilman Whittington asked why the City does not set some priorities and say what they are; that Council cannot do this without the Engineering Department and the Public Works Department. He asked Mr. Hopson, Public Works Director, to give Council some priorities so they will know which way they are going.

Mr. Burkhalter stated Mr. Hopson has already made these recommendations to him; that he has instructed him to do the engineering work and to prepare it for Council as rapidly as possible. Just as soon as that engineering work is complete, this will be brought to Council's attention for advertising for bids. Mr. Hopson stated not only that but they will have a feasibility study to Council, not only on the bridge, but which way we will go on the Sharon Road area within about three weeks. He stated they are working on the engineering, and Planning Staff is working on the planning, and they will be back to Council very shortly.

March 27, 1972
Minute Book 57 - Page 52

Councilman Whittington stated he hopes the City Manager will be cognizant of these problems, and have some form of priorities and get them back to Council as rapidly as he is going to get the creek and the bridges.

Mr. Burkhalter stated Mr. Hopson and the engineers have informed him that the Sharon Road bridge must be done, and therefore, there is pressure on him to get this designed first.

Councilman McDuffie asked if there is any legal way for the City to do the improvements on the creek and assess the property owners? Mr. Underhill, City Attorney, replied the Mecklenburg County Drainage has that authority.

Councilman Short stated Council has talked on a number of occasions about some improved way for financing creek improvements. The way it is now, we actually pay people to give us a strip of land way back behind their garage somewhere that we can widen the creek in effect to save them from flooding. So the taxpayers are paying them for the right to help them. That he has discussed this with Mr. Underhill. That it occurs to him in view of this, some better legislation and enabling would be in order. He asked the City Attorney to put this in his file for some consideration.

Councilman Short stated he does not entirely agree that the City has done nothing on the creek problems. It is an area where we need to move forward, and it is embarrassing that we, by our own building permits, allowed a couple of apartments to get too close to the creek. He stated Council has in effect asked and authorized Mr. McIntyre to write a very far reaching, rather courageous flood plain ordinance that would have a great many teeth in it.

Councilman Whittington stated until Council passes these things and until we work the creeks, we have not really done anything because 80% of the right of way the City asked for along the creek has been given by the residents. When the ordinance is passed, then we will have taken the first positive step, and would hopefully come back with the new bridges.

COUNCIL ADVISED THAT EFFORT IS MADE TO EDUCATE THE CITY PERSONNEL COMING IN CONTACT WITH PERSONS WISHING TO MAKE CLAIMS ON THE CORRECT WAY THIS IS TO BE HANDLED.

Councilman Short stated on the matter of the sewer crew that spoke to Mrs. Driscoll on her claim for damages to household furnishings resulting from a sewer line backup, that it was mentioned that an effort is made to advise these workmen that they should not make comments to the people about the city paying for the damages. That it is an area where we are a little bit vulnerable and he would suggest that the City Attorney and City Manager might want to increase their effort to instruct the crews not to talk this way.

Mr. Underhill stated a very conscientious effort has been made to prevent the personnel who come in contact with people who wish to make claims against the city from representing that. All they have to do is put in writing something to the city and it will be taken care of. Also, an effort has been made to arm them with basic information on how a person who so desires can file a claim. The City Charter requires all claims to be submitted in writing to the City Council, although the letters usually come to Mr. Burkhalter, and they are then routed to his office for investigation. He stated perhaps many of the people who are given this information are confused due to the fact that they are supposed to submit a claim in writing with an idea that means they are going to automatically be paid once they do submit the claim. He stated they will continue to work on this. It has been a problem in the past, and they will try to improve it.

MATTER OF HOUSING APPEAL BOARD REQUESTED PLACED ON AGENDA FOR NEXT MEETING.

Councilman Short requested that the matter of the Housing Appeal Board be placed on the agenda for the next Council Meeting.

March 27, 1972

Minute Book 57 - Page 53

DISCUSSION OF USE OF POWELL BILL FUNDS FOR STREET AND ROAD PRIORITIES.

Councilman Whittington stated while the City Manager was away recently he asked about the status of the Powell Bill Fund. That he wants to know when the city starts receiving the additional lane mileage money? That he asked this at the budget hearings and was told that we could not consider it until October of this year. He asked if that means in October, 1972, we will receive it from January 1, or will we just begin receiving it. Mr. Bobo, Assistant City Manager, replied it is anticipated in the July 1 budget, but funds are not received until October.

Councilman Whittington stated he realizes that for every dollar you think we are going to get, there are five places to spend it in the new budget. That he thinks we should look beyond the budget a little bit and start talking about priorities again. When he thinks about some of the street programs that he knows, and everyone in this room knows should have been done ten years ago, and they are not going to get done until the city takes the initiative and appropriates the money, and goes ahead and does them. That he is thinking about the Powell Bill money, and he thinks this is what this money is for. If you do not look at it now, and set up some priorities, it will be used for other purposes in the budget. That he does not say this is wrong either. But you can talk about two streets and you go out any morning or any afternoon and get on Sharon Amity Road and get to Independence Boulevard, and throw all that four-lane traffic into two lanes, all the way over to Central Avenue, there is a real priority. He stated we have all been talking about Plaza Road extension to Milford Road. Then you look at another road which would give another new belt road all the way to Pineville if we would just continue Shamrock Drive four lanes to Sharon Amity Road and element that offset or "T" intersection which Mr. Hopson's Department and Traffic Engineering says we can do now for \$125,000, and go on and widen that road. Then you will have Shamrock, Sharon Amity and all the way through to Sharon Road, and Sharon Road all the way to Park Road, and Park Road all the way to Pineville. He stated there is a belt road we already have, and we are going nothing about it. If we set some of these things up as priorities now, with Powell Bill money, then we will have some direction at budget time to consider for new roads.

Councilman Whittington stated if the Council does not object to that, he would hope we would begin making these studies now, and ask for recommendations from Mr. Burkhalter, Mr. Hopson and Mr. Hoose. The only way you can do any of these things, is to do a block or two or a mile or two at a time. If you wait until you get a whole cake, you will never get a road built.

Mr. Burkhalter, City Manager, stated Mr. Hopson has just finished a study of the Powell Bill with recommendations for every penny of it for next year, and it is on his desk. That the reason Council did not get it this time was because he wanted to discuss with Mr. Fennell whether or not to advise Council what obligations it has with the State Highway Department for the acquisition of right of way Council has pledged to pay out of this fund. He stated this will probably go to Council the first of the week. That it will not have the highway in it because we are not going to audit it at the present time.

Mr. Burkhalter stated when Council agreed to pay for the right of way at the intersection of Commonwealth, Eastway and Independence Boulevard, and the acquisition of the Church, Council agreed to pay 20% of the cost of the acquisition of the church from Powell Bill funds to be built after October, 1973. He stated we have done this on a number of occasions, and he wants to check to see how much of that we will have to pay from this fund. But the majority of the money will be available. There is only one way to do it and that is to set up priorities on this. He stated Council will be presented with many opportunities to determine these priorities, including the capital budget, along with the work in the budget.

March 27, 1972
Minute Book 57 - Page 54

Councilman Whittington asked if he sees any opportunity to increase the capital improvement budget from current revenues for 1972-73? Mr. Burkhalter replied he increased it last year, and it was decreased in order to reduce the tax rate. That he suspects he will increase it again this year, and Council may reduce it again this year. He stated he feels it is his obligation to bring to Council the needs for some of the capital improvements and he thinks a capital improvement budget of \$1.0 million is very small for the size of our budget. That he thinks we should try to maintain it at that level or higher, and this year it was cut down about \$300,000. That he has not reviewed this part of the budget this year, but he hopes he can increase it some.

Councilman Short asked if he thinks a pay as you go program for captial improvements is possible for Charlotte, and Mr. Burkhalter replied he does not; not with the growth we are experiencing.

Councilman Short stated on the matter of the belt road, that this is not a matter for the city but is of vital concern to the city and that is out beyond all the belt road pathways we have discussed is Highway 51. He stated you can just see it as plain as anything that is certainly a segment at least of a belt road of the future. He stated Mr. McIntyre and his staff and the County Commissioners should be cognizant of this and should try to see if there is anyway to take the necessary steps to avoid too much closing in on that very narrow road, and avoid things being built too close to it, and to avoid things being built too close to the intersections. In general to conduct zoning and planning and street mapping by use of the Map Street Act and soforth in such a way as to preserve that road. He stated that clearly is going to be a very sizeable belt road, and it is evolving very rapidly out there.

Councilman McDuffie suggested that Councilman Short offer a resolution for the Council to send to the County Commissioners and the Highway Commission on this road.

Councilman Jordan stated they have been notified of this for months now that Highway 51 should be another belt road.

Councilman Short suggested that a copy of these comments be sent to Mr. McIntyre.

Councilman McDuffie stated he thought it should be strong enough to let people in Raleigh know the City Council is concerned.

PROGRESS REPORT ON DOWNTOWN PARKING GARAGE.

Councilman Whittington asked the progress of the steps taken by Council in December and in January on Site B for the parking garage. That in his absence, he thinks Council approved a contract for a functional study. He asked when Council will get all these things back so some decision can be made on an architect or building the garage or not building the garage?

The City Manager replied Mr. Hoose told him today that we will have a preliminary report from the engineers on the functional plan this week. That we gave them six weeks. Until we receive that report we will not know.

Mr. Burkhalter stated he has received a letter from one of the proposed developers of a garage on this stie who put in writing that he is very interested in building a parking garage on this property if the city acquires the property. That he replied and told him the city will keep him advised and will send him a copy of the functional plan when it is available. Mr. Burkhalter stated they are concerned with getting the rights to build a building above the parking structure, and say they would add a certain amount of parking to what the city wanted in order to satisfy the demands for parking for their building.

March 27, 1972
Minute Book 57 - Page 55

APPOINTMENT OF MRS. DAVID MARRASH TO RAPID TRANSIT COMMITTEE.

Councilman Withrow stated he nominated Mrs. Ruth Easterling to the Rapid Transit Committee, and now that she is a member of City Council he would like to nominate Mrs. David (Margaret) Marrash and move her appointment to the Rapid Transit Committee. The motion was seconded by Councilman Short and carried unanimously.

CHARLOTTE POLICE DEPARTMENT COMMENDED ON APPARENT TRAINING IN CROWD CONTROL BY COUNCILMAN MCDUFFIE.

Councilman McDuffie stated he went to the Ice Hockey Game in Greensboro on Wednesday. That he was about to let the people in Greensboro know of his concern at the lack of police and crowd control up there, but he did not get around to doing it.

Councilman McDuffie stated he would like the Police Department of the City of Charlotte to know that he appreciates the apparent training in crowd control efforts that our police department has in taking care of ruffians and rowdies, and removing them from a building.

He stated he did not write the letter to Greensboro, and was a little saddened on Sunday to read their review of the fracas. There has been in the news lately about sporting events and how spectators and players have deteriorated to something other than good sportsmen. That he still feels obligated to say something about that particular situation as opposed to what might happen in Charlotte.

ENDORSEMENT OF CLEAN WATER BILL REQUESTED.

Mayor Belk asked about the Clean Water Bill that will be on the ballot on May 4. He stated the City Council has not taken a stand on it. Mr. Burkhalter, City Manager, replied Council asked for a conference session on this, and they have asked someone from Raleigh to come down and talk on this.

Mayor Belk stated he thinks Council should endorse this. Councilman Whittington stated this is the number one program of the North Carolina League of Municipalities.

Mayor Belk stated he thinks Council should endorse this right away; that we should get a Chairman and make an endorsement. That this is talking about a lot of money. That he thinks this should be scheduled for a meeting immediately.

CITY MANAGER ADVISED COUNCIL OF INCREASE IN COSTS OF ITEMS AWARDED FOR BID AT TODAY'S MEETING.

The City Manager stated in approving bids today one was for manhole rings and covers and the bids are exactly 12% more than identical bids one year ago today. The bids on the 6 inch valves were \$55.40 last year, and \$59.75 this year. On the 8-inch valves they were \$86.15 last year and \$93.30 this year. On the different kind of 6-inch valves they were \$60.20 last year and \$65.25 this year.

Councilman Withrow stated Council passes on a lot of bids to the low bidder; he asked if all the bids come under price control? Mr. Burkhalter replied not all of them, but they do keep a check on them.

ADJOURNMENT.

Upon motion of Councilman Jordan, seconded by Councilman Withrow, and unanimously carried, the meeting was adjourned.


Ruth Armstrong, City Clerk