

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, November 4, 1963, at 3 o'clock p.m., with Mayor Brookshire presiding, and Councilmen Albea, Bryant, Dellinger, Jordan, Smith, Thrower and Whittington present.

ABSENT: None.

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The Invocation was given by the Reverend David M. Wooten, Pastor of Chantilly Baptist Church.

MINUTES APPROVED.

Upon motion of Councilman Albea, seconded by Councilman Jordan, and un-animously carried, the Minutes of the last meeting on October 21st were approved as submitted.

PLAQUE IN ACKNOWLEDGMENT AND APPRECIATION FOR SERVICES RENDERED TO THE CITY PRESENTED DEPUTY FIRE CHIEF JOSEPH FRANKLIN MOODY, UPON HIS RETIREMENT.

Mayor Brookshire presented the City's Plaque of Recognition in Acknowledgment and Appreciation for his thirty-eight years of service with the City to Deputy Fire Chief Joseph Franklin Moody, and wished him much happiness in his retirement.

Mr. Moody remarked that thirty-eight years is a long time, but he has enjoyed every minute of it; that he will place the Plaque in his home where he will see it every day and will remind him of the wonderful City Officials that we have in Charlotte.

RESOLUTION ORDERING THE MAKING OF CERTAIN LOCAL IMPROVEMENTS ON KILDARE DRIVE, FROM OLINDA STREET TO JOYCE DRIVE.

The public hearing was held on the Petition of Mr and Mrs Robert G. Powell, 5630 Kildare Drive, representing 90.77% of the lineal feet of frontage, of property abutting on Kildare Drive, from Olinda Street to Joyce Drive, for improvements by installing storm drainage facilities, construction of roll type curb and gutter and paving with base course and surface course for a distance of 988.81 front feet, at a total estimated cost of \$5,480.00, of which an estimated amount of \$3,820.00 will be assessed against the petitioners, at their request, being one of the two owners of all property abutting on the improvements, at an estimated \$2.50 per front foot for storm drainage facilities and paving under the City's Special Policy, plus an estimated \$1.50 per front foot for curb and gutter.

Mr. Powell, petitioner, stated the other property owner, Mr. A. L. Hicks, wants the improvement but does not want to pay for it; that he agreed with him he would pay for the pavement in front of his approximately 91 plus feet, but he did not agree to pay for the curb and gutter in front of his property. That he will, of course, pay for curb and gutter in front of his own property; however, he would like the curb and gutter excluded from the Petition in front of the Hick's property.

The City Manager called to Council's attention that the Petition filed by Mr. Powell is for curb and gutter the full distance and this is the first indication he has had that Mr. Powell wanted it excluded at the other property.

Mr. Powell advised that Mr. Hick's property is a corner lot and the street which it intersects is not paved nor does it have curb and gutter, therefore, it will not look out of place at the location it occupies.

Councilman Whittington asked the City Attorney for his recommendation as to how the Council should proceed on this, and Mr. Morrissey advised that respect to the paving to be done under the Special Policy everything is in order since Mr. Powell has petitioned that the improvements be made and the total cost of it be assessed against his property. With respect to the curb and gutter, we do not have a majority of the owners involved since there are only two, Mr. Powell representing only 50%, so Council could not order the curb and gutter to be constructed in front of the other gentleman's property. If the Petition is amended to confine that request to Mr. Powell's property, then it can be approved to that extent and assess the costs against Mr. Powell's property.

The City Manager advised that from an engineering point of view what Mr. Powell has suggested is entirely feasible. He advised further that the City Attorney states Council can go ahead and approve it if Council wishes, on the basis Mr. Powell has indicated, he is assuming all of the cost for the paving, and curb and gutter to be involved only on the property that he owns.

No objections were expressed to the proposed improvements.

Councilman Bryant moved that the Resolution Ordering the Making of Certain Improvements on Kildare Drive, from Olinda Street to Joyce Drive, be adopted as Amended to exclude the construction of curb and gutter along the property of Mr. A. L. Hicks. The motion was seconded by Councilman Jordan, and carried by the following recorded vote:

YEAS: Councilmen Bryant, Jordan, Albea, Smith, Thrower and Whittington.  
NAYS: Councilman Dellinger.

Councilman Dellinger stated he is voting against the motion because this street, at the time of annexation, should have been paved with Powell Bill Funds.

The resolution, as amended, is recorded in full in Resolutions Book 4, at Page 344.

**RESOLUTION ORDERING THE MAKING OF CERTAIN LOCAL IMPROVEMENTS ON OLINDA STREET, FROM KILDARE DRIVE TO ILFORD STREET.**

The public hearing was held on the Petition of Mr and Mrs Robert G. Powell, 5630 Kildare Drive, representing 100% of the lineal feet of frontage of property abutting on Olinda Street, from Kildare Drive to Ilford Street, for improvements by installing storm drainage facilities, construction of roll type curb and gutter, and paving with base course and surface course for a distance of 636.89 front feet, at a total estimated cost of \$4,130.00, of which an estimated amount of \$3,930.00 will be assessed against the petitioners, being the sole owners of property abutting on the improvement, at an estimated \$6.17 per front foot.

Mr. Powell, Petitioner, advised this is correct as stated.

No opposition was expressed to the proposed improvements.

Councilman Thrower moved the adoption of Resolution Ordering the Making of Certain Improvements on Olinda Street, from Kildare Drive to Ilford Street. The motion was seconded by Councilman Albea, and unanimously carried.

Councilman Dellinger stating he is voting in favor of this improvement as there is no controversy, and he has asked for something he is entitled to.

The resolution is recorded in full in Resolutions Book 4, at Page 345.

PROTEST AGAINST PARKING BAN ON 24-HOUR BASIS IN 500 BLOCK OF EAST 11TH STREET, REFERRED TO TRAFFIC ENGINEER FOR SURVEY AND REPORT.

Mr. H. K. Stoll presented a Petition from the property owners in the 500 block of East 11th Street, which stated they oppose the ban on "on the street" parking imposed September 23rd in the block; that if this further restriction on street parking continues it will cause serious financial losses to their businesses and property values and, in fact, jeopardize the business life itself. That the losses to their businesses and the forced curtailment of future business development resulting from this new restriction would in turn substantially reduce tax revenues. That the "no parking" during peak hours which has been in existence for several years, has met the traffic requirements in this block. Mr. Stoll stated the 500 block is between Caldwell and Davidson Streets.

Mayor Brookshire asked how many businesses there are in the block, and Mr. R. P. Covington, owner of property in the block stated there are six or seven business places in this block.

Councilman Thrower asked if the parking has been eliminated 24 hours a day? Mr. Covington replied that the ban is 24 hours a day; he stated the prior restriction during peak hours took care of any emergencies but to ban parking 24 hours a day will prove a hazard, and as a property owner he has received notice that he will lose three tenants, because of it, one is Sunbeam Appliance Service Company, who have advised they cannot exist where they cannot load and unload, also Party Pride Ice Cream Company have advised it will jeopardize their business where it will be non-existent; also the Automotive place of business next to Party Pride. Mr. Covington stated it effects him personally in that this real estate represents his life's savings and he depends on it for revenue and the ban will jeopardize him in renting the property.

Councilman Dellinger moved that the Traffic Engineer make a survey of the parking situation on and off street in this block and give us a report of his findings. The motion was seconded by Councilman Albea, and unanimously carried.

ORDINANCE NO. 214-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE CHANGING ZONING OF PROPERTY AT THE SOUTHEAST CORNER OF THE PLAZA AND KILDARE DRIVE, FROM R-9 TO O-6, ADOPTED.

Petition No. 63-61 by Mr. Troy D. Wilson, which was heard on October 21, 1963, for change in zoning from R-9 to B-1 of a tract of land 200 ft. x 200 ft, at the southeast corner of The Plaza and Kildare Drive was presented for consideration, the Planning Commission recommending that the petition be denied, but that the owners of the property on which the Grocery Store is located adjacent to Mr. Wilson's property, be required to establish effective screening to afford the petitioner's property the protection it should have according to law.

The City Clerk advised that the protest petition filed at the Hearing, has been checked and represents 100% of the adjoining property on the southwest side of the property in question, which would invoke the protest provision of the Statutes requiring a 3/4th vote of the Council to change the zoning to B-1; however, the map showing the relation of the property of the opponents to the property in question was not filed as required by the Zoning Ordinance.

Mr. B. M. Boyd, Attorney for the Petitioner, stated his question was going to be about the map but it has been answered that the map was not filed. That he takes the position that this protest was not filed according to law, and

the provision requiring the filing of the map, in addition to the other part of the Protest, is just as clear and as mandatory as anything about it. That he does not think under the circumstances that the protestor has the right to invoke the 3/4th majority vote.

Mayor Brookshire asked the City Attorney whether the Protest Petition is valid or not in the absence of the map? Mr. Morrissey stated he has discussed this with Mr. Boyd and they have a difference of opinion, in that he considers the protest to be valid. Mr. Boyd remarked that he thought Mr. Morrissey told him the petition would not be valid unless the Map was filed before this meeting. Mr. Morrissey advised when the ordinance was amended with respect to the filing of protests, Council instructed that it be drawn in such way that the protest would be filed at the time of the Hearing, so as not to have them coming in at various times thereafter. That to suit the convenience of the administration of this ordinance, a provision regarding the map was included in the Amendment that was adopted by the Council. That he regards it as a technical requirement and he regards a protest filed under the State's Statute at the time of the Hearing is substantial compliance with the Protest provision, particularly since the State law itself has no provision requiring a map.

Mayor Brookshire stated that in other words Mr. Morrissey is ruling that Council will need a 3/4 majority vote to change the zoning. Mr. Morrissey replied that is correct, and Mayor Brookshire announced that Council must abide by the ruling of the City Attorney.

Mayor Brookshire asked further since the present zoning of the property is R-9, and the Petitioner asked for B-1 which the Planning Commission does not recommend, but does recommend that the zoning be changed to O-6, does it still take a 3/4 vote of Council to change the zoning to O-6? Mr. Morrissey advised that is correct, the 3/4 vote is required.

Councilman Albea moved that the zoning of the property be changed to O-6 as recommended by the Planning Commission and the Ordinance No. 214-Z Amending the Zoning Ordinance be adopted. The motion was seconded by Councilman Bryant.

Councilman Smith offered a substitute motion that the zoning be changed to B-1 as petitioned for. The motion was seconded by Councilman Dellinger.

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

YEAS: Councilmen Smith and Dellinger.

NAYS: Councilmen Albea, Bryant, Jordan, Thrower and Whittington.

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

The ordinance is recorded in full in Ordinance Book 13, at Page 481.

PETITION NO. 63-62 FOR CONDITIONAL APPROVAL OF USE AS AUTOMOBILE PARKING FOR THEATRE BUILDING ON NORTH SIDE OF HIDDENBROOK DRIVE, EAST OF COMMONWEALTH AVENUE, DENIED.

Upon motion of Councilman Bryant, seconded by Councilman Whittington, and unanimously carried, Petition No. 63-62 by Tar Heel Theatres, Inc., for Conditional Approval of Use as Automobile Parking for Theatre Building, of property now zoned R-9MF fronting on the north side of Hiddenbrook Drive, east of Commonwealth Avenue, was denied as recommended by the Planning Commission.

ORDINANCE NO. 215-Z AMENDING CHAPTER 23, SECTION 23-8 OF THE CITY CODE CHANGING ZONING OF PROPERTY WEST OF HIGHWAY 29 NORTH, BEGINNING AT COUNTY HOME PROPERTY AND EXTENDING SOUTHWARD, ADOPTED.

Upon motion of Councilman Dellinger, seconded by Councilman Bryant, and un-animously carried, Ordinance No. 215-Z Amending Chapter 23, Section 23-8 of the City Code, changing the zoning from I-2 to B-2 of an area on the west side of Highway 29 North, beginning at the County Home property and extending southward, was adopted, as recommended by the Planning Commission.

The ordinance is recorded in full in Ordinance Book 13, at Page 482.

LEASE AUTHORIZED WITH SHARON DEVELOPMENT CORP. FOR HOUSE, TWO OUTBUILDINGS AND 3.4 ACRES OF LAND AT DOUGLAS MUNICIPAL AIRPORT.

Councilman Jordan moved that a Lease be entered into with Sharon Development Corporation for a House, Two Outbuildings and 3.4 acres of land adjacent to the northeast side of Douglas Municipal Airport, for the use of Eastern Airlines Management Club, for a period of four years, at a monthly rental of \$200.00, as recommended by the Airport Manager and City Manager. The motion was seconded by Councilman Albea, and unanimously carried.

PURCHASE OF WATER MAIN IN CRISPIN STREET FROM MRS MARIE ARBOR AND O. L. JENKINS, AND MAIN IN NORTH SIDE OF PRUITT STREET FROM JOE D. WITHROW.

Upon motion of Councilman Dellinger, seconded by Councilman Whittington, and unanimously carried, the purchase of the following water mains was authorized, as recommended by the Superintendent of the Water Department and City Manager:

- (a) 550 Feet of 3-inch water main located in Crispin Street, in the Wilkinson Boulevard area annexed in 1960, from Mrs Marie Arbor and Mr. O. L. Jenkins, at a net purchase price of \$785.84 - the 1960 replacement cost being \$1,034.00 less depreciation of \$248.16.
- (b) 717 Feet of 2-inch water main located in the north side of Pruitt Street, extending from Wilkinson Boulevard north to a dead end, in the Wilkinson Boulevard area annexed in 1960, from Mr. Joe D. Withrow, at a net purchase price of \$772.39 - the 1960 replacement cost being \$996.63 less depreciation of \$224.24.

CONTRACTS AUTHORIZED FOR APPRAISAL OF SIXTY-FOUR TRACTS OF LAND FOR RIGHT-OF-WAY FOR NORTHWEST EXPRESSWAY.

Upon motion of Councilman Smith, seconded by Councilman Thrower, and unanimously carried, contracts were authorized with the following persons for appraisal of 64 tracts of land for right of way for the Northwest Expressway:

- (a) John M. Gallagher            3 tracts on W. 11th, N. McDowell St. and E. 9th St.
- (b) D. A. Stout                    14 tracts on N. Brevard, E. 11th, Kendrick St, Pharr St and Ross Road.
- (c) Alan J. Davis                 2 tracts on Seigle Ave. and Jackson Ave.
- (d) Van D. Mingle                2 tracts on E. 7th Street.
- (e) L. D. Bass                    3 tracts on W. 11th Street.
- (f) C. W. Todd                    4 tracts on E. 11th and N. Brevard Streets.
- (g) O. D. Baxter                 11 tracts on W. 12th, N. Pine and N. Poplar Sts.
- (h) B. Brevard Brookshire      14 tracts on W. 11th, N. Pine and W. 12th Sts.
- (i) Henry E. Bryant              11 tracts on W. 12th, N. Pine and N. Poplar Sts.

**RESOLUTION APPROVING REDEVELOPMENT AREA PLAN FOR PROJECT NO. N.C. R-14, ADOPTED.**

Councilman Whittington moved the adoption of Resolution Approving Redevelopment Area Plan for Project No. N. C. R-14, as introduced and read. The motion was seconded by Councilman Albea, and carried by the following recorded vote:

**YEAS:** Councilmen Whittington, Albea, Dellinger, Jordan, Smith and Thrower.  
**NAYS:** Councilman Bryant.

The resolution is recorded in full in Resolutions Book 4, beginning at Page 346.

**SETTLEMENT OF WORKMEN'S COMPENSATION CLAIM OF POLICE OFFICER DONALD A. DELLINGER.**

Upon motion of Councilman Dellinger, seconded by Councilman Thrower, and unanimously carried, Officer Donald A. Dellinger was authorized paid \$750.00 in full settlement of Workmen's Compensation claim for injury by suffering a heart attack following a struggle with a prisoner on April 6, 1960, resulting in a 25% permanent partial disability; the City having already paid his medical expenses in the amount of \$1,044.38 and Workmen's Compensation in the amount of \$545.00 for temporary total disability from April 6, 1960 to July 24, 1960.

**CONTRACTS AUTHORIZED FOR INSTALLATION OF WATER MAINS WITH ERVIN CONSTRUCTION COMPANY, B & A INVESTMENTS, INC. AND IDLEWILD UTILITIES, INC.**

Motion was made by Councilman Whittington, seconded by Councilman Jordan, and unanimously carried, authorizing the execution of contracts for the installation of water mains, as follows:

- (a) Contract with Ervin Construction Company for the installation of 12,740 feet of water mains and 6 hydrants in Westchester Subdivisions 3 and 5, inside the city limits, at an estimated cost of \$35,600.00. The City to finance all construction costs and the Applicant to guarantee an annual gross water revenue equal to 10% of the total construction cost.
- (b) Contract with B & A Investments, Inc. for the installation of 2,395-ft. of water mains and 1 hydrant in Trinity Woods Subdivision, inside the city limits, at an estimated cost of \$6,000.00. The City to finance all construction costs and the applicant to guarantee an annual gross water revenue equal to 10% of the total construction cost.
- (c) Supplementary Contract, to contract dated Nov. 12, 1962, with Idlewild Utilities, Inc. for the installation of 49,720 feet of 8", 6", 2" and 1" water mains and 30 hydrants in Idlewild Subdivision, outside the city limits, at an estimated cost of \$172,200.00. The applicant will finance all pipe lines and system and own and operate it until such time as any part of the mains or systems are incorporated into the City. The Applicant will purchase water through a master meter at the controlling rates and under the rules and regulations pertaining thereto.

AGREEMENT AUTHORIZED WITH CHARLOTTE-MECKLENBURG HOSPITAL AUTHORITY TO CONSTRUCT PEDESTRIAN WALKWAY TUNNEL UNDER BRUNSWICK AVENUE, BETWEEN MEMORIAL HOSPITAL AND CHARLOTTE REHABILITATION HOSPITAL.

Councilman Thrower moved approval of an Agreement with Charlotte-Mecklenburg Hospital Authority to construct a pedestrian walkway tunnel under Brunswick Avenue, between Memorial Hospital and Charlotte Rehabilitation Hospital. The motion was seconded by Councilman Dellinger, and unanimously carried.

CITY MANAGER DIRECTED TO BRING IN RECOMMENDATIONS FOR THE REALIGNMENT OF BRUNSWICK AVENUE AT KINGS DRIVE.

Councilman Dellinger asked if something cannot be done about straightening Brunswick Avenue where it crosses Kings Drive and eliminate the mass of traffic lights and directional signals, which add to the confusion; that the trouble is, of course, the offset in Brunswick Avenue on the opposite side of Kings Drive creates the trouble. He asked the City Engineer if he cannot realign Brunswick Avenue at this location? Mr. Cheek replied that he, for one, is wholeheartedly in favor of doing so and improving the situation; that he and the Traffic Engineer have about exhausted all of their resources in trying to work out an equitable solution for right of way and he is of the opinion the only way it will ever be solved is to condemn for right of way.

Mayor Brookshire asked which side of Kings Drive the alignment would be made for Brunswick, and the City Engineer replied the high-side or the side opposite the creek.

Councilman Dellinger moved that the City Manager be instructed to bring in recommendations for the realignment of Brunswick Avenue at Kings Drive. The motion was seconded by Councilman Smith.

Mr. Veeder stated he would be most happy to do so, that the reaction from the staff side is fine, because this is something we would all like to see accomplished, for everyone having the misfortune of going through this intersection appreciates the need for the street to be realigned. That he would like to bring back a recommendation on the condemnation - that the question of money is raised in his mind but he would like to make some recommendations as to where the money can come from to condemn it.

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

ENCROACHMENT AGREEMENT WITH STATE HIGHWAY COMMISSION FOR CONSTRUCTION OF SANITARY SEWER LINE BETWEEN EASTWAY DRIVE AND NORLAND ROAD.

Upon motion of Councilman Whittington, seconded by Councilman Dellinger, and unanimously carried, an Agreement was authorized with the State Highway Commission for the City to encroach on their right of way to construct a sanitary sewer line between Eastway Drive and Norland Road.

CONSTRUCTION OF SANITARY SEWER LINES AUTHORIZED IN ROBINSON WOODS, GOSSETT STREET AND MCCLELLAND COURT.

Motion was made by Councilman Dellinger, seconded by Councilman Bryant, and unanimously carried, authorizing the construction of sanitary sewer lines, at the following locations inside the city limits, with all construction costs to be borne by the Applicants whose deposits of the amount of the estimated costs will be refunded as per terms of their contracts:

- (a) Construction of 615-ft. of sewer trunk and 3,353 ft. of sewer main in Robinson Woods, at request of C. H. Touchberry, at an estimated cost of \$12,830.00.
- (b) Construction of 350-ft. of sewer main in Gossett Street, at the request of Ervin Construction Company, at an estimated cost of \$1,015.00.
- (c) Construction of 325-ft. of sewer main in McClelland Court, at the request of Atando Industries, Inc., at an estimated cost of \$1,700.00.

#### RENEWAL OF SPECIAL OFFICER PERMITS AUTHORIZED.

Upon motion of Councilman Thrower, seconded by Councilman Bryant, and un-animously carried, Special Officer Permits were authorized renewed with the following persons for a period of one year:

- (a) Renewal of Permit to Mr. M. M. Hannah, 3009 Morson Street, on the premises of Elmwood, Evergreen, Oaklawn, Fifth Street and Pinewood Cemeteries.
- (b) Renewal of Permit to Mr. Donald A. B. Yeargin, 3423 Archer Avenue, on the premises of the Southern Railway, Liddell Avenue.
- (c) Renewal of Permit to Mr. L. F. Quinn, 3612 Sudbury Road, on the premises of Southern Railway, C. D. Yard.
- (d) Renewal of Permit to Mr. James C. Hart, 118 Martin Street, on the premises of Johnson C. Smith University.

#### TRANSFER OF CEMETERY LOTS.

Motion was made by Councilman Albea, seconded by Councilman Jordan, and un-animously carried, authorizing the Mayor and City Clerk to execute deeds for the transfer of the following cemetery lots:

- (a) Deed with Mrs Catherine C. Grayson, for Graves 1 and 2, Lot 120, Section 2, Evergreen Cemetery, at \$120.00.
- (b) Deed with Mr. John T. McGrath, for Graves 7 and 8, Lot 14, Section 3, Evergreen Cemetery, at \$120.00.
- (c) Deed with Mr. George A. Levy, for Grave 5, Lot 236, Section 7, Oaklawn Cemetery, at \$60.00.

#### NOMINATION OF ELMER E. ROUZER FOR REAPPOINTMENT TO REDEVELOPMENT COMMISSION TO REMAIN OPEN FOR TWO WEEKS.

Councilman Albea placed the name of Mr. Elmer E. Rouzer in nomination to succeed himself on the Redevelopment Commission.

Councilman Bryant stated if we do have to have someone in this position we could not find anyone better than Mr. Rouzer.

The Mayor advised the usual procedure would be followed and nominations would be held open until the next meeting of Council.

CONTRACT AWARDED RUBBER PRODUCTS COMPANY FOR BUNKER BOOTS.

Councilman Bryant moved the award of contract to the low bidder, Rubber Products Company, for 102 pairs of Bunker Boots for Firemen as specified, at their bid price of \$1,469.15. The motion was seconded by Councilman Albea, and unanimously carried.

The following bids were received:

Rubber Products Co.	\$ 1,469.15
The McCandles Corp.	1,574.57
U. S. Rubber Co.	1,580.99
Goodall Rubber Co.	1,611.52
Industrial & Textile	1,637.59
Dixie Fire & Safety Equip.	1,678.62
The Leslie Co.	1,699.67
O. J. Richardson	1,760.01
Mason-Dixon, Inc.	2,321.27

CONTRACT AWARDED COMMERCIAL MACHINES & SUPPLIES, INC. FOR CASH REGISTER.

Councilman Whittington moved the award of contract for a Cash Register to The National Cash Register Company, at their bid price of \$2,214.21. The motion was seconded by Councilman Albea.

Councilman Dellinger asked why the high bid is recommended in lieu of the low bid by Commercial Machines & Supplies, Inc., at \$1,898.91?

The City Manager called attention that this piece of equipment was bid once before and he asked that bids be rejected so that it could be readvertised and bid again; that the bid then being considered was \$2,715.00 by National Cash Register Company, and their bid today is \$2,214.21 on a different machine but one that will certainly do the work we need done. He stated that Mr. York, Clerk of Recorder's Court, Mr. Fennell, Finance Director, and Mr. Beatty, Purchasing Agent, tell him that the National Cash Register equipment is more suitable for our purpose, having a control lock key, automatic spacing for tickets total, which from their point of view is important, and because of these two features which are not available on the other piece of equipment, they are recommending that we buy the National Cash Register Machine.

Councilman Dellinger asked to hear from the representative of the other bidder.

Mr. Kirk Kennington, Representative of Commercial Machines & Supplies, Inc., advised they bid on the Cash Register and qualify for it and there is no reason they cannot do the job. That National Cash Register first bid \$2,800.00 and on the rebids they cut it down to a different machine and yet his company is still under them in price and as they can do the job the Recorder's Court wishes done, they see no reason to spend the extra money. Councilman Dellinger asked if Mr. Kennington's machine has the control lock key on it, and does it do the automatic spacing desired and have all of the equipment the other machine has? Mr. Kennington stated it has all the equipment and features the other machine has and can produce the same work.

Councilman Bryant offered a substitute motion that the contract be awarded Commercial Machine & Supplies, Inc., at their price of \$1,898.91. That as long as they meet the specifications he is reluctant to make the award to a higher bidder. The motion was seconded by Councilman Dellinger.

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Councilman Whittington stated he would like to hear from the Purchasing Agent before he votes on the question.

Mr. Kennington stated they have their machines all over town, one store is using over 100 of them, and they carry stocks here and can furnish all parts for the machine, and have been doing so for over three years. He called attention that the Machine has been bid twice, and both times his company submitted a bid on the same machine, and both times they bid the same price which was the lowest bid while the other Company bid the second time on a different machine and are still high.

Mr. Beatty, Purchasing Agent, stated there is no question about either machine meeting the specifications or either machine doing the work; it is a question of which will do the work best. The National Machine has two or three features that the Commercial machine does not have. In placing the ticket in the National machine to be imprinted it is automatically handled, while it has to be done manually on the Commercial machine, which causes it to overprint. The National machine has a feature which permits the operator to watch the machine where there will be no confusion of the different accounts. That Mr. York has seen both machines and he tells him that he and Mr. Fennell feel that the National machine would be the best suited for the city's service. Councilman Jordan advised Mr. Beatty that Mr. Kennington has said that National bid on a different machine the second time, and he asked if it is a better machine or not as good as they offered the first time? Mr. Beatty stated that National offered their best machine the first time they bid at about \$2,700.00, that the specifications were changed in that the original specifications said the machine must be manufactured in the United States and he learned that the Commercial Machine, the Anker, has been manufactured out of the United States, and is now being assembled in the United States, is a very satisfactory machine. Councilman Dellinger asked how that would have any bearing on National changing the machine on their second bid? Mr. Beatty stated that National knew that was in the specifications and they picked out their most expensive machine and bid it originally; therefore, Council was requested to reject the bids so they could omit that requirement from the specifications. Mayor Brookshire said to Mr. Beatty that the questions are regarding the control key lock and automatic spacing. He asked if Mr. Kennington would like to discuss these two features. Mr. Kennington again stated the Commercial machine spaces automatically, and he explained the details of this feature and stated there is very little difference here between the machines, and they also have the control key lock. He stated that Mr. York looked at his machine and told him it was fine and would do the job. He pointed out that on the rebids his Company has saved the City \$600.00, and they have bid their same machine both times.

Councilman Thrower offered a second substitute motion that action be deferred for two weeks so that Council may inspect both machines. The motion did not receive a second.

The vote was taken on the first substitute motion to award the contract to Commercial Machines & Supplies, Inc., which carried by the following recorded vote:

YEAS: Councilmen Bryant, Dellinger, Jordan, Smith and Thrower.  
NAYS: Councilmen Albea and Whittington.

The following bids were received:

Commercial Machines & Supplies Inc.	\$ 1,898.91
The National Cash Register Co.	2,214.21

CONTRACT AWARDED ALLISON FENCE COMPANY FOR CHAIN LINK FENCE FOR CEMETERY DEPARTMENT.

Councilman Jordan moved the award of contract to the low bidder, Allison Fence Company for 4,600 feet of 5-foot Chain Link Fence, as specified, at their bid price of \$5,695.00. The motion was seconded by Councilman Thrower.

Councilman Bryant stated that a gentleman who lives near Evergreen Cemetery where the fence will be erected feels it would be much to their advantage and still accomplish the same thing, if the fence were 4-feet high instead of 5-feet. He stated he has discussed the request with both Mr. Haas and Mr. Veeder and they can't argue either for or against it, that it will not stop anyone who wants to get over but it will still serve the purpose of fencing off the area and he offered it as a suggestion.

The vote was taken on the motion and carried by the following recorded vote:

YEAS: Councilmen Jordan, Thrower, Albea, Dellinger, Smith and Whittington.  
NAYS: Councilman Bryant.

The following bids were received:

Allison Fence Co.	\$ 5,695.00
Custom Vent Awning Co., Inc.	6,218.92
Allied Chain Link Fence Co.	6,269.04
Cyclone Fence	6,790.00
Anchor Post Products, Inc.	6,888.62
Bell Fence Mfg.	9,384.00

CONTRACT AWARDED TIDEWATER SUPPLY COMPANY, INC. FOR NEOPRENE FLIGHTED CHAIN.

Motion was made by Councilman Dellinger, seconded by Councilman Jordan, and unanimously carried, awarding contract to the only bidder, Tidewater Supply Company, for 203 feet of Neoprene Flighted Chain, as specified, at their bid price of \$2,594.81.

CONTRACT AWARDED THE GAMEWELL COMPANY FOR FIRE ALARM SUB-STATION.

Councilman Albea moved the award of contract to the low bidder, The Gamewell Company, for a Fire Alarm Sub-station, as specified, at their bid price of \$7,250.00. The motion was seconded by Councilman Thrower, and unanimously carried.

The following bids were received:

The Gamewell Co.	\$ 7,250.00
Fyr-Fyter Electronic Alarm Corp.	7,977.35

CONTRACT AWARDED MOTOROLA COMMUNICATIONS & ELECTRONICS, INC. FOR RADIO PARTS & TUBES.

Upon motion of Councilman Whittington, seconded by Councilman Albea, and unanimously carried, contract was awarded the low bidder, Motorola Communications & Electronics, Inc. for 9,025 Radio Parts and Tubes, at their bid price of \$9,884.29.

The following bids were received:

Motorola Communications & Electronics, Inc.	\$ 9,884.29
Dixie Radio Supply Co.	9,917.66
Electronic Wholesalers, Inc.	11,016.80

CONTRACT AWARDED FRED NIXON FOR DEMOLITION AND REMOVAL OF 8 BUILDINGS ON SOUTH MYERS AND EAST SECOND STREETS.

Motion was made by Councilman Whittington, seconded by Councilman Bryant, and unanimously carried, awarding contract to the low bidder, Fred Nixon, Charlotte, N. C., for the Demolition and Removal of 4 houses on South Myers Street and 4 houses on East 2nd Street, as specified, at their bid price of \$1,248.00.

The following bids were received:

Fred Nixon	\$ 1,248.00
Robertson House Moving	1,270.00
Richland Wrecking Co.	1,565.00
Norman House Demolishing	2,332.00
J. E. Kipka Construction Co.	2,400.00
Widenhouse House Movers	4,800.00

CONTRACT AWARDED PITTSBURGH-DES-MOINES STEEL COMPANY FOR AN ELEVATED WATER TANK AT HOSKINS FILTER PLANT.

Councilman Dellinger moved the award of contract to the low bidder, Pittsburg-Des Moines Steel Company on their low base bid No. 2, in the amount of \$398,800.00, for the construction of an Elevated Water Tank at Hoskins Filter Plant, as specified. The motion was seconded by Councilman Albea, and unanimously carried.

The following bids were received:

Pittsburg-Des Moines Steel Co.	
Base Bid No. 2 on spread footing foundation	\$398,800.00
Base Bid No. 4 on pile foundation	477,200.00
Unit Price No. 1 - additional 65 foot pile, ea.	320.00
Unit Price No. 2 - additional length of pile, per ft.	4.65
R. D. Cole Mfg. Co.	
Base Bid No. 1 on spread footing foundation	\$418,960.00
Base Bid No. 3 on pile foundation	523,960.00
Unit Price No. 1- additional 65 foot pile, ea	736.00
Unit Price No. 2- additional length of pile, per foot	11.00
Chicago Bridge & Iron Co.	
Base Bid No. 5 on pile foundation	\$494,900.00
Bidder's Alternate-Deduct for spread foundation	50,000.00

CONTRACT AWARDED REA CONSTRUCTION COMPANY FOR THE GENERAL CONSTRUCTION OF THE MCALPINE CREEK WASTE TREATMENT PLANT.

Councilman Thrower moved the award of contract to the low bidder, Rea Construction Company on their low base bid with deductions of Alternates 1, 2, 3 and 13, in the amount of \$3,414,000.00, for the General Construction of the McAlpine Creek Waste Treatment Plant. The motion was seconded by Councilman Whittington.

Councilman Smith stated that a man contacted him about Alternate Bid #3, which he alleged was the heart of the system, that he bid on the same equipment we are now using at other filter plants, and he said this is proven equipment and Alternate #3 is \$12,000.00 cheaper than his unit but it has been used in other places in North Carolina and was not too satisfactory. He

stated he told the gentleman that he knew very little about the technicalities, but when there is a question he feels obligated to bring it up and he would like for Mr. Franklin or Mr. Rawlins to discuss it.

Mr. George Rawlins, Executive Vice-President of J. N. Pease Associates, stated this equipment as spoken of in the base bid is clarifiers for the filter distributor equipment, and their recommended action was based on a careful review of the equipment furnished by each of the three manufacturers and the efficiency of the equipment, and their conclusion was reached after the review that the City's best interest would be served by awarding the contract on the Walker Process equipment, at a deduction of \$12,500.00 from the base bid.

Councilman Smith stated he assumes that Mr. Rawlins is satisfied that the \$12,000.00 savings is satisfactory and worthwhile, and Mr. Rawlins stated he is.

The vote was taken on the motion and unanimously carried.

The following bids were received:

Rea Construction Company	
Base Bid	\$3,422,500.00
Alternate Nos. 1,2,3 and 13 - Deduct	8,500.00
	<u>\$3,414,000.00</u>
Noll Construction Company	
Base Bid	\$3,457,300.00
Alternate Nos. 1,2,3 and 13 - Deduct	10,740.00
	<u>\$3,446,560.00</u>
Lee Construction Company	
Base Bid	\$3,483,499.00
Alternate Nos. 1,2,3 and 13 - Add	2,400.00
	<u>\$3,485,899.00</u>
Crowder Construction Company	
Base Bid	\$3,529,000.00
Alternate Nos., 1,2,3 and 13 - Deduct	2,600.00
	<u>\$3,526,400.00</u>
Blythe Brothers Company	
Base Bid	\$3,616,000.00
Alternate Nos. 1,2,3 and 13 - Add	24,000.00
	<u>\$3,640,000.00</u>
Glenn Construction Company	
Base Bid	\$3,698,000.00
Alternate Nos. 1,2,3 and 13 - Add	31,000.00
	<u>\$3,729,000.00</u>
F. L. Showalter, Inc.	
Base Bid	\$3,950,559.00
Alternate Nos. 1,2,3 and 13 - Add	4,300.00
	<u>\$3,964,859.00</u>
Boyd & Goforth, Inc.	
Base Bid	\$4,010,000.00
Alternates - not complete	

CONTRACT AWARDED DUNN ELECTRIC COMPANY FOR ELECTRICAL WORK IN THE CONSTRUCTION OF MCALPINE CREEK WASTE TREATMENT PLANT.

Motion was made by Councilman Bryant, seconded by Councilman Jordan, and unanimously carried, awarding contract to the low bidder, Dunn Electric Company, for the Electrical Work in the construction of McAlpine Creek Waste Treatment Plant, as specified, at their bid price of \$186,188.00.

The following bids were received:

Dunn Electric Company	\$ 186,188.00
Industrial Electric Company	196,486.00
Austin Electric Company	208,888.00
Bryant Electric Company	212,400.00

CONTRACT AWARDED INDUSTRIAL MECHANICAL CONTRACTORS FOR MECHANICAL WORK IN THE CONSTRUCTION OF MCALPINE CREEK WASTE TREATMENT PLANT.

Councilman Bryant moved the award of contract to the low bidder, Industrial Mechanical Contractors, for the mechanical work in the construction of McAlpine Creek Waste Treatment Plant, as specified, at their bid price of \$37,172.00. The motion was seconded by Councilman Dellinger, and unanimously carried.

The following bids were received:

Industrial Mechanical Contractors	\$ 37,172.00
Reliance Engineering Company	39,339.00
Tompkins-Johnston Co., Inc.	39,797.00
A. Z. Price & Associates	42,600.00
J. V. Andrews Company	45,500.00

CONTRACT AWARDED INDUSTRIAL MECHANICAL CONTRACTORS FOR PLUMBING WORK IN THE CONSTRUCTION OF MCALPINE CREEK WASTE TREATMENT PLANT.

Upon motion of Councilman Jordan, seconded by Councilman Albea, and un-animously carried, contract was awarded the low bidder, Industrial Mechanical Contractors, for the Plumbing Work in the construction of McAlpine Creek Waste Treatment Plant, as specified, at their bid price of \$19,400.00.

The following bids were received:

Industrial Mechanical Contractors	\$ 19,400.00
Acme Plumbing & Supplies	21,995.00
Tompkins-Johnston Co., Inc.	23,086.00
J. V. Andrews Company	24,850.00
A. Z. Price & Associates	25,963.00

CONTRACT AWARDED BLYTHE BROS. COMPANY FOR CONSTRUCTION OF LOWER SUGAR CREEK OUTFALL - MCALPINE CREEK WASTE TREATMENT PLANT.

The two bids received for the construction of Lower Sugar Creek Outfall - McAlpine Creek Waste Treatment Plant were considered, being -

1. Blythe Bros Co.  
Division "C" (all work) \$ 1,717,617.75
2. Boyd & Goforth, Inc.  
Division "A" \$ 609,000.00  
Blythe Bros. Co.  
Division "B" \$1,108,617.75 1,717,617.75

Councilman Thrower asked if these are not identical bids, and the City Manager replied that you can get a combination of identical bids depending on how it is split. That there were three sections that could be bid on the contract, Section A which is the Tunnel Section, and Section B which is substantially the Open and Cut Section, or Section C which combined Sections A & B. You could bid one portion of it, another portion of it or all of it - Blythe Bros bid all of it and their low bid is as given, \$1,717,617.75. Boyd & Goforth bid on Section A and coupled that with Blythe Bros bid on Section B and you would end up with the same total, so it boils down to one contractor or two contractors. That the advantage accrues automatically to the city having one contractor on a job in contrast to two, and they, therefore, recommend that the award be given for all of the work to Blythe Bros.

Councilman Bryant moved the award of contract to the low bidder, on all of the work, Blythe Bros. Company, for the construction of Lower Sugar Creek Outfall McAlpine Creek Waste Treatment Plant, as specified, on a unit price basis, at their bid price of \$1,717,617.75, subject to the approval of the N. C. State Stream Sanitation Commission and Public Health Service. The motion was seconded by Councilman Albea.

Councilman Dellinger asked if Boyd & Goforth would not be bonded for the entire job, and the City Manager advised that both bids include Blythe Bros. One bid is Elythe Bros. for everything and the other bid would be Boyd & Goforth on Section A and Blythe Bros. for Section B. Councilman Thrower asked if we could not split the work up between the two contractors? Mr. Veeder advised there is no advantage to the City in having two contractors on the job.

The vote was taken on the motion and carried by the following recorded vote:

YEAS: Councilmen Bryant, Albea, Dellinger, Jordan, Smith and Whittington.  
NAYS: Councilman Thrower.

Councilman Thrower stated he is not opposed to building the Plant but is opposed to just arbitrarily giving the work to one contractor without consideration of the other.

The following bids were received:

Blythe Brothers Company		
Base Bid - Division "A"	\$ No bid	\$ No bid
Alternate No. 1		No bid
Base Bid - Division "B"	1,108,000.00	
Alternate No. 1 - Add		101,291.00
Base Bid - Division "C"	1,717,000.00	
Alternate No. 1 - Add		107,504.00
Boyd & Goforth, Inc.		
Base Bid - Division "A"	609,000.00	
Alternate No. 1 - Add		8,200.00
Base Bid - Division "B"	1,163,000.00	
Alternate No. 1 - Add		51,400.00
Base Bid - Division "C"	1,772,000.00	
Alternate No. 1 - Add		59,600.00
Wright Contracting Co.		
Base Bid - Division "A"	No bid	
Alternate No. 1 - Add		no bid
Base Bid - Division "B"	1,194,000.00	
Alternate No. 1		1,234,000.00*
Base Bid - Division "C"	1,820,000.00	
Alternate No. 1		1,862,000.00*

\* The proposal did not indicate whether add or deduct. These figures evidently are intended to be for the Base Bid plus the Alternate.

(continued)

Noli Construction Company		
Base Bid - Division "A"	\$ 609,280.00	
Alternate No. 1 - Add		\$ 3,000.00
Base Bid - Division "B"	1,279,400.00	
Alternate No. 1 - Add		56,000.00
Base Bid - Division "C"	1,868,680.00	
Alternate No. 1 - Add		56,000.00
Charles F. Smith and Son		
Base Bid - Division "A"	No bid	
Alternate No. 1		No bid
Base Bid - Division "B"	1,425,000.00	
Alternate No. 1 - Add		75,000.00
Base Bid - Division "C"	2,050,000.00	
Alternate No. 1 - Add		90,000.00
A. P. White and Associates		
Base Bid - Division "A"	670,000.00	
Alternate No. 1 - Add		6,337.00
Base Bid - Division "B"	1,211,000.00	
Alternate No. 1 - Add		103,488.00
Base Bid - Division "C"	No bid	
Alternate No. 1		No bid
W. L. Haley and Company		
Base Bid - Division "A"	692,543.00	
Alternate No. 1 - Add		2,053.35
Base Bid - Division "B"	1,350,000.00	
Alternate No. 1 - Add		44,286.50
Base Bid - Division "C"	No bid	
Alternate No. 1		No bid
R. H. Johnson Construction Co.		
Base Bid - Division "A"	679,800.00	
Alternate No. 1 - Add		5,000.00
Base Bid - Division "B"	1,359,500.00	
Alternate No. 1 - Add		67,500.00
Base Bid - Division "C"	1,989,000.00	
Alternate No. 1 - Add		70,500.00
Ray D. Lowder, Inc.		
Base Bid - Division "A"	No bid	
Alternate No. 1		No bid
Base Bid - Division "B"	1,392,792.00	
Alternate No. 1 - Add		54,000.00
Base Bid - Division "C"	No bid	
Alternate No. 1		No bid
Lewis Construction Co.		
Base Bid - Division "A"	708,000.00	
Alternate No. 1 - Add		3,000.00
Base Bid - Division "B"	No bid	
Alternate No. 1		No bid
Base Bid - Division "C"	No bid	
Alternate No. 1		No bid
Cowan and Company		
Base Bid - Division "A"	944,000.00	
Alternate No. 1 - Add		11,000.00
Base Bid - Division "B"	No bid	
Alternate No. 1		No bid
Base Bid - Division "C"	No bid	
Alternate No. 1		No bid

CONSIDERATION OF ORDINANCE TO REGULATE THE ADMITTANCE OF MINORS TO POOL-ROOMS AND BILLIARD PARLORS DEFERRED UNTIL NEXT COUNCIL MEETING.

Councilman Bryant asked the City Attorney if he has seen the proposed ordinance given Council by an Attorney with regard to the Cue Halls, and Mr. Morrissey replied that he wrote the ordinance. Councilman Bryant then said that it seems about the only fair solution Council can find in the matter; that he thinks it is well thought out and real good middle ground to take on the subject, and he thinks it does essentially what he thinks should be done, and without objection he moved the adoption of the Ordinance. The motion was seconded by Councilman Whittington.

Councilman Jordan offered a substitute motion that as he has not seen the ordinance and did not receive a copy of it, he moved that it be postponed until the next Council Meeting. The motion was seconded by Councilman Albea, and unanimously carried.

CITY MANAGER DIRECTED TO NEGOTIATE CONTRACT WITH J. N. PEASE ASSOCIATES AS CONSULTANT TO PERFORM THE ENGINEERING DESIGN SERVICE FOR THE WIDENING AND IMPROVEMENT OF EASTWAY DRIVE AND THE PLAZA, FROM NORTH 29 TO INDEPENDENCE BOULEVARD, SUBJECT TO COUNCIL APPROVAL OF THE CONTRACT.

Councilman Dellinger moved that the City Manager be directed to negotiate a contract with J. N. Pease & Associates as Consultant to perform the engineering design service for the widening and improvement of Eastway Drive and The Plaza, from North 29 to Independence Boulevard, subject to Council approval of the contract. The motion was seconded by Councilman Whittington, and unanimously carried.

PURCHASE OF DITCHING MACHINE FOR WATER DEPARTMENT AUTHORIZED.

Upon motion of Councilman Jordan, seconded by Councilman Albea, and unanimously carried, the purchase of a Ditching Machine for the Water Department, at a cost not to exceed \$6,000.00, including the trade-in of the old unit, was authorized, the said \$6,000.00 to be appropriated from unencumbered water funds, as recommended by the City Manager.

ACQUISITION OF PROPERTY FOR RIGHT-OF-WAY FOR NORTHWEST EXPRESSWAY, KENILWORTH AVENUE EXTENSION PROJECT AND SANITARY SEWER CONSTRUCTION.

Upon motion of Councilman Whittington, seconded by Councilman Bryant, and unanimously carried, the acquisition of property was authorized as follows:

- (a) Acquisition of house and lot (9,900 sq. ft. ) on North Brevard Street from L. A. Norman and wife, Mary Norman, at a price of \$5,100.00 as right of way for the Northwest Expressway.
- (b) Acquisition of house and lot (9,702 sq. ft.) on North Caldwell Street from Effie T. Gentry and Ed R. Gentry, at a price of \$5,200.00 as right of way for the Northwest Expressway.
- (c) Acquisition of house and lot (4,950 sq. ft. ) at 512 East 12th Street from Effie I. Gentry and Ed R. Gentry, at a price of \$4,500.00 as right of way for the Northwest Expressway.
- (d) Acquisition of house and lot (10,240 sq. ft.) on Stephens Street from W. Banks Reid, at a price of \$7,500.00, as right of way for the Northwest Expressway.

(continued)

- (e) Acquisition of house and lot (4,950 sq. ft.) on East 12th Street, from Effie I. Gentry, at a price of \$5,000.00, as right of way for the Northwest Expressway.
- (f) Acquisition of tract of land 20' wide x 3,583.94' long along Stewart Creek, north of Highway Interstate 85, from C. D. Spangler Construction Company, at a price of \$1,791.97, for the construction of a sanitary sewer line to serve Northwood Estates.
- (g) Acquisition of tract of land 60' wide x 1,183.95' long between Reid Road and Spring Valley Subdivision, from Hall M. Johnson, at a price of \$1,883.95, for the construction of a sanitary sewer line to Lower Sugaw Creek Outfall.
- (h) Acquisition of a Garage and Shrubbery at 2033 Charlotte Drive from Cora M. Dickerson, at a price of \$360.00, in the Kenilworth Avenue Extension Project.

CITY MANAGER REQUESTED TO HAVE TRAFFIC ENGINEER TO GIVE REPORT ON THE WIDENING OF A CROSSOVER ON PROVIDENCE ROAD AT ST. GABRIEL'S SCHOOL, AND ALSO IF ST. GABRIEL'S CATHOLIC CHURCH DOES NOT OWN SUFFICIENT LAND FOR OFF-STREET PARKING.

Councilman Whittington stated he wished to again discuss the subject of traffic safety at St. Gabriel's School on Providence Road; that the parents of students have given him a plan that he would like to give the City Manager to give to Mr. Hoose, Traffic Engineer, to look into with regard to the widening of a crossover for traffic on Providence Road at the School so that cars may go both ways instead of being stalled in the middle of the street. He asked that Mr. Hoose check this and give Council an answer at the next meeting.

Mayor Brookshire stated in this connection, he would suggest that Mr. Hoose talk with St. Gabriel Church principals to see if they do not have sufficient land of their own for parking purposes to keep parking off Providence Road. That it is dangerous being just beyond the crest of the hill on Providence Road.

#### ACQUISITION OF 61.47 ACRE TRACT OF LAND ON STATESVILLE AVENUE FOR USE AS GARBAGE LANDFILL SITE.

The City Manager advised that the City has an opportunity to purchase 61.47 acres of property on Statesville Road from Mrs. W. H. Belk at \$3,000.00 per acre or a total price of \$184,410.00, for a Landfill site, which is adjacent to the present 96 acre tract presently used as a Landfill operation. He stated further this acreage location wise is ideal and is the best location we could have for a landfill activity as access presents no problem, entrances can be gained from several points and the zoning is I-2 and improvements to it would be nominal because it adjoins our present Landfill site, which could be finished off with dirt from this new site; that Mr. Davis has estimated this site will fill our needs, in this particular location depending upon what other sites we might acquire in the future, for perhaps 10 or more years. That in addition to the cost of the acreage the City will be responsible for the negotiating fee of Mr. M. E. Alexander, who negotiated the transaction with Mrs. Belk, of 2 1/2% of the price, or \$4,610.00. Mr. Veeder asked Mr. Buck Davis, Supt. of the Motor Transport Department, who has been seeking a satisfactory site for sometime, to comment on the desirability of this site.

Mr. Davis stated he has looked for 12 months for a landfill site, and the Belk property has been his number one choice for several reasons; primarily it is located adjacent to our present site, which is in fair condition at the moment but needs lots of work to clean it up and it will offer us an opportunity to do this at the lowest cost possible, as it will possibly take 200,000 tons of dirt to do this, which will be available on the new site and the work can be done jointly with the burying of garbage on the new site.

Also, as a matter of public opinion, he thinks this site would offer less objections from the neighborhood and from the total city, than any area that could possibly be thought of, as we have already been out there for years, people know we are there and he does not believe there would be any objections as there are no houses or buildings on the property and no one living very close to the property with the exception of one house which you enter off Interstate 85 By-pass, and he believes the objections would be nil for the City to extend its operations at this particular location. Another important item is transportation, we are already here and to move is expensive and it is a question of where we would move as to how much it would cost; that in talking about the cost of land it is not really very important, for example moving tons of garbage a day five miles out would cost us \$120,000.00 a year, using approximately 10 acres a year, you can see it would cost us \$12,000.00 an acre just to use the land, so the location is the primary thing. Too, the personnel is familiar with this area and no schedules would have to be changed of any consequence which would disrupt his organization. That, with all of these things considered, it is his honest opinion that the Belk property is the best property he knows of for the purpose.

Councilman Dellinger remarked to Mr. Davis that he is apparently assuming there is no opposition to the use of this property for this purpose but he would like to know if Mr. Davis has talked with any of the surrounding property owners? Mr. Davis said he has not. Councilman Dellinger called attention that we had right much trouble out there when the present Landfill was opened and he believes we had a good many law suits; he asked if there are any people on Statesville Road adjoining the Belk property who might later sell their property to the city, as there is a link out there from which some objections might come, and we might be able to buy some of this property. Mr. Davis stated he has only contacted some folks who were leasing property on the north side of Interstate 85, but no one on Statesville Road, and it is unlikely we could use that property because of the extension of Interstate 77. Councilman Dellinger asked if he would not turn off Statesville Road to the site, and Mr. Davis stated they would but they would not use Interstate 85, we would be using the same entrance now used, or go back to the entrance used when the present site was first opened, which was across the creek off the old road. Councilman Whittington stated he would hope they could use the old entrance instead of going down through the residential part. Mr. Davis stated they would almost have to do that instead of extending the roadway across our present Landfill site. Councilman Dellinger asked if the present Landfill site will be leveled off and used for sale? Mr. Davis stated it could be used, there are quite a number of acres that could be cleared up and sown in grass or something of that nature so that it could be used, possibly for park purposes.

Councilman Bryant stated he realizes this seems to be an ideal location but he knows we are not getting it for nothing, although the price of \$3,000 per acre seems good, he would like to know what the going price is for other property around the location? Mr. Veeder stated he asked Mr. Owens, Right-of-way Agent, his opinion of the price and he said in his opinion this is a fair price for our purposes without setting specific comparables in the area. That we could buy land much cheaper but the cost of the land is only a portion of the cost of the operation and anything we might save by paying less for the land at a different location we would lose in the overall cost.

Councilman Bryant moved that the land be purchased for a Landfill site as recommended. The motion was seconded by Councilman Whittington.

Mayor Brookshire asked Mr. Davis if with the availability of additional dirt to use on the present landfill, would he say that this area can be more attractively maintained than before? Mr. Davis stated there would be a very definite improvement, that the problem has been, still is and will be the dirt; that we bought about 25,000 cubic yards of dirt last year and still had to find more dirt, little by little around the edges to help out, but with the dirt available we can clear up Statesville Road to make it a sanitary place. Mayor Brookshire stated in this case instead of objections, we might get some approval.

Councilman Smith stated, of course, his connection with Belk Stores is known, and he has very scrupulously avoided any negotiation or any suggestion of this property; that Mr. Davis found it himself and he insisted on not talking with Mrs Belk about valuations, desirability etcetera, and it was all handled by Mr. Alexander, whom he has not spoken to since he began negotiations; that he has stayed strictly away from it; that he realized the property was there all the time but he was scared to death of it, frankly, so that is the reason he has played hands-off and this is his position and he rather regrets that a site was not found somewhere else, but he certainly wants it made public that he is just as innocent of this as anyone could be.

Mr. Veeder advised that the City Attorney has prepared a form of contract of purchase of sale and this is, in effect, the document that you should be approving, if you see fit to approve the transaction, calling for the payment of \$184,410.00 to Mrs Belk and \$4,610.00 to Mr. Alexander. He stated that we have a firm offer from Mrs Belk, but would like the bind and contract executed as soon as possible.

The vote was taken on the motion and carried by the following recorded vote:

YEAS: Councilmen Bryant, Whittington, Albea, Dellinger, Jordan and Thrower.

Councilman Smith abstained from voting.

Councilman Bryant stated he thinks the Council should commend Mr. Davis after his long hard struggle to find an additional landfill site, and let him know we appreciate his tenacity toward the situation.

Mayor Brookshire stated he thinks Mr. Bryant is entirely right.

#### APPOINTMENT OF ROY MCKNIGHT, JR. TO PARK AND RECREATION COMMISSION.

Councilman Thrower moved the appointment of Mr. Roy McKnight to the Park and Recreation Commission for the unexpired term of Mr. Heidenreich, resigned, expiring on March 21, 1965. The motion was seconded by Councilman Whittington, and carried by the following recorded vote:

YEAS: Councilmen Thrower, Whittington, Albea, Bryant, Dellinger, and Jordan

Councilman Smith not voting.

Councilman Smith stated he does not want to do anything detrimental to any Commission the Council has under them, but he has been rather concerned about the situation with the Park and Recreation Commission insisting on this nomination; that he has nothing against Mr. McKnight and thinks he is

a fine gentleman but he knows there have been several Council members who have been approached by members of the Commission advocating the appointment of Mr. McKnight, which he thinks is bad, and is a bad operation within the Commission, and he wants to wave a red flag and say these appointments originate with the Council and they should be influenced by the judgment of the Council and any Commission that has a tendency to perpetuate itself is bad for the City Government.

Councilman Thrower commented with the view of protecting his own interest, that he voted for Mr. McKnight the time before the appointment was open and previous to that he had not talked to any member of the Park & Recreation Commission or anyone else; that he went to school with Mr. McKnight and has known him a good many years and he thinks he will make a fine member of the Commission and that is his only reason for his nomination.

Councilman Bryant stated he would like to say the same thing but at the same time he thoroughly agrees with Mr. Smith, he thinks he stated it well and he is to be commended for making the statement, and he is in 100% agreement with him. That as far as Roy McKnight is concerned, he has been a neighbor of his for a long time and he had him in mind a couple or more times as a matter of fact, but he does not particularly like the lobbying of any group to the Council.

Councilman Dellinger stated this is not a singular circumstance, this is not the only Board that does it.

PLANNING COMMISSION REQUESTED TO DETERMINE ZONING CLASSIFICATION THE TYPE OF EATING ESTABLISHMENT AS THE BURGER KING SHOULD HAVE AND MAKE RECOMMENDATION TO COUNCIL.

Mr. John D. Shaw, Attorney representing The Burger King, an eating establishment having about 70 seats located at Independence Boulevard and Commonwealth Avenue, stated they contend the establishment is a restaurant but the Zoning Board of Adjustment holds it is a restaurant with drive-in service and therefore similar eating establishments cannot be constructed in a B-1 zoned district. Mr. Shaw stated they have no car hops, no outside window, it is just a nice, clean restaurant where hamburgers, hot-dogs and soft drinks are sold - no beer, no loud outside music, one goes in, buys their eats at a self-service counter and eats them at a table, but if the patron prefers to take them out to his car and eat them there, they cannot stop them. That they have parking spaces provided as required by the Traffic Engineer and a license from the City based on 70 seats, and they are going to fight it through the Courts to so establish it as a restaurant, but the fight will draw in other restaurants of a similar type; such as the S & W Cafeterias, Barclay's Restaurant etc, and if it can be so decided without litigation it will save much confusion in the restaurant business.

Mr. Shaw stated the Zoning Ordinance, which was worded by the Planning Commission, defines a Restaurant and a Restaurant with drive-in service and they advise him they did not intend it to be interpreted as the Board of Adjustment is so doing. However, there is no appeal to the Council from the ruling of the Zoning Board of Adjustment, any appeal must be to the Courts and Mr. Shaw would like to avoid this if the Council will clarify the situation. He stated he understands that the Zoning Board of Adjustment, nor anyone has asked the City Attorney for a ruling in the matter.

Mr. Shaw stated that he understands when The Burger King petitioned for a change in zoning of the property at Independence Boulevard and Commonwealth Avenue, the petition was granted; now they want a definition of the zoning classification which applies to their type of restaurant.

Councilman Smith recalled that when their petition came before Council for a change in zoning of the corner lot on which they are located, they said it was not going to be a hamburger place but a restaurant with more seats, and the cars were played down and they said it would be incidental to the main operation which was to be seated inside. Mr. Shaw said this is correct, and their operation is inside but if a patron wants to take the food to his car and eat it, they cannot stop him.

Mayor Brookshire asked the City Attorney to comment on the subject, and Mr. Morrissey advised the Zoning Ordinance permits Restaurants in B-1, B-2, B-3 and the three Industrial Districts, it permits Restaurants with Drive-in Service only in B-2, B-3 and the three Industrial Districts. That Mr. Shaw is inveighing against the distinction made as to The Burger King, as between it being a Restaurant or a Restaurant with Drive-in service. He stated further that the Zoning Ordinance takes cognizance on the one hand of Restaurants, on the other hand of Restaurants with Drive-in service. Now what we are dealing with here, in the case of The Burger King and many others and what we call a Restaurant with Drive-in service. The difference that they allege to be a Restaurant with Drive-in service is you must have car hops, and they do not have car-hops, therefore they do not have Drive-in service, but, in fact you will find what they really have lies in between the two. If it requires a refinement of the ordinance, that might be a proper step. As a matter of interpretation by the Board of Adjustment, they have decided it is closer to and more identified with a Restaurant with Drive-in service than it is with a Restaurant.

Councilman Dellinger asked if it would be feasible to change the Zoning Ordinance? Mr. Morrissey advised if they proceed along that line, that would be for Council's consideration as to whether or not we need to refine the provisions of the zoning table.

Councilman Dellinger asked if Mr. Shaw and Mr. Morrissey cannot get together and work this out? Mr. Morrissey replied there is nothing they can work out.

Councilman Bryant stated it appears to him what we need to do is to classify this type of business and then decide the desirability of which class it should go in. Mr. Morrissey stated he thinks this is the proper function of the Planning Commission to make a recommendation to Council.

Councilman Bryant moved that the matter be referred to the Planning Commission to determine the zoning classification that this particular type of eating service should have, and bring Council their recommendation. The motion was seconded by Councilman Dellinger, and unanimously carried.

ADJOURNMENT UNTIL MONDAY, NOVEMBER 18, 1963.

Upon motion of Councilman Whittington, seconded by Councilman Thrower, and unanimously carried, the meeting was adjourned until Monday, November 18th.

  
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Lillian R. Hoffman, City Clerk