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A regular meeting of the City Council of the City of Charlotte, North Carolina, was held on Monday, October 16, 1972, at 2:00 o'clock p.m., in the Council Chamber, City Hall, with Mayor John M. Belk presiding, and Councilmembers Ruth M. Easterling, Sandy R. Jordan, James D. McDuffie, James B. Whittington and Joe D. Withrow present.

ABSENT: Councilmen Fred D. Alexander and Milton Short were absent at the beginning of the meeting.

The Charlotte-Mecklenburg Planning Commission sat with the City Council, and as a separate body, held its public hearings on the zoning petitions, with Chairman Tate and Commissioners Albea, Finley, Jolly, Kratt, Moss, Ross, Royal and Turner present.

ABSENT: Commissioner Boyce.

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INVOCATION.

The invocation was given by Councilman James B. Whittington.

MINUTES APPROVED.

Motion was made by Councilman Whittington, seconded by Councilman Withrow, and unanimously carried, approving the minutes of the last meeting on Monday, October 9, 1972.

HEARING ON PETITION NO. 72-49 BY J. KEN POWELL AND W. P. HERBERT TO CONSIDER CONDITIONAL PARKING APPROVAL ON A LOT NOW ZONED R-6MF AT THE NORTHEAST CORNER OF DRIFTWOOD DRIVE AND BURNER DRIVE.

The public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, stated this request is for conditional off-street parking approval of a portion of a lot located on Driftwood Drive, south of Central Avenue and east of Rosehaven Drive. The property is vacant. This was the subject of a similar request some two years ago, and there is some paving on the property which was put there prior to consideration of the request the first time. It is adjoined on the west side by a small restaurant which has been there for two or two and half years. To the east of the property begins a pattern of duplex and multi-family uses. To the south is a solid pattern of duplex uses. Behind the property and fronting on Central Avenue is a variety of business uses, including a grocery store and service stations. On out Central is a pattern of several older single family residential structures.

He stated there is business zoning along Central Avenue behind the subject property and to the west side. To the east and to the south across Driftwood Drive is a pattern of multi-family zoning. Within the immediate vicinity of the subject tract is a combination of business zoning and multi-family zoning.

Mr. J. Ken Powell, speaking for the petitioners, stated the portion of the property requested for conditional parking has already been paved and is a re-request of a little over two years ago. At that time the residents of the area were concerned about curb service and such. He stated before submitting this request today he visited with Mrs. Love who lives across the street from the property, and with Mr. Rinaldi who owns the adjacent property, and then with Mr. David McCall who owns eight or ten duplexes in the area. Mrs. Love indicated she thought this was a first class restaurant that was very quiet, and she would like to see the parking approved. Mr. Rinaldi expressed the same sentiments and has given him a letter to that effect; Mr. McCall expressed the same sentiments.

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Mr. Powell stated they would like to have the additional parking, and they feel they can improve the appearance of the neighborhood. At present there is a barricade located there which is not too sightly. Also, at the suggestion of the Planning Commission they plan to put in a row of trees to buffer the lot.

No opposition was expressed to the proposed change in zoning.

Council decision was deferred for a recommendation of the Planning Commission.

HEARING ON PETITION NO. 72-50 BY J. P. HACKNEY, ET AL, FOR A CHANGE IN ZONING FROM R-6MF TO O-6 OF ALL PROPERTY IN THE 2300 BLOCK OF RANDOLPH ROAD, EXTENDING FROM VAN NESS STREET TO LAUREL AVENUE.

The public hearing was held on the subject petition.

The Assistant Planning Director advised this petition is for a total block along Randolph Road, which extends from Laurel Avenue up to Van Ness, on both sides of Randolph. The entire block is occupied by residential structures, although a couple of them are seemingly abandoned, and have not been used for some time. There is a combination of single family and multi-family use. The surrounding pattern of use is largely residential in character, and consists of single structures to the rear on Vail; a combination of multi-family and single family across Laurel with single family extending out along Randolph. The church is located at the intersection of Colville Road and Randolph Road, and an apartment area located on Laurel Avenue. There are single family houses extending down Laurel in the direction of Providence behind the subject property. Coming up Randolph Road there is remaining a couple of residential structures beginning at Van Ness; then begins a pattern of office use. Randolph Road is rapidly being converted to office use.

Mr. Bryant stated there is a solid pattern of O-6 which extends out Randolph Road to the beginning of the subject petition. Then office zoning extends over through some property on Vail Avenue, and all the way over to Providence Road, and down Providence for some distance. With that exception the area immediately near the subject property is all zoned for multi-family purposes along Laurel Avenue. Beginning at Colville and extending outward from that point is the beginning of a pattern of single family residential zoning. Actually in contact with the subject property is a combination pattern of multi-family zoning on three sides and office zoning on one side along Randolph Road.

Mr. Norman Black, speaking for the petitioners, stated this section has become undesirable for residential use. Two or three things have caused this, and one is traffic. On July 27, 1971, the traffic count for a 12 hour period from 7 A.M. to 7 P.M. was 8,835 cars. That he saw in the paper the other day an article about the increase in traffic this past year. That he would not be surprised if this did not go up to 10,000 cars this year. He stated at 5:00 and 5:30 in the afternoon cars are backed up in two lines from the traffic light. He stated they know that zoning is very necessary for the proper growth of the city, and zoning's intention is to see that all property is used for its highest and best use so it will bring in a net return to the owner of the maximum amount. There are two hospitals over there and they call that street "pill road" because so many doctors have moved out there and people are asking for more office space. He stated they cannot sell this property for residential use unless they ask a very low price; but it is very usable for office.

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Mr. Black referred to a map pointing out the hospitals, church and the zoned area for medical buildings. He stated they feel the church and the big apartment building is a good buffer, and there is no danger of moving into Eastover from that direction. He stated the rezoning will enable these people to get a fair price for their property, and it will enable doctors and others to get good office space.

No opposition was expressed to the proposed rezoning.

Council decision was deferred for a recommendation of the Planning Commission.

COUNCILMAN ALEXANDER COMES INTO MEETING.

Councilman Alexander came into the meeting during discussion of the following hearing, and was present for the remainder of the session.

HEARING ON PETITION NO. 72-51 BY MENDEL THOMAS ROBERTS, ET AL, FOR A CHANGE IN ZONING FROM R-6MF TO R-9 OF ALL PROPERTY ON SHADY LANE AND BURGESS DRIVE, SOUTHWEST OF WILMONT ROAD.

The public hearing was held on the subject petition.

Mr. Fred Bryant, Assistant Planning Director, stated this is another of the neighborhood type requests for rezoning and is for an upgrading from multi-family to single family. The area is a somewhat irregularly shaped land, and is southeast of Wilmont Road and southeast of West Boulevard. He stated the portion developed is developed with single family residential structures. Along Shady Lane the developed portion is entirely single family; along Burgess Drive there is a combination of two duplexes and two six-family unit structures and one multi-family structure under construction. Beyond that is a pattern of single family residential uses. There is considerable vacant land still available in the general vicinity, particularly along Shady Lane and Burgess Drive. The surrounding land use pattern is also a combination of vacant land and single family residential. There is a scattering of multi-family apartments and duplexes in the Reid Park area. Along West Boulevard to the north is a variety of commercial type uses. In the vicinity of the subject property, there is principally vacant land and single family residential use.

He stated the zoning in the area is entirely multi-family. Along West Boulevard and Wilmont Road there is existing I-1 zoning and to the east along West Boulevard is a beginning pattern of business zoning.

Mr. J. R. Whisnant, speaking for the petitioners, stated they are within a quarter of a mile of Dalton Village Homes and less than half a mile from the Boulevard Homes. They have an intensity of apartments and this is tearing their area apart. He passed around pictures of the homes in the area. He stated he personally went up and down Walter Street in the Reid Park Area, and most of the homes he went into the people were 55, 65 and 70 and were retired people. They are proud of their homes and they feel a conglomeration of low cost housing will hurt the whole community. He stated they would like to have the zoning changed.

Commissioner Turner asked how many people in the area signed the petition for the rezoning? Mr. Whisnant replied there are between 30-40 homes on Burgess Drive and Shady Lane with about 15 homes on Walter Street; that all these people are in favor of changing the zoning to R-9; there is a lot of vacant property on Burgess and some along Shady Lane. Mayor Belk asked if all the landowners are in favor of rezoning the property? Mr. Bryant replied there is a total of 34 parcels of separate ownership; 20 were represented by the signers of the petition; 14 were not represented. Those 14 were sent registered letters informing them of the proposed change.

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Councilman Withrow stated this again brings up the question that all property on the west side is zoned R-6MF and until Council has a study of the rezoning of the west side, this will come up time and time again. All property around this property is zoned R-6MF; that he would guess you could put 8,000 units right in this area. Until Council studies this area, we will run into this same problem of high density. That he thinks these people are right that you will get slums built; that as a builder you cannot get quality apartments in these areas because they cannot get high rents.

Also speaking for the rezoning were Mr. Charles W. Jenkins, 2945 Burgess Drive, Mrs. Pearl Allen, 2913 Shady Lane and Mrs. Tonsie Ball.

Mr. Bill Echols, attorney representing Mr. M. O. Burgess, 2953 Shady Lane, in opposition to the rezoning, stated Mr. Burgess is trying to get the top dollar for his property; that a large portion of his five acres is vacant. That Mr. Burgess is the original developer of that community, and the whole community is a result of his development; that he purchased the property in 1947. Mr. Burgess has no intention himself of any development of the property.

Mr. Echols passed around pictures showing Mr. Burgess's home and the property in question. That Mr. Burgess's five acre tract is bounded on the northern area by I-1 zoning. He stated there are the apartments and duplex and another unit under construction on Burgess Street; but outside of that there is no other apparent construction underway for multi-family units. He stated to his knowledge this property has been zoned R-6MF since zoning came in. That Mr. Burgess has been under the assumption he could sell his property for R-6MF all this time.

Mr. Echols stated he has no way of knowing whether there will be additional multi-family construction on this property. But it would not be right to zone Mr. Burgess's property back to single family rendering his acreage absolutely worthless. To rezone this property to R-9 would place it in the middle of an R-6MF zoned area which is bounded by business and industrial zoning to the north.

He stated this property may be best used as R-6MF. This is without question the only way he can get the best use of his property. He has a prospective purchaser for it; and this purchase is conditioned upon the property being zoned for multi-family.

Mr. Echols requested the Council to take into consideration Mr. Burgess and the fourteen property owners who did not sign the petition. That it would not make any difference to Mr. Burgess if everything else around him is zoned for R-9 and his property is rezoned to R-9MF. They ask that he be considered in the rezoning.

Council decision was deferred for a recommendation of the Planning Commission.

ORDINANCE NO. 636 AMENDING CHAPTER 23 OF THE CITY CODE TO PERMIT A "ZERO SIDE YARD" TO BE UTILIZED IN PLANNED UNIT AND CLUSTER DEVELOPMENTS SUBJECT TO REQUIREMENTS AND RESTRICTIONS.

The public hearing was held on Petition No. 72-52 by Charlotte-Mecklenburg Planning Commission to amend the text of the zoning ordinance to permit a "zero side yard" to be utilized in Planned Unit and Cluster Developments subject to requirements and restrictions.

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Mr. Fred Bryant, Assistant Planning Director, stated the "zero side yard" concept has been in use in some parts of the country for a number of years. The Planning Commission proposes that Council consider installing into the zoning regulations provision for zero lot line utilization only in a very limited manner. That they are not proposing that it be made available to anyone or everyone who might want to utilize it; but that it be made available for use only in planned unit development and cluster type developments. Both planned unit development and cluster require the approval of an overall site plan. There would be an opportunity to review each individual proposed use of this type of development technique and analyze how appropriate it would be in that particular situation.

Mr. Bryant stated under the conventional sideline restrictions situation there are two lots with a house built on each lot. The present requirement for sideyards in the R-6 and R-9 districts would call for six feet on one side and eight feet on the other side of a given residence. The zero lot line concept would permit one of the two residences to be built on the property line; the other residence would have to be at least 14 feet from the property line. In effect you are maintaining the same distance relationship between the two buildings but the difference is that one house will be built on the lot line; and the other one pulled off 14 feet and you would have, under single ownership, 14 feet of usable space rather than the present situation of six feet on one side and eight on the other. With 14 feet this is enough space to have a patio area, or to continue the driveway on down into the back area; or enough space to do something with rather than just the useless space. One of the requirements of the ordinance would be that the building on the line would have no windows on that side. This becomes a design factor when the building is designed; therefore there is privacy afforded the area which is not present under the existing regulations.

Mr. Bryant stated for maintenance purposes, you have to require a maintenance easement to be provided down the property line to permit the property owner who is located on the line to have the right to go onto the other man's property for a minimum distance to get to his property to provide a maintenance access. The ordinance as proposed sets up a maximum of five feet. Since we are dealing with a design situation, they propose that this be done only in planned unit development and cluster situations so that the Planning Commission would have an opportunity to review not only the lot design but an opportunity to actually see the location of the building; the design of the building to insure it does create the privacy this type of regulation is intended to include. Mr. Bryant stated they would also encourage the building of a fence along the line.

After further discussion, Mr. Bryant stated the petition comes to Council with the recommendation of the Planning Commission.

No opposition was expressed to the proposed text amendment.

Councilman Withrow moved adoption of the ordinance as recommended. The motion was seconded by Councilman Alexander, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 19, at Page 317.

ORDINANCE NO. 637 AMENDING CHAPTER 23 OF THE CITY CODE TO REMOVE THE REQUIREMENT FOR CONCRETE RUNNERS TO BE PLACED IN MOBILE HOME PADS AND INSTALLING INSTEAD A REQUIREMENT FOR CONCRETE FOOTINGS.

The scheduled hearing was held on Petition No. 72-53 by Charlotte-Mecklenburg Planning Commission to amend the text of the zoning ordinance by removing the requirement for concrete runners to be placed on mobile home pads and installing instead a requirement for concrete footings.

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Mr. Bryant stated at present the ordinance requires there be constructed two concrete runways on a pad of minimum dimensions of 40 feet by 24 inches. This means that two runners of solid concrete are required along the pad. This was intended to provide a space which would make the moving in and moving out of a mobile home more reasonable and easier to accomplish as it would insure the wheels would be running along the concrete runners for most of the length of the stand itself. Today the tendency seems to be to put mobile homes down and they stay there even in a mobile home park for a considerable length of time. Some of them are more or less permanent. This then becomes a little inappropriate for several reasons. One, it is very expensive to install this solid amount of concrete runners in this fashion. Second, with the lack of mobility in the mobile home situation now, it does not serve much of a purpose except to provide for the original moving in.

He stated it is proposed that this type of improvement be replaced with a series of concrete footings which would be placed the full length of the mobile home stand and would be spaced to provide permanent locations from the footing locations for the mobile home to be placed. This will be less expensive in the development; it is easier to build, and it will provide better support for the mobile home after it is placed.

Councilman Withrow asked about the parks where the mobile homes are moving in and out. He asked if they would be required to put these piers in? Mr. Bryant replied these are not piers; they are just footings. Mr. Landers of the Planning Staff stated it would be entirely possible for the park owner to connect the footings with concrete so that it would be continuous concrete. The difference is the amount that is actually needed to secure the foundation of the mobile home. The Mecklenburg County zoning inspector is enforcing this to an extent at present with the mobile home parks in the county to reflect what is required by the state.

After further discussion, Chairman Tate stated this comes to Council with the Planning Commission's recommendation.

Councilman Whittington moved adoption of the ordinance as recommended by the Planning Commission. The motion was seconded by Councilman Alexander, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 19, at Page 318.

ORDINANCE NO. 638 AMENDING CHAPTER 18 OF THE CITY CODE WITH RESPECT TO THE SUBDIVISION REGULATIONS TO CONFORM WITH PROPOSED ZONING TEXT CHANGES.

The public hearing was held on amendments to the text of the subdivision ordinance to conform with proposed zoning text changes as follows:

- (1) Require that location of buildings be shown on plat plan where zero sideyard regulations are utilized in planned unit or cluster plan development.
- (2) Reduce the minimum lot size in R-6 and R-6MF districts from 6500 square feet to 6000 square feet to conform with proposed zoning text regulations.

Mr. Fred Bryant, Assistant Planning Director, explained the amendments to the text.

No opposition was expressed to the proposed text amendments.

Councilman Withrow moved adoption of the ordinance amending Chapter 18 with respect to the subdivision regulations to conform with proposed zoning text changes, as recommended. The motion was seconded by Councilman Alexander and carried unanimously.

The ordinance is recorded in full in Ordinance Book 19, at Page 319.

MEETING RECESSED AND RECONVENED.

Mayor Belk called a recess at 3:10 o'clock p.m., and reconvened the meeting at 3:20 o'clock p.m.

RESOLUTIONS CLOSING PORTIONS OF STREETS IN GREENVILLE URBAN RENEWAL AREA.

The public hearings were held on Petitions of the Redevelopment Commission of the City of Charlotte to close portions of streets in Greenville Urban Renewal Area.

Council was advised each petition has been investigated by the various city departments concerned with street right of way and there are no objections to the closing of any of the streets.

Mr. Jim Allison, Attorney for the Redevelopment Commission, stated they are simply requesting that the city abandon portions of streets in the Greenville Urban Renewal area. He stated they own all the property adjoining these streets.

No opposition was expressed to the following petitions:

- (1) Petition to close portion of Spring Street.
- (2) Petition to close portions of Fontana Street and Argosy Street.
- (3) Petition to close certain portion of Craver Lane.
- (4) Petition to close portions of Spring Street and Oliver Street.

Councilman Alexander moved adoption of a resolution closing portion of Spring Street in the City of Charlotte, Mecklenburg County, North Carolina. The motion was seconded by Councilman Whittington, and carried unanimously.

The resolution is recorded in full in Resolutions Book 8, at Pages 414 and 415.

Upon motion of Councilman Jordan, seconded by Councilman Whittington, and unanimously carried, resolution to close portions of Fontana Street and Argosy Street in the City of Charlotte, Mecklenburg County, North Carolina, was adopted and is recorded in full in Resolutions Book 8, beginning at Page 416.

Motion was made by Councilman Jordan, seconded by Councilman Alexander, and unanimously carried, to adopt a resolution closing a certain portion of Craver Lane, in the City of Charlotte, Mecklenburg County, North Carolina.

The resolution is recorded in full in Resolutions Book 8, beginning at Page 418.

Councilman Alexander moved adoption of a resolution closing portions of Spring Street and Oliver Street in the City of Charlotte, Mecklenburg County, North Carolina. The motion was seconded by Councilman Whittington, and carried unanimously.

The resolution is recorded in full in Resolutions Book 8, beginning at Page 420.

RESOLUTION PROVIDING FOR PUBLIC HEARINGS ON MONDAY, NOVEMBER 20, ON PETITIONS NO. 72-54 THROUGH 72-59 FOR ZONING CHANGES.

Councilman Withrow moved adoption of the subject resolution providing for public hearings on Monday, November 20, 1972. The motion was seconded by Councilman Jordan, and carried unanimously.

The resolution is recorded in full in Resolutions Book 8, at Page 423.

COUNCILMAN SHORT COMES INTO MEETING.

Councilman Short came into the meeting during the discussion of the following item before the vote was taken, and was present for the remainder of the session.

RESOLUTION OF THE CITY COUNCIL ACCEPTING THE FINAL REPORT PURSUANT TO HUD CONTRACT NO. H-1690 AS PREPARED BY THE MAYOR'S ADVISORY COMMITTEE FOR SUGAR CREEK, AND AUTHORIZING THE MAYOR TO PRESENT THE FINAL FEASIBILITY REPORT TO THE SECRETARY OF HUD.

Councilman Whittington moved adoption of the subject resolution approving the report and urged the Mayor to take whatever steps are necessary to get this before HUD. The motion was seconded by Councilman Jordan.

Councilman McDuffie stated before he came on Council and since he has been a member of Council he has seen a lack of city participation in creek dredging and widening and trying to do something for the people in other parts of the city as far as flooding is concerned and he cannot support this kind of venture when there are so many other things that need to be done along creeks. That he could support a monorail system that would connect downtown to other parts of the city; and possibly years later have a scenic canal as a tourist attraction. But it seems to him this is not one of the things we should be undertaking even though the funds come from Washington. There are so many other things that need to be done as far as flooding and creeks with pollution of waters and such.

Councilman Withrow asked if this will in any way hurt any of our other projects which have been talked about in cleaning up the creeks and flood controls? The City Manager replied he does not see how it could.

Mr. Z. R. Little stated he lives out near Stewarts Creek. The part he is referring to runs from near the Seaboard Railroad to the new Highway 16 coming into Charlotte; the creek runs south and then west all the way down to Tuckaseegee Road and on under the Southern Railroad tracks. That from where he is talking about down to the Tuckaseegee Road it is filthy, grown up creek and everyone throws their garbage into it. The property owners do not keep it clean; the Norman House Movers are at State Street and they pile all kinds of things in there that create and maintain rat homes. He stated Stewarts Creek is destroying that community. There are rats as big as squirrels and they have many places to hibernate.

He stated he talked to a Councilman last week and he talked to Mr. Griffin about getting something done, but he has not heard anything from this. Mayor Belk requested Mr. Hopson, Public Works Director, to talk with Mr. Little about this problem and investigate the complaint and bring a report back to Council.

Councilman McDuffie stated Council is limited because of state regulations. Cities generally do not have anything to do with dredging creeks and keeping the banks cut. The County is in charge of that, and they do have a fund and there is a drainage commission which is supposed to keep creeks clean and flowing.

He stated the state laws need to be looked into and this needs to be a part of our program to Raleigh.

(Councilman Short came into the meeting at this time.)

Mr. Little asked Councilman Short if he has received a report on the complaint he made with him last week about Stewarts Creek. Later in the meeting Councilman Short stated he did refer this matter to Mr. Chris Griffin of the Community Improvement Section and he promised to investigate the complaint.

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After further discussion, the vote was taken on the motion for the adoption of the resolution and carried as follows:

YEAS: Councilmembers Whittington, Jordan, Alexander, Easterling, Short and Withrow.

NAYS: Councilman McDuffie.

The resolution is recorded in full in Resolutions Book 8, at Pages 424 and 425.

COUNCIL INVITED TO PARTICIPATE IN THE "BIKE-IN 72" FOR "CLEANER AIR WEEK" SATURDAY, BEGINNING AT 2:00 P.M.

Mr. Roy Alexander stated last week during the Mayor's absence, Mayor pro tem Alexander proclaimed this as "Cleaner Air Week". One of the highlights is a "Bike-in 72". They would like to invite each member of Council to participate in this; it will take place Saturday afternoon, beginning at 2:00 p.m. on the Intergovernmental Plaza Walkway. They will proceed along the route of the Sugar Creek Canal project and will end at Freedom Park with a large array of activities. The purpose is to demonstrate the extent of interest in bicycling in this community and to urge Council to provide facilities for the safe conduct of this activity.

ORDINANCE NO. 639 AMENDING CHAPTER 19, ARTICLE I OF THE CODE OF THE CITY OF CHARLOTTE WITH RESPECT TO TAXICABS BY THE REVISION OF SEVERAL SECTIONS AND ORDINANCE NO. 640 AMENDING CHAPTER 19, SECTION 19-26 OF THE CODE OF THE CITY OF CHARLOTTE WITH RESPECT TO TAXICABS.

Council was advised that a petition has been filed by Yellow Cab Company, Inc., Red Top Cab Company, Inc. and Checker Cab Company, Inc., requesting rate increases for taxicab service; and that Council in meeting on August 21 requested the City Manager and staff to make a thorough study of the taxicab ordinance and to bring recommendations to Council for consideration. That two ordinances have been prepared. The first ordinance consists of "housekeeping measures" as they relate to (1) clarifying definitions, (2) repealing outdated sections, (3) tightening up the control, (4) including provisions which will help the taxicab industry provide better service, and (5) adding measures which will bring about property insurance coverage, control of certificate issuance and evidence of financial responsibility. The second ordinance will provide a rate increase to the taxicab industry from \$1.55 to \$1.85 for an average trip of three miles.

Councilman Jordan stated it is his understanding that the City Manager and Finance Director have approved the recommendations. Mr. Burkhalter replied that is right.

Following was an explanation by Mr. David Stradinger, Assistant to the City Manager.

Councilman Whittington moved that the first ordinance setting out steps 1 through 5 be adopted as recommended by the City Manager and Staff. The motion was seconded by Councilman Jordan.

Speaking for the recommendations was Mr. Allen Bailey, Attorney and owner of Checker and Red Top Cab Companies. Mr. John Ingle, Attorney representing Charlotte-Metrolina Cab Company stated their objections to the lifting of all certificates that are not in use as it is an inconvenience not only to the Cab Companies but to Council to have to appear before Council each time they request a certificate.

After discussion the vote was taken on the motion and carried unanimously.

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Ordinance No. 639 Amending the Code with respect to taxicabs by the revision of several sections is recorded in full in Ordinance Book 19, beginning at Page 320.

Councilman Whittington moved adoption of Ordinance No. 640 amending Chapter 19, Section 19-26 with respect to increase in rates. The motion was seconded by Councilman Jordan, and carried unanimously.

The ordinance is recorded in full in Ordinance Book 19, at Page 327.

RESOLUTION RESCINDING THE AUTHORIZATION TO INSTITUTE CONDEMNATION PROCEEDINGS AGAINST WILSON LEWITH AND WIFE, MARGARET M. LEWITH, AND THE CESTUI QUE TRUST BENEFICIARIES OF THE ESTATE OF JAKE HAYMAN AND GUSSIE HAYMAN, FOR PROPERTY LOCATED ON THE SOUTHWEST CORNER OF HARRILL STREET AT EAST 15TH STREET FOR THE SUGAR CREEK-IRWIN CREEK OPEN SPACE PROJECT, AND AUTHORIZING ACQUISITION OF SAID PROPERTY BY PURCHASE.

Upon motion of Councilman Whittington, seconded by Councilman Withrow, and unanimously carried, the subject resolution was adopted rescinding the authorization to institute condemnation proceedings against Wilson Lewith and wife, Margaret M. Lewith, Freda Lewith, and the Cestui Que Trust Beneficiaries of the Estate of Jake Hayman and Gussie Hayman, for property located on the southwest corner of Harrill Street at East 15th Street for the Sugar Creek-Irwin Creek Open Space Project, and authorizing acquisition of said property by purchase.

The resolution is recorded in full in Resolutions Book 8, at Page 426.

PROPERTY TRANSACTION AUTHORIZED.

Motion was made by Councilman Whittington, seconded by Councilman Jordan, and unanimously carried, approving the acquisition of 25' x 256.76' of easement at 3653 Interstate-85, from Piedmont Plastics, at \$250.00, for Upper Irwin Creek Interceptor.

ENCROACHMENT AGREEMENT WITH THE STATE HIGHWAY COMMISSION FOR CONSTRUCTION OF SANITARY SEWER LINE.

Councilman Whittington moved approval of the subject encroachment agreement with the State Highway Commission permitting the City to construct an 8-inch sanitary sewer line within the right of way of Westinghouse Boulevard, SR 1410, to serve Synetics, at 12211 Westinghouse Boulevard. The motion was seconded by Councilman Withrow, and carried unanimously.

CONSTRUCTION OF SANITARY SEWER MAINS.

Upon motion of Councilman Jordan, seconded by Councilman Short, and unanimously carried, the following sanitary sewer mains were approved for construction:

- (a) Contract with Ed Griffin Construction Company for the construction of 1100 linear feet of 8-inch mains in Elgywood Lane and Black Hawk Road to serve Countryside Apartments II, outside the city, at an estimated cost of \$8,840.00, with the applicant to deposit the full amount of cost and to be refunded according to the agreement.

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- (b) Contract with Redman Development Corporation for the construction of 860 linear feet of 8-inch trunk, and 2,150 linear feet of 10-inch trunk to serve Hunters Glen Apartments, outside the city, at an estimated cost of \$57,800.00. The applicant has deposited \$9,830.00, which is 10% of the estimated cost, plus the estimated cost of right of way. As this is a capital facility, this sewer trunk is 100% refundable.
- (c) Contract with H & H Equipment Company for the construction of 480 linear feet of 8-inch main in Orchard Circle, inside the city, at an estimated cost of \$3,860.00, with the applicant to deposit the full amount of the cost which will be refunded according to the agreement.
- (d) Contract with RHR Incorporated for the construction of 380 linear feet of 8-inch main in Old Concord Road, to serve Ranch House of America Restaurant, inside the city, at an estimated cost of \$4,480.00, with the applicant to deposit the full amount of the cost and be refunded according to the agreement.
- (e) Contract with James C. Black, for the extension of 740 linear feet of 8-inch main in Albemarle Road, inside the city, at an estimated cost of \$6,500.00, with the applicant to deposit the full amount and to be refunded according to the agreement.

CHANGE ORDERS IN CONTRACTS TO THE CIVIC CENTER, APPROVED.

Motion was made by Councilman Whittington and seconded by Councilman Short, approving the following Change Orders in contracts to the Civic Center:

- (a) Change Order G-4 with McDevitt & Street Company to provide the necessary walls, doors, tiled floors and changes required by the Health Department for a full service kitchen - add \$42,820.00.
- (b) Change Order G-5 with McDevitt & Street Company for the deletion of carpeting on the Plaza Level of the Civic Center - subtract \$50,000.00.
- (c) Change Order P-3 with Poole and Kent Corporation for furnishing utilities necessary to receive plumbing fixtures - add \$27,309.99.
- (d) Change Order M-3 with Hicks and Ingle Corporation to provide the necessary exhaust system, heating and cooling for the full service kitchen - add \$41,130.02.
- (e) Change Order E-3 with Watson Electric Company to provide the electrical circuits for kitchen equipment, lighting and exhaust equipment - add \$52,639.27.

Councilman Short stated this is within the bond funds; that on previous change orders some citizens thought the city was exceeding the amount of bond funds that had been approved.

The vote was taken on the motion and carried unanimously.

Councilman McDuffie stated an arrangement has been made for him to talk with the architects to discuss the possibility of ice pipes so that in the future it could be used for ice skating, and for some kind of permanent seats for basketball games and shows. He stated they did respond to this in some degree. He stated he would like for Council to make a tour of the Civic Center, and suggested that it be arranged in place of a conference session. That the construction is at a stage where it will indicate the type of building we will have.

Mayor Belk requested the City Manager to arrange a tour of the civic center as requested by Councilman McDuffie.

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ORDINANCES AFFECTING HOUSING DECLARED "UNFIT" FOR HUMAN HABITATION.

Councilman Whittington moved adoption of the following ordinances affecting housing declared "unfit" for human habitation, which motion was seconded by Councilman Withrow:

- (a) Ordinance No. 641-X ordering dwelling at 130 Cherry Street to be vacated, demolished and removed.
- (b) Ordinance No. 642-X ordering dwelling at 132 Cherry Street to be vacated, demolished and removed.
- (c) Ordinance No. 643-X ordering dwelling at 328-330 Lillington Avenue to be vacated and closed.

No opposition was expressed to the orders.

The property owners had indicated the orders will not be contested.

The vote was taken on the motion and carried unanimously.

The ordinances are recorded in full in Ordinance Book 19, beginning at Page 328.

ORDINANCES ORDERING THE REMOVAL OF WEEDS AND GRASS.

Upon motion of Councilman Jordan, seconded by Councilman Withrow, and unanimously carried, the following ordinances were adopted ordering the removal of weeds and grass at the following locations:

- (a) Ordinance No. 644-X ordering the removal of weeds and grass adjacent to 2211 Kinney Street.
- (b) Ordinance No. 645-X ordering the removal of weeds and grass at 3826 Ellenwood Place.
- (c) Ordinance No. 646-X ordering the removal of weeds and grass adjacent to 1258 Cheshire.
- (d) Ordinance No. 647-X ordering the removal of weeds and grass adjacent to 1600 Ranch Road.

The ordinances are recorded in full in Ordinance Book 19, beginning at Page 331.

SPECIAL OFFICER PERMIT APPROVED.

Motion was made by Councilman Withrow, seconded by Councilman Jordan, and unanimously carried, approving the renewal of a special officer permit for a period of one year to Luke F. Quinn for use on the premises of Southern Railway Company.

RESOLUTION OF THE CITY COUNCIL ENDORSING CONSTITUTIONAL AMENDMENT NO. 5 LIMITING THE INCORPORATION OF CITIES AND TOWNS.

Councilman Alexander moved adoption of subject resolution endorsing Constitutional Amendment No. 5 limiting the incorporation of cities and towns, which motion was seconded by Councilman Whittington, and carried unanimously.

The resolution is recorded in full in Resolutions Book 8, at Page 427.

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Councilman Whittington stated this is an item that will be decided upon on November 7 and it is endorsed by the League of Municipalities. That he hopes Mr. Guerrant of the Public Service and Information Office and everyone else will publicize this item to the citizens of Charlotte and he hopes they will vote for it on November 7th.

ORDINANCE NO. 648-X AMENDING ORDINANCE NO. 520-X, THE 1972-73 BUDGET ORDINANCE APPROPRIATING FUNDS FROM THE AIRPORT CAPITAL PROGRAMS ACCOUNT TO THE AIRPORT OPERATING BUDGET TO PURCHASE A POWER SWEEPER.

Upon motion of Councilman Jordan, seconded by Councilman Short, and unanimously carried, the subject ordinance was adopted appropriating \$12,652.28, from the Airport Capital Programs Account to the Airport Operating Budget to purchase a power sweeper.

The ordinance is recorded in full in Ordinance Book 19, at Page 335.

CONTRACT AWARDED TENANT COMPANY FOR POWER SWEEPER.

Councilman Whittington moved award of contract to the only bidder, Tenant Company, in the amount of \$9,634.00, on a unit price basis, for power sweeper. The motion was seconded by Councilman Withrow, and carried unanimously.

CONTRACT AWARDED SPARTAN EQUIPMENT COMPANY FOR LANDFILL COMPACTOR.

Upon motion of Councilman Jordan, seconded by Councilman Alexander, and unanimously carried, contract was awarded the low bidder, Spartan Equipment Company, in the amount of \$57,896.70, on a unit price basis, for landfill compactor.

The following bids were received:

Spartan Equipment Co.	\$57,896.70
E. F. Craven Company	57,985.00
Arrow Equipment, Inc.	58,639.65
The Tidy Corporation	81,312.66

CONTRACT AWARDED INTERSTATE EQUIPMENT COMPANY FOR SCRAPER.

Motion was made by Councilman Whittington, seconded by Councilman McDuffie, and unanimously carried, awarding contract to Interstate Equipment Company, in the amount of \$81,516.00, for 22 cubic yard scraper as the low bidder cannot give a definite date of delivery and the need for the equipment is of high priority.

The following bids were received:

Carolina Tractor & Equipment	\$80,545.00
Interstate Equipment Company	81,516.00

COUNCIL MEETING SCHEDULED FOR OCTOBER 23 CHANGED TO OCTOBER 24.

Councilman Whittington moved that the regularly scheduled meeting on Monday, October 23rd be dispensed with as it is a holiday, and that a meeting be scheduled for Tuesday, October 24, at 3:00 o'clock p.m. The motion was seconded by Councilman Alexander, and carried unanimously.

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COUNCIL ADVISED OF MEETINGS SCHEDULED IN THE NEAR FUTURE.

Mr. Burkhalter, City Manager, advised a luncheon meeting is scheduled for Council on Tuesday, October 24, at 12:00 o'clock at the Airport for the presentation of Airport Terminal Concepts by Arnold Thompson and Associates. He advised that a luncheon meeting is scheduled for Friday, October 27 from 12:00 till 2:00 at the Manger Motel for the presentation of the Model Cities Fourth Action Year Program. At 2:30 on October 27, Council will meet in the Council Chamber, City Hall to consider formal approval of the Fourth Action Year Plan as presented at the luncheon meeting.

COUNCIL MEETINGS FOR MONDAY, OCTOBER 30 AND MONDAY, NOVEMBER 27 DISPENSED WITH.

Mr. Burkhalter, City Manager, requested City Council to take action to dispense with the regular council meetings scheduled for Monday, October 30 and Monday, November 27, 1972.

Councilman Jordan moved that the Council Meetings scheduled for Monday, October 30 and Monday, November 27, 1972 be dispensed with as recommended by the City Manager. The motion was seconded by Councilman Alexander, and carried unanimously.

ORDINANCE REGULATING THE LOCATION OF NIGHT CLUBS, CABARETS, TAVERNS AND OTHER SIMILAR ESTABLISHMENTS EMPLOYING OR PERMITTING TOPLESS WAITRESSES, DANCERS, OR ENTERTAINERS, FAILED TO PASS DUE TO LACK OF SECOND TO MOTION.

Councilman Alexander stated at its last meeting, Council approved an ordinance concerning club activities and this ordinance makes no mention of topless entertainers. If we want to eliminate toplessness than that is what we should do. But it looks as though the ordinance adopted last week put other businesses out of operation. That in his section of town, it affects all lounges whether they are topless or not. The people in this area of town now have no place to go.

Mr. Watts, Deputy City Attorney, advised that Council can always amend an ordinance if it so desires; that Council may change or amend an ordinance at any time. That the ordinance adopted last week would affect all lounges which are located within 200 feet of a residential area. He stated as requested by Councilman Alexander he has prepared an amendment which would make it apply only to lounges, clubs or similar establishments employing or permitting topless waitresses, dancers or entertainers.

Councilman Jordan stated he agrees that the ordinance adopted last week would put out of business many clubs all over the city that do not have any topless entertainers.

Councilman Alexander moved adoption of the ordinance prepared by Mr. Watts amending Chapter 13 regulating the location of night clubs, cabarets, taverns and other similar establishments employing topless waitresses, dancers or entertainers. The motion did not receive a second.

After further discussion, Councilman Alexander stated the ordinance adopted last week is discriminating, and he again moved adoption of the ordinance, and the motion did not receive a second.

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CITY MANAGER REQUESTED TO MEET WITH DR. KAMP AND STAFF OF HEALTH DEPARTMENT TO WORK OUT PROBLEM OF BIRDS ON WOODLAWN ROAD BETWEEN MURRAYHILL ROAD AND SCALEYBARK AVENUE.

Councilman Whittington stated last year we had the problem of all the birds converging on an area between Murrayhill Road and Scaleybark on Woodlawn Road. Through the efforts of all involved, the birds left the area. That last year a helicopter was used and it had to be rented as the police helicopter was out of commission at the time. He stated the birds are back again and this is a very serious thing from the standpoint of the people who live out there. He requested the City Manager to meet with Dr. Kamp and Mr. Tom Bivens and such other departments to try to do something about this problem. He stated the birds come in every afternoon about this time, and leave in the morning to go to feed and then come back again.

ORDINANCE NO. 649 AMENDING CHAPTER 13 OF THE CODE OF THE CITY OF CHARLOTTE BY ADDING A NEW SECTION, SECTION 13-31, ENTITLED NUDITY.

Councilman McDuffie presented the following ordinance:

WHEREAS, it is the opinion of the City Council of the City of Charlotte that in the interest of the public welfare and to encourage morality, nudity should be prohibited.

THEREFORE, BE IT ORDAINED, by the City Council of the City of Charlotte, North Carolina:

Section 1. That Chapter 13 of the Code of the City of Charlotte be and the same is hereby amended by the addition of a new section, Sec. 13-31, to read as follows:

"Sec. 13-31. Nudity.

It shall be unlawful for any female person to appear nude as defined below in the presence of one or more persons of the opposite sex in any public place, street, highway, or other public or private place where the public is invited.

For the purpose of this section, the following terms shall be defined as follows:

(1) "Nude" or "Nudity" -- means the showing of the breast or breasts of a physically developed female with less than a full opaque covering of any portion thereof below the top of the complete nipple area including the areola.

(2) "Private place" -- means an establishment to which the public is invited or entry to which is gained by means of a membership card."

Section 2. That this ordinance shall become effective _____.

Councilman McDuffie stated he would recommend that it become effective November 1, 1972.

Councilman McDuffie moved adoption of the ordinance as read to become effective November 1, 1972. The motion was seconded by Councilman Whittington.

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Councilman Alexander stated it would appear if Council wants to hit at nudity then this ordinance would take care of that; and the ordinance passed last Monday is not necessary. He stated Council needs to rescind the ordinance approved last week and then approve the ordinance before Council now; that he is referring to the ordinance referring to the 200 feet which does not say anything about nudity and it does put a operation out of business that may not have nudity. That we need to rescind this ordinance if we are going to approve the ordinance presented by Councilman McDuffie.

Councilman Short asked if the two ordinances are inconsistent in any way, and Mr. Watts, Deputy City Attorney, replied they are not; there is no inconsistency between the two ordinances.

Councilman Whittington stated he believes Council has done all it can to prevent this problem if it passes this ordinance and the zoning ordinance that will be before Council in December.

Councilman Jordan stated he voted against the ordinance last week because he thought it was discriminatory; that it did not have anything to do with toplessness at all. It is just putting a lot of people out of business without giving them an opportunity to be heard. That it is not that he favors topless entertainment. He stated he believes it is unconstitutional; and he does not believe he has the right to say what you can and cannot see or do regarding morals. The Legislature has passed legislation that deals with this, and so far it has held up in court, and the city had adopted local ordinances that are pretty much the same. He feels that people who are offended by these things can invoke these ordinances in state and local courts. That he does not feel he has the right to vote for this, and he will have to vote against it.

Councilman Short stated he thinks the courts will almost certainly strike down an ordinance which under all circumstances prohibits exposing the female bosoms. He then cited several court cases dealing with the matter. He stated he thinks Council has a duty based on the oath each one took when they became councilmembers to uphold the constitution as the courts interpret the constitution. But the other side of the dilemma is very strong and that is one of the greatest needs in our society is for government to be responsive to citizens. That of those who expressed themselves to him on the subject, by far the majority of them were opposed to topless entertainment in Charlotte. That he thinks this is what we have to go by. That in this case, he is going with the responsiveness and he is going to vote for this ordinance. That he believes the opposers to toplessness are more nearly defenseless and without remedies than the companies that operate these businesses in Charlotte.

Councilman Alexander moved that on the adoption of the ordinance before Council that it be amended to read under Section 1, that Chapter 13 of the Code of the City of Charlotte amended in meeting on October 9 be hereby rescinded. The motion was seconded by Councilman Jordan.

Speaking for the ordinance proposed by Councilman McDuffie, was Mr. H. L. Ferguson, Minister.

Speaking against the ordinance as proposed by Councilman McDuffie was Mr. Arthur Goodman, Attorney, and Mr. Albert Pearson.

Councilman Alexander stated he is going to vote for this ordinance which stops topless entertainment; but he is against what took place last Monday, because it does not mention toplessness.

The vote was taken on the amendment to the motion and lost as follows:

YEAS: Councilmen Alexander and Jordan.

NAYS: Councilmembers Easterling, McDuffie, Short, Whittington and Withrow.

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The vote was then taken on the motion to adopt the ordinance as presented by Councilman McDuffie, and carried as follows:

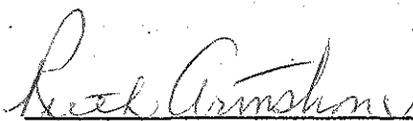
YEAS: Councilmembers McDuffie, Whittington, Alexander, Easterling, Short and Withrow.

NAYS: Councilman Jordan.

The ordinance is recorded in full in Ordinance Book 19, at Page 336.

ADJOURNMENT.

Upon motion of Councilman McDuffie, seconded by Councilman Short, and unanimously carried, the meeting was adjourned.



Ruth Armstrong, City Clerk