

A regular meeting of the City Council was held in the Council Chamber, City Hall, on Wednesday, August 23, 1950, at 11 o'clock a.m., with Mayor Shaw presiding, and Councilmen Aitken, Albea, Boyd, Coddington, Daughtry, Jordan and Wilkinson present.

INVOCATION.

The invocation was given by Dr. Ernest N. Orr.

MINUTES APPROVED.

Upon motion of Councilman Jordan, seconded by Councilman Aitken, and unanimously carried, the minutes of the last meeting were approved as submitted.

ORDINANCE DEFEATED TO AMEND ZONING ORDINANCE TO PROVIDE THAT NO PUBLIC BUILDINGS BE ERECTED IN PARKS OR R-1 OR R-2 DISTRICTS WITHOUT SPECIAL PERMIT FROM THE COUNCIL.

An ordinance entitled, "Ordinance Amending the Zoning Ordinance" was read, providing that no public building shall be erected in any park or R-1 or R-2 district, except upon special permit granted by the City Council in public meeting after 30-days notice thereof to the public.

Mayor Shaw called for the scheduled hearing on the proposed amendment.

A large delegation of residents of Dilworth section was present.

The discussion was opened by Mr. C. E. Motte, 517 East Kingston Avenue, who recited the purposes of a Zoning Ordinance, which he declared should be administered by the City Council, as the duly elected representatives of the City, without favor to any individual or group and that no Commission or Board of the city government should be able to function without being subject to the City Council. He protested the right of the Park and Recreation Commission to erect buildings in areas in violation of the Zoning Ordinance, and urged the adoption of the Amendment in order to provide a possible means to correct the injustice against the residents of Dilworth section and as a protection to residents of other sections of the city.

Mr. W. T. Harding, Jr., 908 Berkley Avenue, stated it has been claimed that the proposed amendment emanated from the unfortunate experience of the Dilworth residents in the selection of the site of the Latta Park Community Center, and stated that it is true that the discrepancy in the Zoning Ordinance that gives a Commission the right to erect buildings where they will disturb the peace of residents was discovered during the controversy about the said Center; however, it was not because of the controversy but has come out of it. That the residents have endeavored to reason with the Park Commissioners as to the location of the Center without results; that even should a resident of the area move to another section of the City that he would have no assurance that a similar Center would not be erected close by. He stated that the deeds to the residential property in Dilworth provides restrictions which have been overridden by the Commission. He urged the adoption of the Amendment by the Council in order that an injustice against the residents may be corrected.

Mr. Frank Orr, 820 Berkley Avenue, also urged the adoption of the Amendment. He stated that the Park Commission is apparently not controlled by the provisions of the present Zoning Ordinance and that it is a travesty upon justice that the Commission is permitted by the City Council, who appointed them, to disturb the peace and quietude of a residential area without means of recourse by the residents. He further stated that members of the Commission have said they would not desire a Community Center within 75-feet of their homes, as will be the case of the Latta Park Center. He cited as a fact

that the residents of the area favor parks and recreational facilities, that Mr. J. A. Baker, resident of Berkley Avenue, personally gave a \$1,000.00 Wading Pool in Latta Park. He requested the adoption of the Amendment to make it mandatory that the provisions of the Zoning Ordinance apply to the Park Commission as well as to others, and also to give the City Council the right to direct where public buildings may be erected.

Mr. Frank Kennedy, Attorney representing a Group of citizens of the Dilworth Area to restrain the Park & Recreation Commission from erecting the Center at the Latta Park site, reviewed the legal points in the suit. He asked the Council to assist in obtaining a decision in the Courts before the completion of the Center in Latta Park. He stated that the Judge declined to have a trial before the case was sent to the Supreme Court. He advised that his suit is based on the fact that the provisions of the deeds to the property owners within the area have been violated; that the Park and Recreation Commission has no authority to erect such a building; that the Commission under the 1939 law has no specific authority to erect buildings or to use bond monies. That there is no authority under the State Statutes for the City turning over bond monies to this Commission. Also, that the Council authorized the Bond Issue under the 1945 General Law, which law provides that the Park & Recreation Commission shall consist of 10 members, and that he so advised the City Attorney who stated he had obtained an opinion from the Attorney General, who stated that in his opinion it was all right to turn the funds over to the Commission. Mr. Kennedy stated the opinion of the Attorney General does not have the force of law. He advised further that no final trial has been held and that the Park & Recreation Commission is endeavoring to prevent such trial by completing the building, or partially completing it. He stated his clients are not opposed to a recreational center but are opposed to its location at the selected site and to the eventual decrease it will bring about in the value of their property. He asked that the Commission suspend work on the Center and let the Courts decide the issue.

Councilman Boyd asked Mr. Kennedy for suggestions as to how the Council may be of assistance. Mr. Kennedy replied that the City might bring an injunction suit, or might bring suit against the Commission restraining them from proceeding with the construction and hold the matter in status quo and thereby possibly prevent the wasteful expenditure of bond funds, or the Council might revoke the building permit.

Mr. Kennedy replied to the inquiry of Councilman Daughtry as to the date the suit is scheduled to be heard, that it ordinarily would be heard in November, but as soon as the appeal is completed it will be filed and hearing date fixed as soon as possible.

Dr. Ernest N. Orr, owner of property at 509 East Park Avenue, stated he opposed the location of the Center as it is 153 feet from his front door of his property. He urged the adoption of the amendment in order that the Council may have authority to say where public buildings may be erected, and at the same time make it possible for the residents of Dilworth to seek redress in the present controversy. He asked what possible fear the Council could have in passing the proposed Amendment and why, as duly elected representatives of the citizens, the Council is not willing to face the responsibility of having authority as to the location of public buildings.

Mayor Shaw stated he would like to make his position clear in the matter of the Community Center in Latta Park. He stated first that both he and the City Council are endeavoring to serve the City to the best of their ability. That he had asked the Council to stay out of the controversy over the Center as he thought he could work out a satisfactory arrangement with the Park and Recreation Commission, which he was unable to do, although the Chairman of the Commission promised him to defer action for 90 days and then discuss the matter with him, which he did not do. That at no time has he sought the resignation of the Chairman or any member of the Commission; that the Chairman stated to him in the Mayor's office that he was about ready to resign, and that he advised the Chairman he could not accept resignations but would convey it to the Council if such resignation was submitted.

The Mayor referred to the newspaper article that he was jockeyed into the position he has taken in the controversy due to the support of Mr. J. A. Baker during his campaign for the office of Mayor. This, Mayor Shaw stated, is not true, that his position in the matter was an expression of his convictions. That so far as the matter of support in the campaign is concerned, that he received support from the Real Estate interests and he did not favor the lifting of rent controls which was sponsored by them. He further stated he is not, as suggested by the newspaper, so concerned with losing prestige from the stand he has taken in the controversy, but that he does wish to continue to try and maintain some degree of integrity.

He further stated that he still feels that the whole problem of the location of the Center could have been amicably settled had the Park Commissioners been willing to sit down with the City Council and discuss the question during the early stages of the matter.

Councilman Coddington, who introduced the Amendment to the Zoning Ordinance at the Council Meeting on August 2nd, stated that Councilman Jordan has written that his amendment - which it is an honor to have it so-called by The Charlotte News - is a back door grab for authority on his part. He asked, where in the world is Councilman Jordan's consistency? That he makes an Amendment to ignore the Zoning Commission to rezone a piece of property for the convenience of one group with whom he and Councilman Jordan are both associated, which he calls "side door grab for authority". He further stated that he believes that today Councilman Jordan plans to drop his Amendment because the courts beat us to a settlement. That his stand is as before - that he does not think it is fair for a public building to be built in a place where there is opposition to such a project and the Body rendering the decision is an appointed body and not an elected body, who were elected to render all of the zoning decisions of the City of Charlotte; that our Zoning changes even have to come before the Council for approval and he sees no reason why the Park & Recreation Commission should have authority to ignore the Council completely.

Councilman Coddington then moved the adoption of the Amendment. The motion was seconded by Councilman Aitken, and did not carry, with the votes cast as follows:

AYE: Councilmen Coddington, Aitken and Boyd.

NAY: Councilmen Albea, Daughtry, Jordan and Wilkinson.

PETITIONS PRESENTED OPPOSING CHANGE IN ROUTES OF SOUTH TRYON STREET BUS NO. 6 AND ELIZABETH AREA BUS NO. 6, AND BELMONT SECTION BUS NO. 4.

Mrs. Ralph Harkey, 1905 Woodale Terrace, filed a petition bearing 389 signatures of residents opposing the change in the route of the South Tryon Street Bus No. 6. Also, Mrs. B. H. Bayne, 1920 East Seventh Street filed a similar petition against the re-routing of the same bus in the Elizabeth section. Councilman Boyd presented a third petition from the residents of the Belmont area expressing opposition to the re-routing of Bus No. 4 which serves this area.

COST ESTIMATE OF FENCING ROCK QUARRY REFERRED TO CITY MANAGER.

Upon motion of Councilman Aitken, seconded by Councilman Albea, the Council unanimously consented to consider the question of placing a fence around the Rock Quarry on West Tremont Avenue.

Councilman Aitken referred to the numerous fires at the site within the recent past caused, in part, by combustion from wet garbage dumped into the Quarry, and the expense incurred by fighting these fires. Also, the nuisance from unpleasant odors and health dangers realized by the residents of the area. He recommended that a fence be placed around the Quarry to prevent the dumping of garbage. He introduced Mr. Frank Flowers, Attorney for the McCorkle Estate, owners of the tract of land on which the Quarry is located. Mr. Flowers advised there is no objection to the fence being placed around the Quarry at the City's expense, and its removal at any future time if the City so desired. Following the discussion, Councilman Aitken moved that the City Manager secure an estimate of the cost of the fence and that the City Attorney make the necessary arrangements with Mr. Flowers for placing the fence on the said private property. The motion was seconded by Councilman Albea, and unanimously carried.

NO ACTION TAKEN ON USE OF BUILDING ON PREMISES AT 2328 KINGSBURY DRIVE AS A GROCERY STORE.

No action was taken on the use of a small building on the premises of Mrs. W. J. Stephens at 2328 Kingsbury Drive as a grocery store, to which certain residents of the area have expressed objections. Mrs. Mable Devereau, Realtor, who stated she had sold the majority of the lots in the area, advised that the grocery store is badly needed to serve the area, and the revenue from the store is essential to the Stephens family. The City Attorney advised he had received a petition bearing the signatures of fourteen persons expressing objections to the store's operation in a Residence-2 area. Also, that the Building Inspector has received a letter signed by some forty-odd persons who approve the retention of the grocery store at the said location. Mr. Shaw, City Attorney, stated that the use of the building as a grocery store is a violation of the Zoning Ordinance. The City Manager advised that he and the Building Inspector visited the premises; that the store is operated in a small building formerly used as a Work Shop by the Stephens family and that he saw no objections to its operation. Councilman Aitken suggested that the proper procedure would be for Mrs. Stephens to submit the matter to the Zoning Board of Adjustment.

RESOLUTION AUTHORIZING PERMANENT IMPROVEMENTS TO HILLSIDE AVENUE ADOPTED.

A resolution entitled, "Resolution Authorizing Permanent Improvements to Hillside Avenue, Extending in a westerly direction from Westfield Road, Crossing Sugaw Creek to Avondale Avenue" was introduced and read, and upon motion of Councilman Aitken, seconded by Councilman Jordan, was adopted unanimously on its final reading. Resolution is recorded in full in Resolutions Book 1, at Page 314.

RESOLUTION APPOINTING APPRAISERS IN CONNECTION WITH PERMANENT IMPROVEMENTS TO HILLSIDE AVENUE.

A resolution entitled, "Resolution Appointing Appraisers in Connection with Permanent Improvements to Hillside Avenue, Extending in a Westerly Direction from Westfield Road Crossing Sugaw Creek to Avondale Avenue", was introduced and read, and was unanimously adopted upon motion of Councilman Wilkinson and seconded by Councilman Coddington. Resolution is recorded in full in Resolutions Book 1, at Page 315.

RESOLUTION AUTHORIZING PERMANENT IMPROVEMENTS ON PROPOSED STREET CONNECTING SOUTH INDEPENDENCE BOULEVARD AND BALDWIN AVENUE.

A resolution entitled, "Resolution Authorizing Permanent Improvements on Proposed Street Connecting South Independence Boulevard and Baldwin Avenue" was introduced and read, and upon motion of Councilman Aitken, and seconded by Councilman Wilkinson, passed upon its first reading. Resolution is recorded in full in Resolutions Book 1, at Page 316.

RESOLUTION AUTHORIZING ADVERTISEMENT OF NOTICE OF RESOLUTION AUTHORIZING PERMANENT IMPROVEMENTS ON PROPOSED STREET CONNECTING SOUTH INDEPENDENCE BOULEVARD AND BALDWIN AVENUE.

A resolution entitled, "Resolution Authorizing Advertisement of Notice of Resolution Authorizing Permanent Improvements on Proposed Street Connecting South Independence Boulevard and Baldwin Avenue", was introduced and read, and was unanimously adopted upon motion of Councilman Albea, and seconded by Councilman Aitken. Resolution is recorded in full in Resolutions Book 1, at Page 317.

RESOLUTION PROVIDING FOR THE ISSUANCE OF \$500,000 WATER BOND ANTICIPATION NOTES.

A resolution entitled, "Resolution Providing for the Issuance of \$500,000 Water Bond Anticipation Notes" was introduced and read, and upon motion of Councilman Jordan, seconded by Councilman Daughtry, was unanimously adopted. Resolution is recorded in full in Resolutions Book 1, at Page 318.

UNANIMOUS CONSENT OF COUNCIL GIVEN PRESENTATION OF UNDOCKETED ITEM.

Upon motion of Councilman Aitken, seconded by Councilman Jordan, the unanimous consent of Council was given the presentation of the following undocketed item.

CITY ATTORNEY AUTHORIZED TO CONTACT BOND ATTORNEYS WITH RESPECT TO \$3,000,000 AUDITORIUM-COLISEUM BOND ELECTION.

Upon motion of Councilman Aitken, seconded by Councilman Jordan, and unanimously carried, the City Attorney was authorized and directed to contact Mitchell and Pershing, Bond Attorneys of New York City, and request them to prepare the necessary papers in connection with a bond election, to be held on a convenient Saturday, covering the \$3,000,000 Auditorium-Coliseum Bonds, so that the net income from improvements will go to the retirement of the bonds.

UNANIMOUS CONSENT GIVEN CITY MANAGER TO PRESENT UNDOCKETED ITEMS.

Upon motion of Councilman Albea, seconded by Councilman Aitken, the unanimous consent of Council was given the City Manager to present the following ~~three~~ undocketed items.

BIDS AUTHORIZED ADVERTISED FOR RESURFACING OF AIRPORT RUNWAYS.

Councilman Aitken moved that the City Manager be authorized to advertise for bids for resurfacing work to be done at Douglas Municipal Airport, in accordance with plans prepared in the office of the City Engineer and approved by the Civil Aeronautics Administration, estimated to a total cost of \$140,000.00, one-half to be paid by the City of Charlotte and one-half by the Civil Aeronautics Administration. Motion was seconded by Councilman Coddington, and unanimously carried.

CONSTRUCTION OF SANITARY SEWERS IN LAKEWOOD AVENUE AUTHORIZED.

Upon motion of Councilman Albea, seconded by Councilman Aitken, and unanimously carried, the construction of 75-feet of 8-inch sanitary sewer was authorized in Lakewood Avenue, at an estimated cost of \$200.00, to serve one family unit and four vacant lots. All cost to be borne by the City.

PAYMENT OF FINAL ESTIMATE FOR SUGAW CREEK OUTFALL SEWER CONSTRUCTION AUTHORIZED MADE TO REA CONSTRUCTION COMPANY.

Upon motion of Councilman Aitken, seconded by Councilman Coddington, and unanimously carried, payment was authorized to Rea Construction Company for the final estimate for the construction of the Sugaw Creek Outfall Sewer, bond having been submitted.

CLAIM OF CARL V. HINSON FOR DAMAGES TO CAR REFERRED TO CITY ATTORNEY.

The City Manager reported that claim had been filed by Mr. John A. McRea, Jr., Attorney, in behalf of Mr. Carl V. Hinson, for damages to his car on the night of July 22nd, alleged to have resulted from an obstruction in the street. Upon motion of Councilman Aitken, seconded by Councilman Albea, and unanimously carried, the claim was referred to the City Attorney.

NAME OF CRESCENT AVENUE EXTENSION CHANGED TO OLD SARDIS ROAD.

Councilman Albea moved that the name of Crescent Avenue Extension be changed back to its original name of Old Sardis Road, as recommended by the City Engineer and Planning Board upon petition of property owners on said street. Motion was seconded by Councilman Aitken, and unanimously carried.

COFFAGE WAY, FROM BUNGALOW ROAD TAKEN OVER FOR LIMITED MAINTENANCE.

Motion was made by Councilman Albea, seconded by Councilman Daughtry, and unanimously carried, taking over Coffage Way, from Bungalow Road east 300-feet for limited maintenance.

STREETS TAKEN OVER FOR FULL MAINTENANCE.

Upon motion of Councilman Coddington, seconded by Councilman Albea, and unanimously carried, the following streets were taken over for full maintenance:

- (a) Lake Avenue, from Rush Ave. one block west to dead end.
- (b) Bascom Street, from Laburnum Ave. to SAL Railway.
- (c) Pulman Street, from SAL Ry. to Weddington Ave.
- (d) Kingsbury Drive, from Westover St. to Lyon St.
- (e) Lyon Street, from Laburnum Ave. around circle to Kingsbury Dr.
- (f) Westover Street, from Laburnum Ave. to Kingsbury Dr.

CONSTRUCTION OF NEW SANITARY SEWERS AUTHORIZED.

The construction of new sanitary sewers at the following locations was authorized upon motion of Councilman Albea, seconded by Councilman Wilkinson, and unanimously carried:

- (a) 685-feet of sewer in Brookside Ave. at an estimated cost of \$1,310.00, with all costs to be borne by the City.
- (b) 50-feet of sewer in East Kingston Ave., at an estimated cost of \$260.00, with all costs to be borne by the City.
- (c) 1,370-feet of sewer in North Graham, Winston and Grimes Streets at an estimated cost of \$2,430.00, with all costs to be borne by the City.
- (d) 295-feet of sewer in Lpcena Avenue, at an estimated cost of \$400.00, with all costs to be borne by the City.

CONTRACTS AWARDED FOR NEW FIRE EQUIPMENT.

Motion was made by Councilman Coddington, seconded by Councilman Albea, and unanimously carried, authorizing the award of contracts for new Fire Equipment to the following concerns:

- (a) Contract with American-LaFrance-Foamite Corp., for One 100-foot Service Aerial Ladder Truck, as specified, at a net delivered price of \$36,500.00.
- (b) Contract with The Seagrave Corp., for One Triple Combination Pumping Engine and Hose Car with Booster System, as specified, at a net delivered price of \$20,375.00.

CONSTRUCTION OF DRIVEWAY ENTRANCES AUTHORIZED.

Upon motion of Councilman Aitken, seconded by Councilman Daughtry, and unanimously carried, the construction of driveway entrances at the following locations was authorized:

- (a) One 10-foot driveway at 1967 Woodale Terrace.
- (b) One 10-foot driveway at 1511 Clayton Drive.
- (c) One 9-foot driveway at 717 Templeton Avenue.
- (d) One 12-foot driveway at 2752 Hampton Avenue.
- (e) One 8-foot driveway at 3405 Rogers Street.
- (f) One 10-foot driveway at 529 East Kingston Ave.

CONTRACT WITH JONES-CLARKSON BUILDERS FOR TRANSFER OF OWNERSHIP OF WATER MAINS TO CITY IN EXCHANGE FOR REIMBURSEMENT AND FURTHER PAYMENT FOR TAPPING FEES.

Councilman Wilkinson moved that contract be authorized with Jones-Clarkson Builders for the transfer of ownership to the City of Charlotte of 3,940-feet of 3-inch water mains and 4,675-feet of 2-inch mains in York Road Park, outside the city, valued at approximately \$9,600.00, in exchange for reimbursement to the owners of \$3,805.75 in tapping fees and relieving them from payment for further tapping fees for mains serving the remainder of the 212 residential lots in said Park. Motion was seconded by Councilman Aitken, and unanimously carried.

LEASES REPORTED CONCLUDED FOR AIRPORT BUILDINGS.

The City Manager reported that leases had been concluded on the following buildings at Douglas Municipal Airport:

BUILDING NO.	LESSEE	MONTHLY RENTAL	DATE AND TERM OF LEASE
88 (part of)	Miller Motor Express Company	\$48.00	8-1-50 month to month
68	Carolina School Supply Company	99.90	8-1-50 1 year
59	E. E. Suttle	22.32	8-1-50 1 year

LABOR DAY HOLIDAY GRANTED CITY EMPLOYEES.

Upon motion of Councilman Albea, seconded by Councilman Aitken, and unanimously carried, Monday September 4th was designated as a holiday for city employees in observance of Labor Day.

UNANIMOUS CONSENT GIVEN PRESENTATION OF UNDOCKETED ITEMS.

Upon motion of Councilman Coddington, seconded by Councilman Daughtry, the unanimous consent of Council was given the presentation of the following undocketed items.

FOUR ADDITIONAL PARKING METER CHECKERS AUTHORIZED EMPLOYED.

Councilman Coddington moved that Four additional Parking Meter Checkers be authorized employed. Motion was seconded by Councilman Daughtry, and unanimously carried.

MOTION TO AMEND ZONING ORDINANCE ON PROPERTY AT 1001-23 EAST MOREHEAD STREET WITHDRAWN.

Councilman Jordan moved the withdrawal of his motion at the Council Meeting on August 16th to adopt an Amendment to the Zoning Ordinance to change the Building Zone Map from R-2 to B-1 on property located at 1001-23 East Morehead Street, in view of the fact that the Courts have ruled that the construction of the Veterans Club House, at 1017-23 East Morehead Street, may be continued. Motion was seconded by Councilman Aitken, and unanimously carried.

ADJOURNMENT.

Upon motion of Councilman Aitken, the meeting was adjourned.

Rebecca R. Hoffman
City Clerk