

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 Wednesday, February 12, 1958 at 3 o'clock p.m., with Mayor Pro tem Brown presiding, and Council members Alba, Baxter, Evans, Foard and Wilkinson being present.

ABSENT: Mayor Smith and Councilman Dellinger

Hearings on petitions to amend the Zoning Ordinance to change the Building Zone Maps of Charlotte and the Charlotte Perimeter Area were held jointly by the City Council and the Charlotte-Mecklenburg Planning Commission, with Commissioners Craig, Hanks, Hook, Marsh, Schwartz, Sibley and Toy being present.

ABSENT: Chairman Martin and Commissioners McClure and Wilkinson.

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#### INVOCATION.

The invocation was given by Councilman Claude L. Alba.

#### MINUTES APPROVED.

Upon motion of Councilman Wilkinson, seconded by Councilman Alba, and unanimously carried, the Minutes of the last meeting on February 5, 1958 were approved as submitted.

HEARING ON ORDINANCE NO. 440 TO AMEND CHAPTER 21, ARTICLE I, SECTION 2 OF THE CITY CODE TO AMEND THE BUILDING ZONE MAP OF CHARLOTTE BY CHANGING PROPERTY AT THE SE CORNER OF QUEENS ROAD AND EAST 4TH STREET FROM OFFICE-INSTITUTION TO BUSINESS-2.

The public hearing was held on Ordinance No. 440 to amend the Zoning Ordinance by amending the Building Zone Map of Charlotte by changing the property at the SE corner of Queens Road and East 4th Street, from Office-Institution to Business-2, on petition of Mrs. Mabel Devereux.

Mr. McIntyre, Planning Director, presented a map of the area and stated that all but 50 feet of this property comes within the Mandatory Corner Law. The property is 68 x 200 feet and located on 4th Street across from Presbyterian Hospital. Easterly side of property is residential and immediately behind on Queens Road the property is residential use; directly across, the land between Queens Road and Lillington Avenue is vacant. Property is presently zoned for Office/Institution use. Surrounding property is zoned generally for Residence 2 use.

Mr. Robert Perry, attorney representing Mrs. Devereux, was present and stated that 150 feet of property comes under Mandatory Statutes. That she has asked the Planning Board for an additional small strip to be rezoned giving a larger lot to work with. The adjoining lot on Queens Road is owned by Mrs. Devereux giving a buffer zone; the character of neighborhood is now subject to Business use; has been used for other than Residential use for some time; down Queens Road are four family apartment houses; that Mrs. Devereux has not decided upon any use at the present time.

No opposition was expressed. Council decision was deferred for one week.

HEARING ON ORDINANCE NO. 441 TO AMEND CHAPTER 21, ARTICLE I, SECTION 2 OF THE CITY CODE TO AMEND THE BUILDING ZONE MAP OF CHARLOTTE BY CHANGING PROPERTY AT THE NE CORNER OF PLAZA ROAD AND HERRIN AVENUE FROM RESIDENCE-2 TO BUSINESS-I.

The scheduled hearing was held on Ordinance No. 441 to amend the Zoning Ordinance by amending the Building Zone Map of Charlotte by changing the property at the NE corner of Plaza Road and Herrin Avenue, from Residence-2 to Business-1, on petition of S. P. Risley, Sr.

Factual information was presented by the Planning Director who stated the property is now vacant and is approximately 170' x 250'. Gas station located at corner of Academy and Plaza Road; generally business use coming from town; immediately behind the property is a church and other residences. Present zone is Residence 2; toward town is business, directly across the street is now Residence 2, diagonally across the street is Business I zoning.

Mr. Allan Bailey was present as Mr. Risley's attorney.

No opposition was expressed to the rezoning and Council decision was deferred for one week.

HEARING ON ORDINANCE NO. 442 TO AMEND CHAPTER 21, ARTICLE I, SECTION 2 OF THE CITY CODE TO AMEND THE BUILDING ZONE MAP OF CHARLOTTE BY CHANGING PROPERTY ON OAKLAWN AVENUE (GREENVILLE HEIGHTS) FROM RESIDENCE-I TO INDUSTRIAL.

The public hearing was held on Ordinance No. 442 to amend the Zoning Ordinance by amending the Building Zone Map of Charlotte by changing property on Oaklawn Avenue (Greenville Heights) from Residence-1 to Industrial, on petition of Richard F. Helms.

Mr. McIntyre presented a map and stated the property is 60' x 117'; located directly across the street from Oaklawn Cemetery; underground oil tanks are presently stored on the property; immediately to the west and rear of the property the land is vacant; to the east there is residential and some business. The property is presently zoned for Residence I use. The adjoining property across the creek is Industrial.

Mr. Wyche, attorney representing the Oaklawn Avenue-McCrorey Heights Community Club, presented a petition signed by 177 property owners in this area. He stated that in 1957 they appeared and asked that the area be zoned for Residence I use and the entire area was changed. That in July of 1957 this particular plot of land was sold, and since that time tanks were set in the ground. That this area is highly taxed and the residents of the area want to keep it as a residential area; that the creek is the natural boundary. This plot spoils the entire area; that once an area is broken and Industrial use permitted, it can open the gate to tear up a Residential area. If this is permitted, the area would depreciate with oil trucks running up and down the Avenue. That they ask that the Council stick with them to develop a residential area by denying any change of zoning.

Mr. John Newitt, attorney representing Mr. Helms stated that this is a matter that is not very large and not for the purpose of changing the neighborhood. The two lots in question are small and located on a

creek bank; that they cannot be used for residential purposes. That this is an industrial area with dry cleaning plant located across the creek; that the land was originally zoned for Industrial use; that Mr. Helms bought the property in good faith; that he has some \$5,000.00 invested in the property at this time; that a permit was obtained to place the tanks in the ground; that nothing arose until he went back to secure a building permit to find that the zoning had been changed. That heating oil is necessary and not dirty and dangerous; that one lot on creek bank would not hurt or change the plans of the area; that it cannot be used for residential use as the lots are too small and there is nothing else the lots can be used for.

Mrs. McCrorey Flannagan stated that she owns the strip of land behind the lot and plans to build on it. That dirt has been placed on the property and is now washing onto her land. That her family owned much of the property in this area and had sold it in good faith for residential use.

Mr. Richard Helms, owner of the property stated that he bought the property from Mr. Love in good faith as industrial property. That he had permission to place the tanks on the lot; that he had money invested in the property.

Mr. Love stated that he had owned the property for about ten years and that it was zoned for Industrial use. That he was not notified of the change from Industrial to Residential. That he was by the property every week and had not seen any sign posted on the property of the change.

Mr. Newitt stated that his client would be willing to build a retaining wall to keep the dirt from falling on Mrs. Flannagan's property.

Mr. Wyche stated that they were not asking for a retaining wall, but that the property be kept for residential use.

Council decision was deferred for one week.

HEARING ON ORDINANCE NO. 443 TO AMEND CHAPTER 21, ARTICLE II, SECTION 5 OF THE CITY CODE TO AMEND THE BUILDING ZONE MAP OF THE CHARLOTTE PERIMETER AREA BY CHANGING PROPERTY ON THE EAST SIDE OF POTTERS ROAD AT FOURTH AVENUE FROM RESIDENCE-2 TO BUSINESS-1.

The scheduled hearing was held on Ordinance No. 443 to amend the Zoning Ordinance by amending the Building Zone Map of the Charlotte Perimeter Area by changing the property on the east side of Potters Road at the corner of Fourth Avenue, from Residence-2 to Business-1, on petition of R. T. Allen, Jr.

Mr. McIntyre presented a map and stated that the property is 300' x 120', that it is directly across from an established business use. Across Fourth Ave. is residential use and at the intersection the land is vacant and diagonally across there is residential and vacant land. Present zoning is R-2.

No opposition to the change in zoning was expressed.

Council decision was deferred for one week.

HEARING ON ORDINANCE NO. 444 TO AMEND CHAPTER 21, ARTICLE II, SECTION 5 OF THE CITY CODE TO AMEND THE BUILDING ZONE MAP OF THE CHARLOTTE PERIMETER AREA BY CHANGING THE PROPERTY ADJACENT TO THE SW CORNER OF STATESVILLE HIGHWAY (U.S. #21) AND ITS INTERSECTION WITH N. 29 BYPASS, FROM RURAL TO BUSINESS I-A.

The public hearing was held on Ordinance No. 444 to amend the Zoning Ordinance by amending the Building Zone Map of the Charlotte Perimeter Area by changing property adjacent to the SW corner of Statesville Highway (US #21) and its intersection with N. 29 Bypass, from Rural to Business I-A, on petition of F. G. Templeton.

Factual information was presented by Mr. McIntyre who stated that the property is approximately 300' x 860' adjoining the 29 Bypass. Immediately behind is undeveloped property. Major portion faces on the Bypass. At present time property is zoned Rural. To the east is an established business district, but the zoning is generally Rural.

Mr. Templeton, owner of the property, appeared and stated that he also owns 400 ft. or 500 ft. behind the property, also property across the highway. That he has no use in mind at present, but would like to have zoning changed to develop the land.

No opposition was expressed.

Council decision was deferred for one week.

MEETING RECESSED AT 3:55 AND RECONVENED AT 4:00 P.M.

COUNCILMAN BAXTER ASKES IF SPECIFICATIONS HAVE BEEN DRAWN UP FOR SHERWOOD FOREST AREA.

Councilman Baxter asked Mr. Yancey if the specifications for sanitary sewer in the Sherwood Forest area have been drawn up. That the people in this area will be looking for help soon.

Mr. Yancey replied that the plans should be ready soon and every effort will be exerted to see that they are ready on time.

ZONING IN O/I AND OTHER DISTRICTS TO INCLUDE THE CONSTRUCTION OF MULTI-STORY APARTMENT HOUSES, REQUESTED BY COUNCILMAN BAXTER.

Councilman Baxter asked that the Planning Board be requested to reconsider Office-Institution and any other area to permit multi-story apartment houses. That property in the City is scarce and the Planning Board and City Council should consider lifting restrictions to include multi-story apartments.

CITY MANAGER REQUESTED TO WRITE SCHOOL BOARD TO VACATE OFFICES IN THE CITY HALL AS SOON AS POSSIBLE.

Councilman Baxter stated that about two or three years ago the Council requested the School Board to vacate the offices now used in the City Hall. That so far nothing has been done. He requested Mr. Yancey to write a letter to them requesting that they get the Educational Building lined up as the space is needed to expand several offices.

## COUNCILWOMAN EVANS ABSENT FOR REMAINDER OF MEETING.

Councilwoman Evans left the meeting at this time and was absent for the remainder of the session.

## TRANSFER OF FUNDS FROM EMERGENCY FUND TO POLICE DEPARTMENT FOR PURCHASE OF I.B.M. EQUIPMENT.

Councilman Wilkinson moved approval of the transfer of \$2,851.80 from the Emergency Fund (Code 110) to the Police Department, Capital Outlay, Office Appliance Account (Code 1401 G-14) for the purchase of an I.B.M. Card Punch at \$2,189.17 and an I.B.M. Sorter at \$662.63, being a total amount of \$2,851.80. The motion was seconded by Councilman Albea and unanimously carried.

## EXTENSION OF SICK LEAVE GRANTED TO FIRE CAPTAIN R.F. BARKLEY.

Upon motion of Councilman Foard, seconded by Councilman Albea, and unanimously carried, a 60 days sick leave extension was granted Captain R. F. Barkley of the Fire Department.

## CLAIM OF MRS. JOHN H. PLYLER REFERRED TO CITY ATTORNEY.

Motion was made by Councilman Albea, seconded by Councilman Wilkinson, and unanimously carried, referring to the City Attorney the claim of Mrs. John H. Plyler, 901 Billingsley Street, for personal injuries sustained on January 11th at the Airport by falling on the steps from the mezzanine to the lobby, alleged to have been caused by the steps being defective, ill-kept and slippery.

## CONSTRUCTION OF SANITARY SEWER MAIN IN CONDON STREET AUTHORIZED.

Upon motion of Councilman Foard, seconded by Councilman Wilkinson, and unanimously carried, the construction of 148-feet of sanitary sewer main was authorized in Condon Street, to serve one-family unit, at request of Walter Featherstone, 1200 Condon Street, at an estimated cost of \$300.00, to be borne by the City.

## CONTRACT FOR PORTABLE AIR COMPRESSOR AWARDED TO A.E. FINLEY &amp; ASSOCIATES, INC.

Upon motion of Councilman Wilkinson, seconded by Councilman Baxter, and unanimously carried, contract was awarded the second lowest bidder, A. E. Finley & Associates, Inc. for One Air Compressor, portable, as specified, at a total net delivered price of \$2,668.00.

Contract was not awarded the low bidder, H. B. Owsley & Son, Inc., as the specifications called for the unit to be a two stage compressor, and the low bid was on a single stage construction.

All bidders and their net delivered prices are as follows:

H. B. Owsley & Son, Inc.	\$2,635.00
A. E. Finley & Assoc., Inc.	\$2,668.00
Contractors Service, Inc.	\$2,671.02
Spartan Equipment Company	\$2,825.00
King-McIver, Inc.	\$3,114.00
J. B. Hunt & Sons, Inc.	\$3,150.00
" " " " ALTERNATE BID	\$3,000.00

**CONTRACT FOR PORTABLE MOTOR GRADER AWARDED INTERSTATE EQUIPMENT COMPANY.**

Councilman Foard moved that contract be awarded the second lowest bidder, Interstate Equipment Company, for One Adams #440 Motor Grader with Cummins Motor, as specified, at a total price of \$17,900.00, subject to rental rate of \$1,000.00 per month with 100% of rent to apply against purchase price if and when option to purchase is exercised. The motion was seconded by Councilman Baxter and unanimously carried.

Contract was not awarded the low bidder, H. B. Owsley & Son, Inc., due to his bid being on a demonstrator piece of equipment, and it being the full intent and expectation of the City to permanently purchase the equipment, it was believed to be in the City's best interest to consider new equipment only.

All Bidders and their purchase prices are as follows:

H. B. Owsley & Son, Inc.	\$16,488.30
Interstate Equipment Co.	\$17,900.00
N. C. Equipment Co.	\$19,650.00
" " " " BID NO. 2.	\$19,650.00
" " " " BID NO. 3	\$22,064.00
H. B. Owsley & Son, Inc.	\$20,253.00
E. F. Craven Company	\$20,750.00
Carolina Tractor & Equipment Co.	\$21,950.00

**HOLIDAY GRANTED CITY EMPLOYEES ON FRIDAY, FEBRUARY 21ST IN OBSERVANCE OF WASHINGTON'S BIRTHDAY.**

Upon motion of Councilman Albea, seconded by Councilman Wilkinson, and unanimously carried, Friday, February 21st was granted as a holiday to the city employees in observance of Washington's Birthday.

**TRANSFER OF CEMETERY LOTS.**

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

- (a) Deed with Guy E. Tysor, for Lot 293, Section 2, Evergreen Cemetery, at \$160.00.
- (b) Deed with Mrs Bessie M. Griffin, for Lot 362, Section 7, Oaklawn Cemetery, at \$150.00.

**ORDINANCE NO. 449 AMENDING THE BICYCLE ORDINANCE OF THE CITY OF CHARLOTTE TO PROVIDE FOR PERMANENT LICENSES, ADOPTED.**

Councilman Foard introduced an ordinance entitled: "Ordinance No. 449 Amending the Bicycle Ordinance of the City of Charlotte to Provide for Permanent Licenses", and following the reading thereof moved its adoption. The motion was seconded by Councilman Albea and unanimously carried. The ordinance is recorded in full in Ordinance Book 12, at Page 219.

**RIGHT-OF-WAY AGREEMENTS WITH SOUTHERN RAILWAY COMPANY AND THE NORFOLK-SOUTHERN RAILWAY COMPANY IN CONNECTION WITH CONSTRUCTION OF PROPOSED 30-INCH SUGAR CREEK OUTFALL SEWER AUTHORIZED.**

Upon motion of Councilman Albea, seconded by Councilman Foard, and unanimously carried, the Mayor and City Clerk were authorized to sign

right-of-way agreements with the Southern Railway Company and the Norfolk-Southern Railway Company in connection with the construction of the proposed 30-inch Sugar Creek outfall sewer. The agreements obligate the City to construct and maintain the line in accordance with standard Railway and City policies.

**DR. LUCIUS G. GAGE, JR. REAPPOINTED TO AIR POLLUTION CONTROL ADVISORY & APPEAL BOARD.**

Upon motion of Councilman Baxter, seconded by Councilman Wilkinson, and unanimously carried, Dr. Lucius G. Gage, Jr. was reappointed to the Air Pollution Control Advisory & Appeal Board for a term of 5 years to expire January 1, 1963.

**MR. JOHN H. VICKERS APPOINTED TO FIREMEN'S RELIEF BOARD OF TRUSTEES.**

Councilman Wilkinson moved that Mr. John H. Vickers be appointed to Firemen's Relief Board of Trustees for a term of 2 years to expire January 18, 1960. The motion was seconded by Councilman Foard and unanimously carried. Mr. Vickers replaces Mr. S. Y. McAden whose term expired January 18, 1958.

**REAPPOINTMENT OF MR. R. P. STEFFEY TO PARK & RECREATION COMMISSION.**

Councilman Albea moved that Mr. R. P. Steffey be reappointed to the Park and Recreation Commission for a five (5) year term to expire March 21, 1963. The motion was seconded by Councilman Baxter and unanimously carried.

**APPOINTMENT OF MR. JACK TURNER TO ZONING BOARD OF ADJUSTMENT FOR CITY OF CHARLOTTE.**

Upon motion of Councilman Baxter, seconded by Councilman Wilkinson, and unanimously carried, Mr. Jack Turner was appointed to the Zoning Board of Adjustment for City of Charlotte for a three (3) year term to expire January 28, 1961. Mr. Turner replaces Mr. John Dwelle whose term expires January 28, 1958.

**REAPPOINTMENT OF MR. GRAHAM P. KERR TO ZONING BOARD OF ADJUSTMENT FOR CITY OF CHARLOTTE.**

Councilman Foard moved that Mr. Graham P. Kerr be reappointed to the Zoning Board of Adjustment for City of Charlotte for a three (3) year term to expire January 28, 1961. The motion was seconded by Councilman Baxter, and unanimously carried.

**REAPPOINTMENT OF MR. FRANKLIN R. JACKSON TO ZONING BOARD OF ADJUSTMENT FOR PERIMETER AREA.**

Mr. Franklin R. Jackson was reappointed to the Zoning Board of Adjustment for Perimeter Area for a three year term to expire on January 4, 1961 upon motion of Councilman Albea and seconded by Councilman Baxter, and unanimously carried.


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**MR. FRANK BEDDINGFIELD APPOINTED TO ZONING BOARD OF ADJUSTMENT FOR PERI-METER AREA.**

Motion was made by Councilman Wilkinson to appoint Mr. Frank Beddingfield to the Zoning Board of Adjustment for Perimeter Area for a three (3) year term to expire January 4, 1961. The motion was seconded by Councilman Foard and unanimously carried. Mr. Beddingfield replaces Mr. Chalmers whose term expired January 4, 1958.

**ADJOURNMENT.**

Upon motion of Councilman Baxter, seconded by Councilman Wilkinson, and unanimously carried, the meeting was adjourned.

  
L. L. Ledbetter, Deputy City Clerk