

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, June 25, 1958, at 11 o'clock a.m., with Mayor Smith presiding, and Council members Albea, Baxter, Brown, Dellinger, Foard and Wilkinson being present.

ABSENT: Councilwoman Evans

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INVOCATION.

The invocation was given by Councilman Claude L. Albea.

MINUTES APPROVED.

Upon motion of Councilman Brown, seconded by Councilman Wilkinson, and unanimously carried, the Minutes of the last meeting on June 18th were approved as submitted.

RESOLUTION PROVIDING FOR A PUBLIC HEARING ON AUGUST 13, 1958 ON ORDINANCE NO. 461 AMENDING THE ZONING ORDINANCE BY AMENDING THE BUILDING ZONE MAP OF CHARLOTTE CHANGING PROPERTY LOCATED AT THE SOUTHEAST CORNER OF DUCKWORTH AVENUE AND BRUNS AVENUE FROM R-2 TO LIGHT INDUSTRIAL ON APPEAL OF WESTSIDE ICE & FUEL COMPANY, INC.

Mr. R. E. Wardlow, Attorney for Westside Ice & Fuel Company, petitioners for a change in zoning from R-2 to Light Industrial on property located at the southeast corner of Duckworth Avenue and Bruns Avenue, which change was denied by the Council at the Council Meeting on June 18th, appeared and presented the following paper:

"P E T I T I O N

TO: The Members of the City Council for the City of Charlotte, and Mr. Henry A. Yancey, City Manager.

SUBJECT: Petition of Westside Ice & Fuel Company for change of zoning classification of a portion of its lot on the northeast corner of Bruns Avenue and Duckworth Avenue intersection, from Residence-2, to Light Industrial.

* * * * *

The Charlotte-Mecklenburg Planning Commission recommended the above requested change in zoning classifications. Public Hearing was conducted by this Council on June 11, 1958, and change was denied.

The Petitioner, Westside Ice & Fuel Company, requests that the Council re-consider this recommended change.

As grounds for this request, the Petitioner asserts:

1. That it is informed that the Council's denial of the requested change came about after petitions or arguments of opposition were received by the Council in private, or closed session, some time after the public hearing had been adjourned.

Petitioner had no opportunity to verify the factual basis of such opposition, nor to answer such arguments either to the opponents or to the Council. This is in truth and fact a denial to the Petitioner of the public hearing provided for by law.

2. That there are additional merits for the recommended change which should be presented to the Council in public hearing and considered by it. In this respect, Petitioner will advise the known opponents of such merits before and at such public hearing.

WHEREFORE, the Petitioner requests that the Council direct a public hearing on this matter to be had after legal notice thereof; and that the Council take necessary steps to enable it to enact the requested and recommended change if after due and proper hearing such change appears to be warranted.

Respectfully submitted this 21st day of June, 1958.

PIERCE, WARDLOW, KNOX AND CAUDLE

by: R. E. Wardlow -- signed
Attorneys for the Petitioner".

Councilman Brown moved that another public hearing be held on August 13, 1958. The motion was seconded by Councilman Baxter, and a resolution entitled: "Resolution Providing for a Public Hearing on August 13, 1958 on Ordinance No. 461 Amending the Zoning Ordinance by amending the Building Zone Map of Charlotte changing property at the southeast corner of Duckworth Avenue and Bruns Avenue from R-2 to Light Industrial" was unanimously adopted. The resolution is recorded in full in Resolutions Book 3, at Page 223.

ORDINANCE NO. 463 AMENDING THE ZONING ORDINANCE, AMENDING THE BUILDING ZONE MAP OF CHARLOTTE BY CHANGING PROPERTY ON HUDSON STREET, BETWEEN MATHESON AVENUE AND 34TH STREET, FROM R-2 TO B-1, ON APPEAL OF J. W. KISER AND J. CLYDE WHITE ON JUNE 20, 1958, ADOPTED.

Mr. Frank Snapp, Attorney for Messrs. J. W. Kiser and J. Clyde White stated that since the hearing on June 11th on their petition for a change in zoning from R-2 to B-1 on property on Hudson Street, between Matheson Avenue and 34th Street, they have filed an amended petition which would eliminate from the area covered in the original petition a strip of land 60-feet in depth paralleling Hudson Street and extending from Matheson Avenue to East 34th Street, which would leave this strip of land in the R-2 district. That they submitted new plans to this effect to the Planning Commission.

Mr. Yancey, City Manager, read a letter from Mr. McIntyre, Planning Director, dated June 24th, stating that the Planning Commission has considered the amended petition of Messrs Kiser and White and that the Commission voted as indicated below to recommend approval of the amended petition, since the amendment would eliminate the Commission's stated objections to the original petition:

YEAS: Commissioners Craig, Hanks, Marsh, McClure, Sibley, Toy and Wilkinson.

NAYS: Commissioner Schwartz.

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Mr. Snapp stated further that a wall would be erected at the rear of the property.

Councilman Brown asked if the intent of the petitioners is to build a wall on the line and leave the trees; he asked further if they could not furnish a bond that this would be done. Mr. Snapp replied that the only thing they plan to do is to clear the grounds and it would be left and not used for parking.

A discussion was held as to the height of the proposed wall, and it was decided that it should be not less than 6 feet nor more than 7 feet.

Mr. Shaw, City Attorney, stated that if the Council sees fit to grant the revised petition, it can be done based on the erection of the wall.

Mr. John E. McDonald, Jr., attorney for the residents of Hudson Street protesting the change in zoning, stated that the Planning Commission first protected the interest of the residents in not recommending a hearing on the petition to change the property from R-2 to B-1. That when this recommendation was not accepted, and a hearing was held on June 11th the protest of the residents was properly filed before the Council. That after the hearing the petitioners filed an amended petition, which was referred to the Planning Commission for consideration. That the Commission did not meet together to consider the matter, but a poll of the votes of the members of the Commission was taken by telephone from the Planning Commission office, to which his clients object.

He stated further that his clients seriously object to the Council considering the revised petition eliminating a 60-foot strip of land from the area without another public hearing, properly advertised; and further, that his clients do not feel that the erection of a wall 6 feet, 7 feet or whatever height would afford the necessary protection. That the value of their property is going to be siphoned off to the new property; he called attention that their homes were built under the protection of the R-2 zone.

The City Attorney was asked by a member of the Council if the zoning change can be legally made on the revised petition without a public hearing. Mr. Shaw replied that the procedure for zoning changes inside Charlotte has been followed; that the original petition was filed with the Planning Commission, who turned it down. It was then appealed by the petitioners to the City Council, who held a hearing properly advertised. That prior to a decision by the Council, a revised petition was filed requesting that a lesser amount of property be rezoned, which the Planning Commission has approved as it eliminates their original objections, and, therefore, in his opinion the question is properly before the Council.

Councilman Albea moved that the revised petition be advertised for a public hearing. The motion was seconded by Councilman Foard.

Councilman Baxter offered a substitute motion that the ordinance be adopted on the revised petition upon condition that a wall be erected on the rear line not less than 6 feet nor more than 7 feet in height. The motion was seconded by Councilman Wilkinson. Mr. Snapp agreed to the Condition, regarding the wall, for the petitioners. The votes were then cast on the motion as follows:

YEAS: Councilmen Baxter, Brown and Wilkinson.

NAYS: Councilmen Albea, Dellinger and Foard.

Mayor Smith then cast the deciding ballot in the tie-vote, voting in the affirmative, and the motion carried.

The Ordinance, as revised, is recorded in full in Ordinance Book 12, at Page 257.

REQUEST THAT HOLES IN SUMTER STREET BE FILLED.

Councilman Dellinger requested the City Manager to have the holes in Sumter Street filled.

COUNCIL MEETING DIRECTED HELD EVERY OTHER WEDNESDAY AFTER THE JULY 2ND MEETING THROUGH LABOR DAY, AND THEREAFTER THAT MEETINGS BE HELD AT 4 O'CLOCK IN THE AFTERNOON.

Councilman Dellinger moved that the Council Meeting be held on July 2nd and every other Wednesday through Labor Day, and thereafter that the Meetings be held at 4 o'clock p.m. The motion was seconded by Councilman Baxter, and carried, with the votes cast as follows:

YEAS: Councilmen Baxter, Brown, Dellinger, Foard and Wilkinson.

NAYS: Councilman Albea, who stated he is opposed to meeting every other week in lieu of each week.

CONTRACT AWARDED BLANKENSHIP BROS. FOR STREET IMPROVEMENTS ON ROSWELL AVENUE.

Councilman Brown moved that contract be awarded the low bidder, Blankenship Bros. for the construction of street improvements on Roswell Avenue, all as specified, on a unit price basis representing a total price of \$37,229.50. The motion was seconded by Councilman Baxter, and unanimously carried.

The following bids were received:

Blankenship Bros.	\$37,229.50
Crowder Construction Company	\$44,737.50
Blythe Bros. Company	\$45,020.00
Mecklenburg Engineers & Contractors	\$48,428.50

NECESSARY PROCEEDINGS RELATIVE TO THE WIDENING OF ROSWELL AVENUE FROM QUEENS ROAD TO QUEENS ROAD WEST AUTHORIZED MADE.

Councilman Baxter moved that the necessary proceedings be started relative to the widening of Roswell Avenue from Queens Road to Queens Road West, including the securing of cost estimates. The motion was seconded by Councilman Brown. Councilman Dellinger stated he felt it only right that this work be added to the list of proposed streets to be improved, and that he wanted it distinctly understood that the Council is not authorizing the repaving and other improvements to the street today, but merely asking for estimates. The motion carried, with the votes cast as follows:

YEAS: Councilmen Albea, Baxter, Brown, Foard and Wilkinson.

NAYS: None.

Councilman Dellinger not voting.

RESOLUTION AUTHORIZING PERMANENT IMPROVEMENTS ON REMOUNT AVENUE.

A resolution entitled: "Resolution Authorizing Permanent Improvements on Remount Avenue" was introduced and read, and upon motion of Councilman Albea, seconded by Councilman Foard, unanimously passed on its first reading. The resolution is recorded in full in Resolutions Book 3, at Page 225.

RESOLUTION AUTHORIZING PERMANENT IMPROVEMENTS ON MINT STREET.

A resolution entitled: "Resolution Authorizing Permanent Improvements on Mint Street" was introduced and read, and upon motion of Councilman Albea, seconded by Councilman Baxter, unanimously passed on its first reading. The resolution is recorded in full in Resolutions Book 3, at Page 226.

RESOLUTION PROVIDING FOR PUBLICATION OF NOTICE OF SESSION OF COUNCIL ON JULY 30TH TO CONSIDER THE PETITION OF TRI-DEVELOPMENT CORP. FOR THE ANNEXATION TO THE CITY OF CHARLOTTE OF 200 ACRES OF LAND IN CRAB ORCHARD TOWNSHIP.

The City Manager reported that a Petition has been filed by Mr. Thomas Ruff, Attorney on behalf of Tri-Development Corporation for the annexation to the City of Charlotte of 200 acres of land in Crab Orchard Township, south of Ruth and Joyce Drives on the northwest side of Milton Park Subdivision, and contiguous to the present corporate limits of Charlotte.

A resolution was then presented, entitled: "Resolution Providing for Publication of Notice of Session of the City Council on July 30th, 1958 to Consider the Petition of Tri-Development Corporation for the Annexation to the City of Charlotte of 200 acres of vacant land, in Crab Orchard Township", and upon motion of Councilman Wilkinson, seconded by Councilman Dellinger, was unanimously adopted. The resolution is recorded in full in Resolutions Book 3, at Page 224.

SALE OF 7.47 SQUARE FEET OF PROPERTY ADJOINING 124 WEST 11TH STREET AUTHORIZED.

Upon motion of Councilman Dellinger, seconded by Councilman Brown, and unanimously carried, the sale of 7.47 square feet of property adjoining 124 West 11th Street was authorized, as recommended.

ERVIN CONSTRUCTION COMPANY AUTHORIZED TO CONNECT PRIVATE SANITARY SEWER LINES TO CITY'S SANITARY SEWERAGE SYSTEM.

Councilman Brown moved that Ervin Construction Company be permitted to connect their private sanitary sewer lines, to be constructed outside the city limits, to the City's Sanitary Sewerage System, provided they comply with all laws, rules and regulations now in effect, or which may hereafter become effective relative to property similarly situated. The motion was seconded by Councilman Wilkinson, and unanimously carried.

SICK LEAVE EXTENDED TO PAT MUNGO AND RUSSELL ALEXANDER, WATER DEPARTMENT EMPLOYEES, THROUGH AUGUST 1958.

Motion was made by Councilman Dellinger, seconded by Councilman Baxter, and unanimously carried, authorizing the extension of sick leave to Mr. Pat Mungo and Mr. Russell Alexander, Water Department employees, through August, 1958.

CONTRACT AWARDED LYNCHBURG FOUNDRY COMPANY FOR CAST IRON PIPE.

Upon motion of Councilman Brown, seconded by Councilman Baxter, and unanimously carried, contract was awarded the low bidder, Lynchburg Foundry Company, for 500-feet of 8-inch and 300-feet of 10-inch diameter Cast Iron Pipe in 18-foot lengths, as per specifications, at a total

net delivered price of \$2,228.00.

Bids received on the Pipe were:

Lynchburg Foundry Company	\$2,228.00
" Alternate Bid	\$2,321.00
Glamorgan Pipe & Foundry Company	\$2,262.00

HOLIDAY ON JULY 4TH GRANTED CITY EMPLOYEES.

Councilman Dellinger moved that the usual holiday be granted city employees on July 4th, in observance of Independence Day. The motion was seconded by Councilman Albea, and unanimously carried.

TRANSFER OF CEMETERY LOTS.

Upon motion of Councilman Foard, seconded by Councilman Albea, and unanimously carried, the Mayor and City Clerk were authorized to execute deeds for the transfer of the following cemetery lots:

- (a) Deed with Mrs. B. J. Wessinger, for Lot 136, Section 4-A, Evergreen Cemetery, at \$126.00.
- (b) Deed with Mrs. Geneva Young, for Lot 99, Graves #5 and #6, Section 3, Evergreen Cemetery, at \$80.00
- (c) Deed with Mrs. Helen Garrett, for Lot 91, Graves #2 and #3, Section 3, Evergreen Cemetery, at \$80.00
- (d) Deed with Mrs. Nora Stroud, for Lot 85, Grave #3, Section 3, Evergreen Cemetery, at \$40.00.

ADJOURNMENT.

Upon motion of Councilman Brown, seconded by Councilman Dellinger, and unanimously carried, the meeting was adjourned.

Lillian R. Hoffman
Lillian R. Hoffman, City Clerk